
Site Address:	57 London Road, Cowplain, Waterloooville, PO8 8UJ		
Proposal:	Change of use from A1 off licence to A3 cafe/restaurant with extraction duct to side.		
Application No:	APP/19/00173	Expiry Date:	08/05/2019
Applicant:	Mr I Akan		
Agent:		Case Officer:	Bee Crawford
Ward:	Cowplain		

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The site is located within Cowplain District Centre and is a two storey detached building with commercial use at ground floor and residential above. It has a slate tiled pitched and hipped roof and elevations of cream painted brickwork. There is pedestrian and vehicular access from London Road with two parking spaces at the rear of the site and a public car park beyond.
- 1.2 A two storey detached commercial unit is to the north, a two storey block of three commercial units with residential above are to the south, a three storey block of purpose built flats are opposite and there is a public car park to the rear. The area is of medium density with detached, semi-detached and terraced commercial/residential properties with a mixture of uses including retail, office, cafe/restaurant, purpose built flats, detached and semi-detached two storey dwellings of mixed age, style and design.

2 Planning History

None relevant to this application.

3 Proposal

- 3.1 The proposal is for the change of use from A1 off licence to A3 cafe/restaurant with extraction duct to side. It is noted the original application included A5 use, although this has now been removed from the proposal.

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)
CS4	()
DM10	(Pollution)
DM2	(Protection of Existing Community Facilities and Shops)
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Havant Borough Local Plan (Allocations) July 2014

DM21	(Shopfronts, Signs, Security Shutters and Advertisements)
AL3	(Town, District and Local Centres)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Crime Prevention -Minor Apps

No response received.

Economic Development

No response received.

Environmental Health Manager, Community Group

Thank you for the further consultation with Environmental Protection in respect of this premises.

I have reviewed the application and would confirm my colleague's previous consultation response relating to concerns that the proposed kitchen extraction system should be correctly designed and installed so as not to give rise to noise or odour pollution to nearby residential/commercial occupiers. I would therefore request that the following condition is included in any permission you are minded to grant:

KITCHEN EXTRACTION /ODOUR - DETAILS REQUIRED

No development shall start on site until details have been submitted to and approved in writing by the Planning Authority addressing the proposed kitchen ventilation/extraction system that will be used on the site, including the required maintenance regime for the system. The details shall be prepared by a competent person for the purpose of assessing potential odour and noise nuisance to surrounding properties. The details should be drawn up with regard to "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems" produced by Department of Environment Food and Rural Affairs. The agreed details shall be fully implemented before the use hereby approved is commenced and the equipment shall be installed, operated and maintained in accordance with the approved details and shall be retained thereafter. Reason - To ensure that the amenity of the area is not detrimentally affected by the use of the site.

Officer comment: Condition recommended

Environmental Health Manager, Community Group

At the original consultation, I did not offer any comments on pollution / air quality on the basis that Nitrogen Oxides were only likely to be a local issue relative to exterior ambient (National Air Quality Strategy, NAQS) standards in event that an opening to assumed pollutant-sensitive (residential or community-) use above Corbiere Hair is present within 5m of the extract flue outlet. Given roof pitch (referring to the rear/west façade), it was considered unlikely that such an opening would be present (the window on this façade being likely to be central, at around 10m from proposed outlet position).

On second viewing, I have a minor concern with respect to the statement that [the ventilation outlet will] 'come out' ...'to the patio', [which is] '...an unused patio from the neighbours...', principally because that the patio area is presently unused (by the neighbours) doesn't mean that it won't be put to use within the lifetime of the development, and that it is unclear which property the patio serves. It is implicit from the planning statement that the applicant anticipates no impact on neighbours in large part due to way that the current neighbour utilises the property. This is not the same as there being no unreasonable detrimental impact.

It must also be recognised that whilst point sources are not directly relevant to NAQS objective values, this is not the same as there being no public health concern with emissions arising from such an outlet. DM10 (1) could be argued to apply to noise, odour, particulates, NOx, or effluvia (droplets), and it is not necessary for an NAQS objective to apply, or be breached. Cooking processes using natural gas are significant NO2 emitters, and frying / broiling / grilling operations are emitters of organic hydrocarbon particulates. The photos indicate that the space between the buildings is narrow & restricted, and dispersion of extracted emissions is likely to be poor.

I also note the emerging policies from the draft local plan 2036 (C8 / E23). It is unclear how much relative weight these policies should receive whilst the plan is being assessed by the inspector, however they are indicative of how such a proposal is likely to be viewed in the foreseeable future. Notwithstanding any comments by this office that may be offered under separate cover as regards nuisance noise & odour (etc.); the emission of pollutants may be materially-relevant and the extract ventilation design should seek to ensure that neighbours are not adversely affected. Addressing this risk may require a higher grade of filtration, ducting to a more open area where air flow is likely to be improved, or measures to increase efflux velocity & vertical lift. The relative need for such measures is linked to the relative sensitivity of users of the neighbouring property, and so to the consented use classes relating to all uses of the adjacent building.

