

Recommendation: **GRANT PERMISSION**

00/55932/002 - Change of use from A1 retail to A2 Licensed Betting Office and associated new shopfront, REF,18/10/2000

99/55932/001 - Change of Use no. 262 from A2 to A3 (Building soc to restaurant & no 260 from A1

to A3 (shop to restaurant), INV,

91/55932/000 - Alloy, mill finish, roller shutterblind and galvanised steel hood, REF,28/06/1991

APP/17/01073 - Extension at first floor level to create 3No. 1 bed flats., WD,19/12/2017

APP/18/00020 - Erection of first floor structure on top of the existing roof to create 2No. two bed flats and alterations to the shop front to allow access to the residential units (resubmission) (Approved 08/06/2018). Request to Discharge Condition No/s 3, 4 and 6 (16/04/2019)., PERM,08/06/2018

APP/18/00059 - Change of use of no.260 from A1 classification (retail units) and no.262 from A2 Classification (Estate Agents offices) to a A3/A5 classification (Restaurants and Cafes/Hot food takeaways)., PERM,25/07/2018

APP/18/01019 - Installation of entrance door to front elevation., PERM,05/12/2018

APP/18/01245 - Prior notification for change of use from retail use (Class A1/ A2) or a mixed retail and residential use to C3 residential use subject to prior approval covering flooding, highways and transport issues, contamination and impact on adequate

provision of services falling within A1/ A2 and sustainability of the shopping area, where applicable; additionally any operational development necessary for conversion is subject to prior approval of design and external appearance., PAYA,04/01/2019 APP/19/00023 - Application to vary condition 2 (approved plans) and/or remove Condition No. 5 of Planning Permission APP/18/00020 relating to parking provision. , UNK, APP/19/00425 - DOC As attached, UNK, APP/19/00496 - 1No. static internally illuminated fascia sign and 1No. static internally illuminated projecting/hanging sign., PERM,19/06/2019

3 Proposal

The application seeks a variation of Conditions 2, 4, 5, 7 and 8 of Planning Permission APP/18/00059. The conditions state:

"Condition 2

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

Design and Planning Statement: Received 04.04.2018

Specification and Schedule of Ventilation: Received 04.04.2018

Ventilation and Extraction Statement: Received 04.06.2018

Proposed Elevations Plan: Drawing No 04

Proposed Ground Floor Plan: Drawing No 02 Received via email 18.07.2018

Confirmation of opening hours: Received via email 27.06.2018

Reason: To ensure provision of a satisfactory development.

Condition 4

The development hereby permitted shall not be occupied unless and until details to confirm that any requisite acoustic mitigation measures related to any extraction systems, air conditioning and / or cold room / chiller units and the like , have been submitted to and approved in writing by the Local Planning Authority. It should also be noted that noise resulting from the use of any / all plant, machinery or equipment used on this site, shall be of a No Observable Adverse Effect Level (NOAEL), or better, when measured according to British Standard BS4142-2014, at the boundary of the nearest sensitive receptor. The approved measures shall be implemented prior to occupation and maintained in accordance with the approved details.

Reason: To ensure the residential amenity of the property is not unacceptably impacted upon by any internal or external noise levels, including from commercial premises below having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

Condition 5

Prior to the development being brought into use, equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. Details of the equipment shall be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason: To ensure that unsatisfactory cooking odours outside the premises are

minimised in the interests of the amenity of occupiers of nearby properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

Condition 7

No delivery vehicles (including mopeds and motorbikes) are to be used in conjunction with the hereby permitted A3/A5 use between the hours of 2200 to 0800 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the occupiers of the neighbouring properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

Condition 8

The change of use hereby permitted shall not commence until details and/or specification of bin provision relating to the café/restaurant facility and storage for the disposal of refuse have been submitted to and approved in writing by the Local Planning Authority. This must also include a scheme for the disposal of customer refuse and litter. The use hereby permitted shall not commence until the implementation of such provision for refuse and bins has been completed in full accordance with such an approved specification.

