
Site Address:	14 Market Parade, Havant, PO9 1QF		
Proposal:	Change of use of property from Class A1 retail to Class A3/A5. (retrospective) (re-submission of APP/15/00269).		
Application No:	APP/19/00371	Expiry Date:	19/06/2019
Applicant:	Mr Ahmed Grillshack		
Agent:	Mr Ralph Martin Ralph Chartered Surveyors	Case Officer:	Lesley Wells
Ward:	St Faiths		

Recommendation: **GRANT PERMISSION**

1 Site Description

The site is located on the west side of Market Parade positioned centrally within a parade of shops with maisonettes above.

Immediately to the south is a ground floor A1 hairdressers. To the north of the site is an Iceland food store.

The red line application site relates to the building alone with no curtilage or parking and servicing area etc. To the rear of the site however is a parking area with further parking on street and adjacent to the rail station.

2 Planning History

96/59625/001 - Continuation of use as an information/resource service for older disabled people, PERM, 15/01/1997

94/59625/000 - Change of use from retail shop to information/advice service for older/disabled people.

, TPP, 14/02/1995

03/59625/002 - Provision of new shop front to provide disabled access., PERM, 12/02/2004

15/00269 - Change of use from A1 retail to A3/15 (Gill, Milkshake and Ice Cream Parlour - PERM, 18/5/15

3 Proposal

The proposal is for a change of use of property from Class A1 retail to Class A3/A5, which is retrospective, following the unlawful implementation of planning permission APP/15/00269, by the failure to comply with a condition precedent, relating to an extraction system, that went to the heart of the permission.

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 ()
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)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health Manager, Community Group

I am very happy with the assessment of the kitchen extract and am satisfied that its operation will not give rise to noise nuisance to its neighbours.

Hampshire Highways - No Objection

Planning Policy, PPUD

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) 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

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

- • KP1 – Havant Town Centre
- • C8 - Food, Drink and Entertainment uses

Town Centre Policies

Adopted Local Plan:

This site falls within Havant Town Centre as defined by Policies CS4 and AL3. 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 centres.

The application site lies within the secondary frontage of the town centre. The proposed change of use is from an A1 shop to an A3/A5 café/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. A site visit would be needed to establish whether this criterion is met.

Emerging Local Plan (HBLP2036):

The Pre-Submission Havant Borough Local Plan 2036 is a material consideration in the determination of the application. Under the emerging Local Plan, the site remains within the Havant Town Centre as defined by policy KP1. That policy introduces greater flexibility regarding the loss of A1 units in Market Parade, with main town centre uses (which include A3/A5 uses), which enhance the evening economy and have active frontage supported. I consider that the proposed use is such a use, and therefore in

compliance with emerging policy.

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.

Emerging policy can only be given limited weight at this time.

It may also be considered relevant that this use was permitted and implemented in 2015, before the emergence of this policy, and that the reason for the invalid earlier permission is related to detailed extraction equipment, rather than the principle of this use.

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, 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

Usually, in policy terms, the key consideration in change of use applications is whether the proposal supports and enhances the vitality and viability of Havant Town Centre, providing the types of uses envisaged by town centres policies, and in this case, those governing food and drink uses.

It is acknowledged that this change of use has previously been permitted and implemented, and this is a re-application caused by non-compliance with a condition on the earlier permission. In the meantime, the policy position has changed, with the emerging HBLP2036 now carrying some, if limited, weight. That plan supports a wide variety of town centre uses in Market Parade, but under policy C8, calls into question the earlier support for the A5 use.

That being said, I consider it relevant that the use was accepted through a permission and implemented, albeit in breach of a condition relating the extraction equipment, in advance of the emergence of that policy.

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: 1

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
More business will increase footfall and local employment, reduce empty shops being vandalised and used By homeless risk to health and safety and security.	Noted

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) Amenity issues
- (iv) Shopfront Design

7.2 (i) Principle of development

The site falls within the defined Havant Town Centre area in a defined Secondary shopping frontage where the principle of development proposals that provide main town centre uses such as restaurants is acceptable, subject to considering the concentration of non-retail uses and other standard development control criteria.

(ii) Policy Considerations

Policy AL3 of the adopted Local Plan (Allocations) is relevant to this proposal. AL3(4) requires that at least 25% of the units in an unbroken run of secondary frontage, as defined on the policies map, must remain in a A1 retail use. The site falls within a defined Secondary Frontage and as such a review of the current uses was undertaken on the 28 June 2019 and it was found that there were 19 units out of a total of 42 (ie 55%) within the parade (Iceland and the Funeral Directors are double unit) which were classified as an A1 use. Therefore, 55% of A1 premises would remain within this frontage and as such the proposal is in accordance with policy AL3 and is acceptable in principle.

As to the emerging C8 policy in the Pre-Submission Havant Borough Local Plan 2036, at this stage only limited weight can be given to this.

(iii) Amenity Issues

The adopted Core Strategy policy DM5 considers the amenity/pollution aspect of changes of uses to Classes A3, A4 and A5 and requires mitigating extraction systems etc for the cooking of food. An extraction system has been installed and found to be operating satisfactory to Environmental Health.

The external part of the extraction system is located to the rear of the premises, which does not have a material impact on residential amenity, or the locality.

However, if permitted, the site could be used in the future for any other A3/A5 use which could undertake cooking of different hot foods that may require a different extraction system. It is considered that a future user that would be cooking an alternative range of hot foods and require an extraction system should not benefit from this permission, but need to re-apply to enable adequate future control to protect the residential amenity of neighbours. Therefore a condition limiting the cooking of any foods requiring the installation of an extraction system is proposed.

(v) Shopfront Design

Policy DM21 of the allocations plan specifically considers shop fronts and requires that their design to be appropriate in size and scale. No changes to the shop front have been shown and a change of signage can be installed without an application so long as it accords with the Advertisement Regulations. The proposal has resulted in a rejuvenation of an empty shop which has benefited the visual appearance of the street scene.

8. Conclusion

It is considered that the use of the site for a grill & milkshake restaurant/hot food takeaways with associated snacks and drinks complies with policy and would have no detrimental impact on neighbouring residential amenity and accords with the requirements of Policy AL3. Therefore, with conditions controlling the continuing use of the site, it is recommended to grant permission.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00371 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 Gril and Milkshake Restaurant shall only operated when the approved equipment is operating in accordance with the submitted details, and the equipment shall be effectively operated for as long as the use continues. At all times thereafter the equipment shall be maintained in full working order.
Reason: To protect the amenities of occupiers in adjoining properties from undue fumes and smells and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy

Framework 2018.

- 3 Unless otherwise agreed in writing with the Local Planning Authority, the premises shall not open to the public other than between the following times:
- (i) 0700 - 2400 hours on Monday to Saturday;
 - (ii) 0800 - 2230 hours on Sunday or any recognised Public Holiday.

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 range of food sold at the premises shall be in accordance with the written details as set out in the Supporting Statement received 10 April 2019 and there shall be no change in the range of food sold unless appropriate measures are undertaken and agreed in writing by the Local Planning Authority to the extraction system approved under Condition 2 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 2018

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

Fusion Air - Commercial Kitchen Odour Control System

Supporting statement dated 10 April 2019

Location, Existing Front Elevation & Floor Plan - Drawing No: 15/056/SP

Location, Proposed Front Elevation & Floor Plan - Drawing No: 15/056/SP

Location, Proposed Front & Rear Elevation - Drawing No: 15/056/SP

Reason: - To ensure provision of a satisfactory development.