It may suffice to confirm that no sensitive landuses exist, or it may be appropriate to secure an appropriate HVAC specification by condition. I will not suggest wording here, as (with reference to comments offered against the original scheme, in March) my colleagues are not unlikely to seek such a condition. These comments are offered to acknowledge the synergy between nuisance issues and air quality.

Officer Comment: Following further consultation with the Environmental Health Officer it was confirmed that subsequent comments submitted requesting a condition regarding the kitchen extraction/odour addressed the concerns and negated the need for any additional condition.

Planning Policy, PPUD

Planning Policy, PPUD

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan form the development plan for the borough. The Pre-Submission Havant Borough Local Plan 2036 (HBLP 2036) was approved by the Council on 30 January 2019 and can be afforded limited weight. 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

The Pre-Submission Plan the following policies are of particular relevance:

In policy C3, the key District Centre is whether the proposal supports and enhances the vitality and viability of the District Centres.

Principle of Development

This site falls within the Cowplain District Centre as defined by Policies CS4 and AL3 of the adopted local plan. These policies seek to promote main town centre uses, in particular A1 retail shops, in order to protect and enhance the vitality and viability of the borough's town, district and local centres. However, the emerging plan also clearly seeks to restrict, even reduce, A5 uses in the borough. This element would therefore not be supported by emerging policy. It is suggested that this should be communicated to the applicant in order to explore whether a pure A3 uses would meet their requirements. If the detailed aspects of the application are acceptable, in particular those regarding mitigation of the impacts of the units in an unbroken run of secondary frontage in A1 retail use. A site visit would be needed to establish whether this criterion is met. If the A5 element can be removed, there would be no objection in principle to the application.

It is not considered that a marketing exercise as set out under policy DM2 is required in this case, as the use to be lost is not considered an important community facility, and because under the equivalent emerging policy (policy C7 HBLP2036) this requirement would not apply.

Policy Status

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan form the development plan for the borough. The Pre-Submission Havant Borough Local Plan 2036 (HBLP 2036) is a material consideration in the determination of the application. Under the emerging Local Plan, the site remains within the Cowplain District Centre as defined by policy C3. That policy introduces greater flexibility regarding the loss of A1 units outside of the primary area, with main town centre uses (which include A3/A5 uses) which enhance the evening economy and have active frontage supported.

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

However, policy C8 of the Pre-Submission Local Plan 2036 would also apply, which seeks to restrict A5 uses across the borough to below the current levels in order to meet public health objectives. The A5 element would therefore not be supported under emerging policy.

Principle of Development

Noise and Odours

This site falls within the Cowplain District Centre as defined by Policies CS4 and AL3 of the adopted local plan. These policies seek to promote main town centre uses, in particular A1 retail shops, in order to protect and enhance the vitality and viability of the borough's town, district and local centres.

- DM5 Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses (Core Strategy) and
- C8 Food, Drink and Entertainment Uses (HBLP 2036)

The application site lies within the secondary frontage of the district centre. The proposed change of use is from an A1 shop to an A3 cafe/restaurant. Therefore, criterion 4 of Policy AL3 is of particular relevance, as it seeks to retain at least 25% of the units in an unbroken run of secondary frontage in A1 retail use. I understand that a site visit has established that the current situation is well within that limit.

It is not considered that a marketing exercise as set out under policy DM2 is required in this case, as the use to be lost is not considered an important community facility, and because under the equivalent emerging policy (policy C7 HBLP2036) this requirement would not apply.

The Pre-Submission Havant Borough Local Plan 2036 (HBLP2036) is a material consideration in the determination of the application. Under the emerging Local Plan, the site remains within the Cowplain District Centre as defined by policy C3. That policy introduces greater flexibility regarding the loss of A1 units outside of the primary area, with main town centre uses (which include A3 uses) which enhance the evening economy and have active frontage supported.

Initial comments had highlighted that Policy C8 of the Pre-Submission Local Plan 2036 was introducing restrictions to A5 uses across the borough to below current levels in order to meet public health objectives. The A5 element has now been removed from the proposal, so this consideration now falls away.

Noise and Odours

I note the application includes provision of an extraction duct. Policies

- DM5 Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses (Core Strategy) and
- C8 Food, Drink and Entertainment Uses (HBLP 2036)

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

Shopfront and Signage

I can see no information in the application indicating changes to the shopfront or signage, but if these are proposed, policies

- CS16 High Quality Design (Core Strategy)
- DM21 Shopfronts, Signs, Security Shutters and Advertisements (Site Allocations)
- E1 High Quality Design (HBLP2036)

will be relevant considerations.

Conclusion

In policy terms, the key consideration is whether the proposal supports and enhances the vitality and viability of Cowplain District Centre.