Reason: In the interests of the amenities of the area and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

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)
CS20	(Transport and Access Strategy)
CS4	()
CS6	(Regeneration of the Borough)
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)
DM18	(Protecting New Development from Pollution)
DM21	(Shopfronts, Signs, Security Shutters and Advertisements)
AL3	(Town, District and Local Centres)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health Manager, Community Group - 1st Comment
No objection Conditions 4 & 5. Objection Condition 7

I have reviewed the submission and am satisfied that conditions 4 and 5 can be discharged.

I would recommend the proposed revised wording of condition 4 as follows to be included in the consent:

“The development hereby permitted shall comply with the specified mitigation measures set out in the Noise Assessment dated 15 May 2019 by Cole Jarman. These mitigation measures installed shall be maintained for the life of the development.”

I have also reviewed the proposed revised wording of condition 5 but would like to make an alteration to it, as follows:

“Equipment shall be installed as per the recommendations set out in the Odour Assessment dated March 2019 by WYG. The equipment shall be operated and regularly maintained for so long as the use continues”

The reasons for these conditions remain the same.

As to condition 7, an objection is raised on the grounds of potential sleep disturbance from deliveries, I would not wish to see an extension of the delivery times to 11pm.

Environmental Health Manager, Community Group - 2nd comment
Condition 7 - no objection

My concern is that large delivery lorries providing fresh raw materials etc to the store would be arriving up to the premises until 11pm, rather than that deliveries of food to customers might take place at that time. I do not have a problem with food deliveries to customers taking place between 10pm – 11pm. Is it possible to condition these two different operations to different times?

Hampshire Highways

No objection to these variations of condition

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: 8

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
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None.	
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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 upon the character and appearance of the area and residential amenity

(i) Principle of development

The principle of the development was established by the granting of planning permission under reference APP/18/00059. In the intervening period from the decision, there has been no changes in terms of local or national planning policies to indicate that a difference decision should now be made.

(ii) Impact upon the character and appearance of the area and residential amenity

In seeking to vary/discharge the conditions the following changes to the rear of the building are proposed:

an extract flue, which would go through the flat roof discharging 100 mm above the eaves;

a condenser unit;

a WC extract & fresh air intake grille;

new steel security door (not development); and

2 lockable bins, (in the access area) - one for general waste, one for cardboard recycling, emptied once a week.

The following are proposed to the front of the building:

new access to first floor residential accommodation; and

new PC Aluminium shop front.

Internal details:

Electrical and reflected ceiling plan.

Noise and Odour Assessments have been submitted in respect of Conditions 4, and 5 which are concerned with the mitigation of noise and odour generated by the use of the premises as a restaurant/takeaway. The Council's Environmental Health Team have commented on these assessments and are satisfied that Conditions 4 and 5 may be discharged, subject to the following conditions:

“The development hereby permitted shall comply with the specified mitigation measures set out in the Noise Assessment dated 15 May 2019 by Cole Jarman.

These mitigation measures installed shall be maintained for the life of the development.

Reason: To ensure the residential amenity of the property is not unacceptably impacted upon by any internal or external noise levels, including from commercial premises below having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018

Equipment shall be installed as per the recommendations set out in the Odour Assessment dated March 2019 by WYG. The equipment shall be operated and regularly maintained for so long as the use continues.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018."

As to the position of the flue, it is demonstrated that its position and height is such that the visual impact is minimised and that it would be located in the most suitable position. The flue and other alterations to the rear would not materially detract from the appearance of the building itself and the wider locality, or detract from residential amenity as required by Policies CS16, DM5 and DM10 of the Local Plan.

As to the physical alterations to the front of the building, the original proposal was purely for a change of use of the ground floor of the building. The alterations to the front of the building are not considered minor in nature, and require planning permission. An informative to this effect, will be included on the decision notice, if permission is forthcoming.

As to Condition 7 which relates to hours of delivery, the applicant seeks to extend the hours of delivery by one hour to 11 pm daily. In support of this additional hour the applicant's agent has advised:

"In terms of deliveries, Papa John's (GB) Ltd has a centrally controlled logistics operation to deliver the fresh dough and other products necessary to meet the business needs of each store.

