
Site Address: 45 Market Parade, Havant, PO9 1PY
Proposal: Prior notification for change of use from a retail use (class A1/A2), betting office, pay day loan shop or casino to A3 restaurant/café use, subject to prior approval covering noise impacts, odour impacts, waste handling, opening hours, and transport and highways impacts; additionally any operational development necessary for conversion is subject to prior approval of ventilation and extraction and storage of waste.

Application No: APP/20/01195

Expiry Date: 28/01/2021

Applicant: Mr M Hewett

Agent:

Case Officer: Selina Donophy

Ward: St Faiths

Recommendation: Wrong Application type for recommendation code

1 Site Description

This application site comprises a retail unit at ground floor level forming part of a three storey building forming a parade of shops along Market Parade, Havant. Above the site are **residential** units and the area is pedestrianised, with the train station to the north and shopping centre to the south. There are a mixture of units along Market Parade including shops, barbers and takeaways alongside a range of other uses.

2 Planning History

99/63359/001 - Change of use from retail (A1) to financial services (A2),
PERM,29/03/1999

98/63359/000 - Change of use from Jewellers A1 to Amusement Arcade,
WD,30/12/1998

03/63359/002 - Change of use from class A2 (financial and professional services) to
amusement centre and new shopfront., PERM,25/07/2003

APP/14/01225 - Outline application with all matters reserved for demolition of existing buildings and redevelopment of site to erect 130No. apartments and 1126sqm of ground floor commercial/retail space (Use Classes A1-A5 and B1(a)) and associated service, access and 58 private residential basement parking spaces (indicative height of building between five and thirteen stories).

, PERM,19/08/2016

APP/20/00848 - Change of Use from record shop (sui generis) to cafe/sandwich shop (A3) ., Current Application

3 Proposal

Prior notification for change of use from a retail use (class A1/A2), betting office, pay day loan shop or casino to A3 restaurant/café use, subject to prior approval covering noise impacts, odour impacts, waste handling, opening hours, and transport and highways impacts; additionally any operational development necessary for conversion is subject to prior approval of ventilation and extraction and storage of waste.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS4	()
DM10	(Pollution)
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Submission Version Havant Local Plan

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor D Guest - St Faith's
No comment

Councillor J Branson - St Faiths
No comment

Councillor T Pike - St Faith's
No comment

Environmental Health Manager, Community Group
Original Comments

Thank you for consulting the Pollution Team on the above application. We are not currently in a position to be able to provide a full comment on this application due to the lack of detail provided. Our observations so far are as follows,

Due to the close proximity of neighbouring residential neighbours there is a high probability of people being affected by odour and noise arising from the operation of an A3 premises at this location.

Should permission for A3 use be granted the use should be restricted to the type of food that can be prepared/cooked at this premises. Giving a general A3 permission would allow future A3 occupiers to prepare/cook foods with higher levels of odour and grease content. Due to the layout of the premises and restriction on odour control, the control of odour would not necessarily be achievable even with the use of odour control measures.

Noise impact is a major concern at this premises for the following reasons,

- o Airborne and structure borne noise from the extraction equipment, including vibration and external noise generated by the ducting and fan.
- o Airborne and structure borne noise arising from use of the kitchen, customers, and any potential music played on the premises.

Taking into account the proximity of nearby residential neighbours and the proposal to restrict termination of the flue to ground floor level there is a high probability of people being affected by the odour. In order to reduce the risk, the discharge from the flue should not be located less than 1m above the roof ridge of any building within 15m of the vent. Therefore, please can the applicant justify why they have not taken this approach?

I note the applicant has provided details of potential fans and silencers to be used, in addition to details of carbon filters for the control of odour/grease. Although the details are welcome, there is not enough information to be satisfied that odour and noise will not be a problem at this premises. For this reason, the applicant should provide a professional report detailing the exact plant to be used, the likely airborne and structure borne noise that will be generated (including the ducting etc, in addition to noise generated by the operation of the kitchen and business in general), how this will be mitigated (including provision of sound insulation), and exactly what odour control measures will be used. The details in Appendices 2 to 4 of the following guidance document must be included, EMAQ (2018) 'Control of Noise and Odour from Commercial Kitchen Exhaust Systems?.

