

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)
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

AL1 (Presumption in Favour of Sustainable Development)
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

No objection in principle

With regard to the hot food take-away, the addition of a suitable extraction system will likely be a necessity, which in turn could lead to a detrimental loss of amenity if not nuisance, to nearby residential properties due to odour, noise and vibration. There will also be residential accommodation within a distance of 10 metres. Dependent on the cuisine to be prepared, a high rise flue outlet to the proposed extractor unit, may be a requirement. Noise and vibration mitigation measures will also need to be considered. Documentation provided by the applicant suggests the installation of a JAG Services type system, utilizing pre-filters & carbon filters, ducting with an upward discharge cowl outlet to finish above the flat roof. An acoustic silencer in the ducting and anti-vibration mounts are also proposed to be utilized.

If this application were to receive a positive decision, I would request that Conditions and informatives as per those below be added to any positive decision notice regarding No floodlighting; extraction equipment installed; maintenance of extraction; noise and vibration mitigation; hours of work; dust control; bonfires

Officer Comment - subsequent discussion following provision of route of ducting and need for and precise wording of conditions, has confirmed need for conditions relating to ensuring provision of equipment detailed in submission which is acceptable.

Hampshire Highways

Whilst car parking is the responsibility of the Borough Council I note there is considerable on street parking in this area. The site does benefit from a rear car park of some 11 spaces and a layby to the front. The proposed change like the existing is likely to serve the local population and may change the timing of vehicular movements only.

I therefore confirm the Highway Authority have no objection to this proposal.

Planning Policy

The [Local Plan \(Core Strategy\)](#) and the [Local Plan \(Allocations\)](#), together with the [Hampshire Minerals and Waste Plan](#), provide 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 are of particular relevance:

- DM2 – Protection of Existing Community Facilities and Shops
- 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:

- C7 Protection of existing community facilities and shops
- C8 Food, Drink and Entertainment uses

Principle of Development:

The site falls outside of any identified centre as defined by the adopted and emerging Local Plans. The existing unit is occupied by a Spar – meeting the definition of a local shop meeting everyday shopping needs outside all identified centres.

As part of the proposal the existing shop use would be retained. As such, it is not considered that Policy DM2 (or Policy C7 in the HBLP 2036) would apply. It is also noted the subdivision of the shop unit would help to secure the viability of the business in the longer term.

However, the Pre-Submission Havant Borough Local Plan 2036 can now be afforded limited weight. Policy C8 of the HBLP 2036 seeks to restrict A5 uses across the borough to below current levels in order to meet public health objectives. The A5 use would not therefore be supported under emerging policy.

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)
- 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 also note there are alterations to the shopfront proposed as well as new doors to the side and rear elevations. 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

The proposal would help to retain an existing shop use for everyday shopping needs outside of identified centres. It is also noted that the subdivision of shop would help to secure the long-term viability of the business. On that basis, there is no in principle objection to the subdivision of the shop unit.

It is noted there is an emerging policy which seeks to restrict, and even reduce A5 uses in the borough. The emerging policy will attract increasing weight as the Plan

The Traffic Team would

1. *Journal of the American Medical Association*, 2000; 284: 2689-2695.

Comment	Officer Comment
Object - live in Furzedown Crescent. If had wanted to live next to a fast food takeaway, we would have chosen to do so 12 years ago when we purchased our home. When we purchased our home our solicitor at the time checked that there was no developments near by.	Noted but checks correct at time, can't predict future
Object to the environmental and health impact as the refuse area is too close to the homes of houses next to the building at 71 Forestside Avenue. As the removal of refuse associated to the fast food development especially wouldn't be done on a daily basis and also the smell on a daily basis would penetrate home with unwanted smells. Forcing residents nearby to keep our windows and doors to our gardens closed and not being able to enjoy our small areas of peace and quite. This is an unwanted development including app/19/00060 which is associated with this development. Be overlooked in our	Noted - see section 7 Noted - see section 7

gardens and having to put up with fast food take which could be open late at night and also attract noisemakers is not appropriate for this small area. Please decline these applications.	overlooking an issue to be considered under APP/19/00060, not this application
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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
- (iii) Impact upon residential amenity
- (iv) Highways and parking

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The applicant has a long lease on the land which is owned by Portsmouth City Council. The correct Notice has now been served on PCC as landowner and no comment received.

As a proposal for a hot food takeaway policy DM5 is specifically relevant, which states:

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 all the following criteria are met:

1. Measures are incorporated, where a proposal includes the preparation of hot food, to mitigate the effect on nearby properties.
2. The measures proposed in respect of criterion 1 are such that the installation does not materially detract from the appearance of the building itself and the wider locality.
3. The measures proposed in respect of criterion 1 are suitable for the range and nature of hot food to be prepared on the premises.
4. The development includes adequate provision for the disposal, storage and collection of refuse, including litter bins for use by customers.
5. The development would not result in indiscriminate customer parking and/or traffic movement that would be likely to create hazards for traffic or pedestrians.
6. The development would not cause unacceptable disturbance to the occupiers of nearby residential property at times when activity in the immediate vicinity would otherwise be at a relatively quiet level.
7. In the case of changes of use, any marketing requirements are met.