The delivery model is company-wide and based on three deliveries per week; two deliveries from the main distribution centre, using fixed-bed ten tonne delivery vehicles; and one by the drinks supply partner, Coca Cola, utilising a 7.5 tonne non-articulated delivery vehicle.

Food deliveries are made twice a week and on regular days to maintain stock levels in the store. Drinks deliveries are made once per week. Deliveries are currently received to the front of the Unit, with delivery vehicles being present for approximately 20 minutes.

As the majority of food orders received by each outlet are for home delivery, having regard to the peak hours of the business and available parking in front of the unit, it is not expected that the proposed extension of hours would have an adverse impact on the road network, highway safety or residential amenity."

The Council's Environmental Health Team has commented on this condition and following a review, confirmed that their original comments were concerned with "..."

large delivery lorries providing fresh raw materials etc to the store would be arriving up to the premises until 11pm, rather than that deliveries of food to customers might take place at that time. I do not have a problem with food deliveries to customers taking place between 10pm – 11pm." Such a condition would prevent deliveries to the premises after 10 pm, whilst still permitting the deliveries of food to customer up until 11 pm. A condition to this effect has been discussed with the applicant's agent, who has raised no objection.

With regard to Condition 8 and the weekly disposal of refuse, this would be to the rear of the property, which from a functional perspective would be the most appropriate location, which would not be significantly harmful to the appearance of the building or the locality, or residential amenity in accordance with Policies CS16, DM 5 and DM10 of the Local Plan.

8 Conclusion

The discharge of Conditions 4, 5 and 8 should be approved, together with the variation of Conditions 2 and 7.

As this is an application for a variation of approved plans only (and not an application for a fresh planning permission), it will be necessary to cross-reference the details required in pursuance of the conditions attached to the original Planning Permission APP/18/00059 in this new permission and to impose relevant and necessary conditions relating to this application.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00617 subject to the following conditions:

- 1 The development must be begun not later than 24 July 2021.
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:

Odour Assessment of WYG, June 2019
Planning Noise Assessment of Cole Jarman Ltd report 18/0657/R1
Noise Management Plan
Drawing No. 223147 - Location and block plans
Drawing No. 01100-03 - Existing elevations
Drawing No. 01100-11 Rev F – Proposed Rear Elevation Only
Drawing No. 01100-10 Rev K – Proposed Ground & First Floor
Drawing No. 01100-17 Rev F – Proposed Ceiling and Electrical

Reason: - To ensure provision of a satisfactory development.

- 3 The premises the subject of this permission, if used for the purposes of a cafe/restaurant (Class A3/A5), shall not open to the public before 9:00 hours or remain so open after 23.00 hours Monday to Sunday.
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 2018
- 4 The equipment shall be installed as per the recommendations set out in the Odour Assessment dated March 2019 by WYG and 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 and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.
- 5 The development hereby permitted shall comply with the specified mitigation measures set out in the Noise Assessment dated 15 May 2019 by Cole Jarman. These mitigation measures installed shall be maintained for the life of the development.
Reason: To ensure the residential amenity of the property is not unacceptably impacted upon by any internal or external noise levels, including from commercial premises below having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018
- 6 No deliveries to the A3/A5 use hereby permitted shall take place between the hours of 2200 to 0800 unless otherwise agreed in writing by the Local Planning Authority. No vehicles (including mopeds and motorbikes) delivering food to customers from the A3/A5 use hereby permitted shall be carried out between the hours of 2300 to 0800 unless otherwise agreed in writing by the Local Planning Authority.
Reason: In the interests of the occupiers of the neighbouring properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.
- 7 The existing rear access to the site shall be retained hereafter for the servicing of the premises.
Reason: In the interests of highway safety and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

- 8 The development hereby permitted shall be used for cafe/restaurant A3/A5 use or shop or retail outlets A1 use class only to the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.

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 2018.