
Site Address: 75B London Road, Waterloo, PO7 7EL
Proposal: Change of use of ground floor premises from Letting Agency (Class E) to hot food take-away and home delivery service (Sui Generis) including extraction grille to external north-east elevation.
Application No: APP/20/01078 Expiry Date: 08/01/2021
Applicant: Miss Yip
Agent: Mr Lawrence Case Officer: Tina Pickup
 Achieve - Town Planning and
 Urban Design Ltd
Ward: Waterloo

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site relates to the vacant, ground floor former Letting Agency unit (previous Class A2 use, now Class E under new 2020 Use Classes Order) within a three storey building located on the north-western side of London Road. The other two ground floor units within the building are in use by Ladbroke's. On the upper floors are residential flats. The north-eastern side elevation of the building is a blank wall, with extractors but no windows. A narrow vehicular access drive serving the rear car park of the adjacent building, number 77, runs adjacent the site. This building is currently in use as an Estate Agents.

The site is located within the defined town centre and the London Road at this point is a bus lane for access and deliveries only. There is a vehicle loading bay outside the site. The site includes 2 parking spaces within the shared rear yard area, accessed off Chapel Lane.

2 Planning History

APP/11/01092 - Change of Use from A1 retail to A2 professional and financial services, PERM, 07/09/2011

APP/14/00117 - Prior notification for change of use from class B1(a) office use to C3 residential use subject to prior approval covering flooding, highways and transport issues and contamination., PAYA, 27/02/2014

3 Proposal

Change of use of ground floor premises from Letting Agency (Class E) to hot food take-away and home delivery service (Sui Generis) including extraction grille to external north-east elevation.

4 **Policy Considerations**

National Planning Policy Framework
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 (
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)
DM21 (Shopfronts, Signs, Security Shutters and Advertisements)
AL3 (Town, District and Local Centres)
AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Havant Borough Pre Submission Local Plan 2036

C8* (Food, drink and entertainment uses)
E1* (High quality design)
KP2 (Waterlooville Town Centre)

Emsworth Neighbourhood Plan Post Examination Version 2020

n/a

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 **Statutory and Non Statutory Consultations**

Environmental Health - initial comments

I have reviewed the details provided and there is insufficient information for us to be able to provide full comments. Whilst details have been provided on noise from kitchen extract plant to be installed, no actual noise / acoustic assessment has been carried out, so we are unable to compare the noise output levels of the proposed system with the existing background noise levels or comment on whether the silencer will be sufficient or is even required. I recommend that the applicant provides an acoustic assessment to ensure there is no adverse impact on the nearest residential receptors.

It is unclear whether the first floor has been converted to residential and I have concerns about the low level extraction of cooking fumes, especially in view of previously approved windows on the side elevation. Further information is required to confirm the situation with the use of the upper floors of the building.

Whilst I note the proposed late opening hours, when compared to other takeaways in the surrounding area, 11pm is not excessively late.

In order to be able to consider whether the proposed odour and grease abatement is sufficient for purpose, it would be useful to know the proposed type of takeaway food to be prepared at the premises. Where this information is not available we have to assume a worst case scenario and expect a very high level of odour control measures to be installed. I recommend that the applicant provides further information to confirm whether this information is known at this stage.

Environmental Health - revised comments

I have concerns regarding the proposed low level extraction of cooking fumes associated with the proposed hot food takeaway. Ideally dispersion would be improved by including a stack to the kitchen ventilation system which discharges 1m above the height of building's roof level. I note there are no windows on the north eastern elevation and there does not appear to be residential use at the adjacent premises. A high level of odour control is proposed which includes space to include additional odour abatement plant if required at a later stage, together with a silencer and antivibration mounts. In view of the above together with the layout of the proposed takeaway in relation to the flats above, the risk of impact to the surrounding area should be minimal subject to the abatement plant being installed and operated as proposed.

I would recommend that the hours of opening are limited to those given in the planning application to protect the amenities of the flats above from noise associated with the proposed takeaway during the night and delivery vehicles.

Planning Policy

The following policies in the adopted Local Plan are of particular relevance:

- CS4 and AL3 - Town, District and Local Centres
- DM5 - Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses

In the Pre-submission Plan the following policies are of particular relevance:

- KP2 – WaterlooVille Town Centre
- C8 - Food, Drink and Entertainment uses

Principle of Development

This application unit lies within WaterlooVille Town Centre as defined by Policies CS4 and AL3 of the adopted local plan. These policies seek to promote main town centre uses, in order to protect and enhance the vitality and viability of the town centre.

The application site lies within the secondary frontage of the centre. The policy supports main town centre uses in this area, which contribute to the centre's vitality and viability. The proposed use could be considered to be capable of making such a contribution, subject to detailed considerations regarding its operation (see below).

The Pre-Submission Havant Borough Local Plan is a material consideration in the determination of the application, though with limited weight. Under the emerging Local Plan, the site remains within the London Road Town Centre as defined by policy KP2. That policy is more specific regarding the London Road area of the town centre, including providing active support for food, drink and leisure uses with active frontages.

Since the proposal is for a hot food take-away, policy C8 of the Pre-Submission Local Plan 2036 also applies. This policy seeks to restrict A5 uses across the borough to below the current levels in order to support public health objectives. The proposal is not supported under this policy.

Noise and Odours

Policies

- DM5 Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses (Core Strategy) and
- C8 Food, Drink and Entertainment Uses (HBLP)

include provisions regarding the management of noise and odour from food and drink uses, which will have to be met. Design policies (see below) will also be relevant to the consideration of any such equipment.