As a criteria based policy the issues and compliance will be considered below:

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

The existing site comprises an A1 convenience store and the proposal would result in the compression of the A1 function into approximately two thirds of the existing floorspace with the remainder being sectioned off to provide an A5 takeaway. Therefore the A1 store would not be lost as a service to the local population and the unit would remain in retail use (thus marketing as required by policy DM2 is not required and criterion 7 above is not applicable.) An A5 takeaway also serves the local population.

The proposed subdivision of the unit would not significantly alter the appearance of the

front of the unit. The overall same shop front glazed area would be retained with the insertion of a second door. This is not considered to be detrimental to the visual appearance or character of the area and the function and appearance of the proposed development is not considered to adversely impact the character of the area.

(iii) Impact upon residential amenity

Policy DM5 above aims to protect residential amenity and the relevant criteria are assessed as follows:

1. Extractor duct proposed - details submitted by JAG services and Env Health satisfied that sufficient for worst case food preparations (actual food type unknown)
2. The extractor routing is largely internal, running across kitchen , through first floor store (or hall if residential conversion granted pp and implemented) and out through the roof; as such this will not be visually prominent; where external the flue can be conditioned to be painted matt black to further reduce any visual impact;
3. As 1. above
4. Secure refuse store proposed in rear service yard to serve commercial waste; it is noted that there is a Council bin outside the site and internal customer refuse collection can be conditioned

With the provision of the extractor as submitted it is considered that any smells from the cooking process should be adequately mitigated against, sufficient to overcome any adverse impact on neighbouring residential amenity. Provided the extractor is installed and adequately maintained (which can be conditioned) it should not be necessary for neighbours to keep windows shut as alleged by the third party representation. The siting of the proposed commercial refuse area against the side boundary of 9 Furzedown Crescent would be screened against an existing high boundary and against the frontage of the dwelling, not the rear private sitting out area. Within an existing service yard this change is considered marginal and unlikely to have any additional harmful impact. Should any smells or noise associated with the use be experienced by neighbours in the future then the Environmental Health protection legislation would be able to investigate.

In terms of activity at the site, criterion 6, the proposed subdivision to form an additional A5 unit would result in increased trips to the site. However, as an existing convenience store site, many of these trips would be combined and the actual increase in comings and goings and associated noise and disturbance is likely to be marginal. The hours of opening sought are between 11.30 and 22.30 Monday to Saturdays and between 17.30 and 22:00 on Sundays. This would be similar to the opening hours of the adjacent shop (which does not appear to be conditioned by recent planning applications) and hence activity would not be beyond trips to the adjacent convenience store. Overall the suggested 22.30 closing time is considered reasonable and not excessively late to unduly impact neighbouring residential amenity. This can be conditioned.

Overall the proposed use is considered to be compatible with the adjacent shop unit and surrounding area and would not be unduly harmful to existing levels of residential amenity and the proposal is therefore considered compliant with policy CS16 and the relevant criteria of DM5.

(iv) Highways and parking

No new floorspace is proposed by this application. The lost A1 floorspace would have triggered a similar parking demand to the proposed A5 use and hence the parking demand would be similar and no new on site parking is required by this application. It is noted that there is currently a layby outside the site with unrestricted parking which would continue to be available for customers. The plans show 4 spaces would continue to be available within the rear service yard for retail staff.

The Traffic Team have requested a financial contribution to monitor the traffic

implications/capacity etc. However because no new floorspace is proposed and this application is a change of use only, it is not considered necessary to request this contribution in connection with this application. Rather the proposed residential accommodation application (APP/19/00060 with new floorspace and additional residents) would be the appropriate application to consider seeking this contribution, if necessary.

Overall the proposal is considered compliant with Policy DM14 and the Parking SPD and would not have any adverse impact on the highway safety or amenity of the area.

8 **Conclusion**

The subdivision of the existing A1 unit to form an A5 takeaway unit aswell as retaining a smaller A1 unit is considered an appropriate development that would not be harmful to either the character of the area or harmful to neighbouring residential amenity. The proposal is considered compliant with Policy DM5, DM10 and CS16 and is recommended for permission.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/18/01291

(A) 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:

1:1250 Site Location Plan

Design & Access Statement by hrp architects dated December 2018

Extractor details by JAG Services UK Ltd

Existing & proposed Floor Plans & Elevations Drawing Number 8811-01 Rev C

Existing Floor & Elevations Drawing Number 8811-10 Rev D

Reason: - To ensure provision of a satisfactory development.

- 3 The A5 use hereby permitted shall only be open for trade or business between the hours of 11:30 and 22:30 Mondays to Saturdays and between 11.30 and 22:00 on 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.

- 4 A customer litter bin shall be provided within the Customer Waiting area prior to the first implementation of this hereby approved A5 use. Thereafter the litter bin shall remain available for customer use at all times, being regularly

emptied.

Reason: In the interests of amenity, 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 hereby approved extractor equipment to suppress and disperse fumes and/or smell, as specified by Jag Services UK Ltd, shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of the hereby approved A5 use. The installation shall include the specified mitigation measures for the control of noise and vibration emanating from the extraction system. Thereafter the equipment shall be maintained and effectively operated for so long as the use continues.

Reason: To safeguard the amenities of the locality and/or occupiers of neighbouring property 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.

- 6 The hereby approved extractor flue, where external, shall be painted a matt black and retained and maintained as such in perpetuity.

Reason: To safeguard the visual amenity of the locality 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.