Lastly, I note the operating hours provided by the applicant on their application form and statement are different. Please can the applicant clarify exactly what it is they are seeking.

Updated Environmental Health comments following submission of Noise and Odour reports. Opening times have also been clarified with the applicant.

Having reviewed the details of the reports we recommend planning permission be granted subject to the following noise and odour control conditions being attached,

Days/hours of operation:

The opening hours of the premises shall be restricted to between 07:30 - 16:30 hours Monday to Saturday, and 08:00 - 16:00 hours on Sundays.

Odour control

The use hereby permitted shall not operate until the plant, equipment and systems detailed in reports 'Kitchen Odour Risk Assessment May 2021' (Report no. 10469.S Rev2 7/5/21), and 'Measurement of Environmental Noise' (Report no. 11606-1 received by the LPA on 7/5/21) are installed in their entirety before the use hereby commences. The plant, equipment and systems used shall be maintained in accordance with manufacturer's instructions for the lifetime of the development and operated at all times that cooking is ongoing.

Noise control

Background music shall be played at a volume or level such that it is not audible within nearby residential premises at any time or within any terrace or balcony attached to the nearest dwelling.

The extraction/odour control plant installed as part of this development shall not be operated outside of the opening hours/days (refer to above).

The use hereby permitted shall not operate until a sound insulation scheme is installed to reduce the transmission of airborne and structure borne noise between the premises subject to this permission and the adjoining first floor flat above, including noise arising from operation of the kitchen and from the odour extraction plant. These measures shall ensure that a minimum standard of Dntw+Ctr 50 dB is achieved.

Not with standing planning permission the applicant should be aware that the Council has a legal duty to investigate complaints of statutory noise nuisance and to serve legal notices where a nuisance is confirmed. The applicant should also be aware of the need to apply to the Council for a premises licence should alcohol be sold or served.

Hampshire Highways

I refer to the consultation for the above planning application and would make the following comments.

Having reviewed the documentation submitted in support of the above planning application Highways Development Planning is satisfied that the development would have no detrimental impact on highway safety or operation. A recommendation of no objection would therefore be given.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 15

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
No comments received	

7 **Planning Considerations**

- 7.1 The change of use of the premises proposed is the subject of recent changes to the General Permitted Development Order (GDPO) which have given general permitted development rights for such changes to take place under Part 3 Class C with only a "prior approval" process to go through. Consequently the principle of the change of use is considered acceptable. Having regard to the relevant conditions of the GPDO it is considered that the main issues arising from this application are :

- (a) noise impacts of the development,
- (b) odour impacts of the development,
- (c) impacts of storage and handling of waste in relation to the development,
- (d) impacts of the hours of opening of the development,
- (e) transport and highways impacts of the development,
- (f) Whether the change of use is desirable in terms of its impact on services or key shopping areas
- (g) the siting, design or external appearance of the facilities

- 7.2 (a) noise impacts of the development, (b) odour impacts of the development, (c) impacts of storage and handling of waste in relation to the development and (d) impacts of the hours of opening of the development

This application site is located at ground floor level with residential apartments above. Market Parade features a variety of uses, and there is a variety of takeaway and cafe outlets in the immediate area . The proposed use for the site is an A3 use as a sandwich shop/cafe - altering from the current retail use as A1. The proposed food offered would include both hot and cold cooked food served mainly throughout the day, with proposed opening times of Monday- Saturday 7:30-4:30 and on Sundays 8am - 4pm. The applicant has submitted noise and odour reports which have been reviewed by the Environmental Health Officer. The extraction units and noise mitigation as proposed is deemed to be acceptable subject to conditions which will be applied.

With regards to point (c) Impact on storage and handling of waste, the premises benefit from space to the rear which runs behind the parade of shops which would be where the bins are located and this is considered acceptable for the storage and handling of waste. If there were to be any Environmental Health issues with the refuse storage this would be investigated by the Environmental Health department.