It is considered appropriate in this case to take into account emerging policy. Overall, the direction of travel in the emerging Local Plan is towards greater flexibility in the range of uses that are acceptable in town centres. Subject to detailed design and amenity considerations, there is no in principle objection to the loss of the A1 use at this site, nor the proposed A3 café/ restaurant use.

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: 50

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

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) Impact of the change of use on the town centre
- (iii) Impact upon local amenity
- (iv) Highway / parking considerations

(i) Principle of development

7.2 The site is located within an urban area where development is considered to be acceptable in principle subject to other development management considerations. This site is located within a designated district centre boundary and a secondary shopping frontage. As such, Policy AL3 (Local, town and district centres) of the adopted Allocations Plan applies. Policy DM2 which protects community facilities and local shops also applies as the proposal would result in the change of use of a shop. Policy DM5 (Control of A3, A4 and A5 uses) also applies.

(ii) Impact of the change of use on the town centre

7.3 Policy DM2 of the Local Plan requires that proposals for the loss of community uses or shops should submit marketing evidence (over a period of 12 months), to justify that the premises is not longer commercially viable or suitable for another community use before planning permission can be considered. However, comments received from the Council's Planning Policy team advised It is not considered that a marketing exercise is required in this case, as the use to be lost is not considered an important community facility. Furthermore, under the equivalent emerging policy (policy C7 HBLP2036) this requirement would not apply. As such, it is considered that the proposal accords with Policy DM2 of the Local Plan.

7.4 Policy AL3 advises that development proposals should contribute to the vitality and viability of the district centre , promote and enhance the shopping areas, retain at least 25% of the units in an unbroken run of secondary frontage in retail (A1) use and generate pedestrian activity within the shopping area by being open during the day to visiting members of the public. The proposed use of the unit for Class A3 will attract footfall and promote vitality and viability of this section of the district centre. Overall it is considered that the proposal would accord with the criteria of Policy AL3.

(iii) Impact upon local amenity -

- 7.5 Policy DM5 advises on the control of Class A3, A4 and A5 food, drink and entertainment uses and this is relevant to this proposal for an A3 use. The policy advises that planning permission will only be granted where the following criteria are met:

1. Measures are incorporated to mitigate the effect of the preparation of hot food on nearby properties
2. The installation of equipment in relation to hot food does not materially detract from the building and the wider locality
3. The measures proposed in respect of 1 above are suitable for the range and nature of the hot food to be prepared on the premises
4. Adequate provision for the disposal, storage and collection of waste are in place
5. There would be no adverse impact on parking and traffic movement that would be likely to create hazards
6. The development would not cause unacceptable disturbance to the occupiers of nearby residential properties
7. Any marketing requirements are met -

Environmental Health have been consulted on the application and have suggested a condition regarding details of extraction should to be added prior to the commencement of any works, should permission be granted.

Given the variety of businesses within Cowplain District Centre, the proposed hours of operation are considered to be acceptable and any noise disturbance would be minimal.

It is deemed that a marketing exercise is not required in this case, as the use to be lost is not considered an important community facility, and because under the equivalent emerging policy (policy C7 HBLP2036) this requirement would not apply.

(iv) Highway / parking considerations -

- 7.6 Although there is limited parking at the site, this is similar to the majority of other businesses within the district centre which is considered to be a sustainable location. There is a public car park to the rear of the site.

8 Conclusion

- 8.1 Overall it is considered that the proposal for a change of use would result in a number of positive factors to the district centre and complies with all the relevant local planning policies and national planning policy. Therefore the application is recommended for approval.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00173 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 premises shall only be open for trade or business between the hours of 0800-1700 (Monday - Saturday) and 0800-1500 (Sundays and Bank Holidays)

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

- 3 No development shall start on site until details have been submitted to and approved in writing by the Planning Authority addressing the proposed kitchen ventilation/extraction system that will be used on the site, including the required maintenance regime for the system. The details shall be prepared by a competent person for the purpose of assessing potential odour and noise nuisance to surrounding properties. The details should be drawn up with regard to "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems" produced by Department of Environment Food and Rural Affairs. The agreed details shall be fully implemented before the use hereby approved is commenced and the equipment shall be installed, operated and maintained in accordance with the approved details and shall be retained thereafter.

Reason: To ensure that the amenity of the area is not detrimentally affected by the use of the site.

- 4 The range of food sold at the premises shall be in accordance with the written details received 11 March 2109 and there shall be no change in the range of food sold at any time unless appropriate measures are undertaken and agreed in writing by the Local Planning Authority to the extraction system approved under Condition 3 of this consent.

Reason: To protect the amenities of occupiers of adjoining properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

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

Location plan
Existing and proposed floor plan
Front elevation plan
Rear elevation plan
North elevation plan
South elevation plan
Details of extraction
Photographs of north elevation
Sample menu
Supporting statement dated 23/04/2019

Reason: - To ensure provision of a satisfactory development.