Shopfront and Signage

With regard to any changes to the shopfront or signage, the following policies will be relevant considerations:

- CS16 High Quality Design (Core Strategy)
- DM21 Shopfronts, Signs, Security Shutters and Advertisements (Site Allocations)
- E1 High Quality Design (HBLP)

Conclusion

In policy terms, the key consideration is whether the proposal supports and enhances the vitality and viability of Waterloo Centre. The unit lies within the secondary frontage of the adopted Local Plan, which gives some flexibility on appropriate town centre uses. Food and drink uses are supported through the emerging Local Plan in this location also. This must be balanced against the fact that the emerging Local Plan also seeks to limit hot food takeaways for health reasons. While this restriction must be acknowledged, it may only be given limited weight. All policies weighed together, it is considered that the principle of the hot food take-away in this location is acceptable, provided that the detailed considerations regarding amenity impacts and design are also acceptable.

Waste Services Manager

None received

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: 16

Number of site notices: 1 - posted by the agent due to Covid restrictions

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
None received	

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Policy considerations
- (iii) Impact upon residential amenity

(i) Principle of development

7.2 The site falls within the defined Waterloooville Town Centre area in the Secondary shopping frontage where the principle of development seeks to promote main town centre uses that protect and enhance the vitality and viability of the town centre, subject to compliance with detailed policies and acceptable impacts on amenity.

(ii) Policy considerations

7.3 Relevant adopted policies in the town centre location include AL3 from the Allocations Plan and CS4 from the Core Strategy. Policy CS4 supports appropriate town centre uses that enhance the evening economy and encourage high quality, mixed-use development with active ground floor frontages. With the retention of the existing shop window and proposed opening hours (11am - 11pm Monday-Sunday) the proposal would comply with this policy. Policy AL3 seeks to retain at least 25% of A1 units in an unbroken run of secondary frontage. Since the unit was already not in A1 use (it was an A2 use) then the further change of use would not affect the percentage of units in A1 use or undermine this policy.

7.4 The policy objection to the hot food takeaway use based on the emerging Local Plan policy C8 is noted, but currently these policies carry limited weight in decision making and are not sufficient on which to base a refusal of permission based on public health objectives, when the policies of the adopted Local Plan are met.

7.5 Subject to detailed compliance with policy DM5 (re hot food uses), the principle of a hot food takeaway in this town centre location that would support the vitality and viability of Waterloooville centre is considered acceptable at this time.

(iii) Impact upon residential amenity

7.6 Policy DM5 is a criteria based policy seeking to protect residential amenity from any adverse impacts from food and drink uses. The proposal includes details of the kitchen extractor which has been assessed by Environmental Health as a high odour abatement scheme and considered appropriate for all potential food types. No high external extractor chimney stack is proposed, which would be visually intrusive, but instead the scheme proposes reliance on an extraction grille in the north eastern gable end. Since there are no residential windows in this side gable and no residential uses in the adjacent building at no. 77, then on balance the lower level extraction of any limited residue odours from the high specification of internal odour abatement proposed is likely to be acceptable in this instance. The first 3 criterion of policy DM5 are therefore considered to be complied with.

- 7.7 The plans indicate provision of an internal customer refuse bin in accordance with criterion 4. Proposed hours of use are between 11am and 11pm every day, including Sundays and Bank Holidays. In this town centre location Environmental Health have not objected to these hours, noting they are similar to other establishments in the area, though request they are conditioned to include deliveries to the premises to avoid any overnight disturbance.
- 7.8 In terms of parking, there would be 2 dedicated staff spaces to the rear. Since the part of the London Road outside the application site is a dedicated bus lane only accessible to delivery vehicles, no customer vehicles would be able to access the site directly. Therefore customers would be forced to access the site by foot having parked elsewhere in the nearby car parks to collect orders. This would reduce noise and disturbance from late night parking and car doors banging. Any breach of the traffic regulations would be a matter for police or traffic enforcement.
- 7.9 Overall it is considered that all criterion of policy DM5 are met and the proposal would adequately protect neighbouring amenity causing no harm from odours and pollution and therefore also compliant with policies CS16 and DM10.

8 Conclusion

- 8.1 It is considered that the use of the site for a hot food takeaway would support the vitality and viability of this town centre location and would accord with Policies CS4 and AL3 of the adopted Local Plan, which at the present time carry greater weight than emerging Policy C8 of the emerging Local Plan. Subject to appropriate conditions the development would not result in unacceptable harm to neighbour amenity.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/20/01078 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:

Location Plan, Existing & Proposed Plans and Elevations Drawing Number 01.01 Rev P1

Planning, Design & Access Statement

Kitchen Extract Plant Statement

Carbon Discarbs and Panels details

Extraction Components Note

Fan Details - Helios Gigabox GBW 500/4 T120

FP-GP Panel Filter detail

Extraction ductwork silencer 0315-0560

Reason: - To ensure provision of a satisfactory development.

- 3 The premises shall only be open for trade or business between the hours of 1100 hours to 2300 hours Monday - Sunday. No sale or delivery of any hot food shall take place outside these hours.

Reason: To protect the amenities of nearby residential properties and having due regard to policies CS16, DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 Servicing and deliveries to or from the premises shall only take place between the hours of 0800 hours to 2300 hours Monday - Saturdays and at no other time.

Reason: In the interests of the amenities of occupiers of nearby residential properties and having due regard to policies CS16, DM5, DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The approved kitchen extraction equipment using carbon filters as set out in documents on the Council's website dated 25 November 2020 shall be installed to the satisfaction of the Local Planning Authority prior to the hereby approved takeaway first being brought into use.
Thereafter the equipment installed shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority and shall not be resumed until the system has been restored to full working order.
Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of the extraction equipment, shall be kept and made available for inspection at the premises by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

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 policies CS16, DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.