7.3 (e) transport and highways impacts of the development

The proposed change may generate more footfall than the existing use however Market Parade is a partially pedestrianised area with good links via bus, train and on foot. There is also time restricted on street free parking along Market Parade to allow for takeaway or 'eat out' collections and this is how other takeaways in the area allow for takeaway collections although it is noted that the cafe would include an internal seating area for customers. Highways have been consulted and have stated no impact of the proposal on highway safety.

7.4 (f) Whether the change of use is desirable in terms of its impact on services or key shopping areas

The application site lies within the secondary frontage of the town centre. Policy CS4 states that the Council seeks to support developments that "encourage high quality, mixed-use development in designated centres that retain active ground floor frontages". Whilst the retention of units in A1 use is encouraged, the proposed A3 cafe use is deemed acceptable as a community use unit. It would be preferable for the unit to be kept in use rather than be left empty for a sustained period of time. Policy DM5 states that Planning Permission will only be granted for the construction of new entertainment and hot food uses falling within Use Classes A3, A4, A5 and D2 of the Use Classes Order 1987 (as amended) or the change of use of existing premises to a Class A3, A4, A5 or D2 use where it can be demonstrated that particular criteria is met. In this case, it is judged that mitigation measures have been submitted and the siting would not harmfully alter the appearance of the area.

7.5 (g) The siting, design or external appearance of the facilities

The proposal includes the siting of the extractor fan and ventilation to the rear of the site, however this would be visible from the car park and would not cause harm to the character of the area. There are no proposed alterations to the shop frontage forming part of this proposal.

8 Conclusion

- 8.1 The change of use proposed is supported by the GDPO arrangements and the NPPF, and prior approval for the change of use, whilst required, should be permitted as there are considered to be no adverse impacts relating to provision of services, transport and noise impact created by this proposal.

9 **RECOMMENDATION:**

Prior approval is required and hereby given for application APP/20/01195 subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Kitchen Odour Risk Assessment May 2021 (Report no. 10469.S Rev2 7/5/21) uploaded on the 12.05.2021

Measurement of Environmental Noise (Report no. 11606-1) uploaded on the 12.05.2021

Block plan uploaded on the 12.01.2021

Location plan uploaded on the 12.01.2021

Proposed floor plan uploaded on the 12.01.2021

Ventilation diagram and external siting uploaded on the 12.01.2021

Reason: To ensure provision of a satisfactory development.

- 3 The premises shall only be open to the public for trade or business between the hours of 07:30 - 16:30 hours Monday to Saturday, and 08:00 - 16:00 hours on Sundays.

Reason: To protect the amenities of nearby residential properties and having due regard to policy DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 The use hereby permitted shall not operate until the plant, equipment and systems detailed in reports 'Kitchen Odour Risk Assessment May 2021' (Report No. 10469.S Rev 2 7/5/21), and 'Measurement of Environmental Noise' (Report No. 11606-1 uploaded by the LPA on 12/5/21) are installed in their entirety before the use hereby commences. The plant, equipment and systems used shall be maintained in accordance with manufacturer's instructions for the lifetime of the development and operated at all times that cooking is ongoing.

Reason: To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected, having due regard to policy DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 Background music shall be played at a volume or level such that it is not audible within nearby residential premises at any time or within any terrace or balcony attached to the nearest dwelling.

Reason: To protect the amenities of nearby residential properties and having due regard to policy DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 The extraction/odour control plant installed as part of this development shall not be operated outside of the opening hours/days as specified in Condition 3.

Reason: To protect the amenities of nearby residential properties in terms of noise/odour and having due regard to policy DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 The use hereby permitted shall not operate until a sound insulation scheme is installed to reduce the transmission of airborne and structure borne noise between the premises subject to this permission and the adjoining first floor flat above, including noise arising from operation of the kitchen and from the odour extraction plant. These measures shall ensure that a minimum standard of Dntw+Ctr 50 dB is achieved.

Reason: To protect the amenities of nearby residential properties in terms of noise/vibration and having due regard to policy DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.