

Recommendation: **GRANT PERMISSION**

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Crime Prevention -Minor Apps

No comment

Economic Development

No comment

Environment Agency

No comment

Environmental Health Manager, Community Group

Latest Comments:

I refer to the above application under the Town & Country Planning Acts passed to this Service for further comment, especially in regard to the acoustic assessment related to the extraction system from a noise and vibration perspective. I note that there is no mention made of air conditioning and / or chiller room plant at this time, so I will assume there is no intention to install equipment of this nature externally at present. If plant of this type is to be installed externally at a later date I would expect this to be dealt with under another application.

In relation to the assessment carried out by Philip Acoustics Ltd, I can advise as follows: the consultant has advised that a supplementary silencer should be incorporated into the extract duct work in addition to the developers specified silencer, in order to ensure compliance with the noise limit criterion.

If the developer is to install the extract system following the recommendations of the acoustic consultant, I am happy to accept that during operation, this system will in all likelihood not cause any adverse impact on the nearest residential receptors in terms of noise.

However if there are to be any changes to any of the above recommendations, during or after installation of the extract system, I would then suggest that an acoustic consultant be required to verify that the system remains suitable.

The recommendations as per Section 6.2 of the acoustic report regarding vibration should be followed. As advised in my previous memorandum dated 3 May 2018 in relation to this application I would ask that if the Committee were minded to approve this application, that all conditions and informative's listed therein be applied to any consent that may be granted.

Planning Officer Comment: The recommended conditions and informatives shall be included with any decision. The conditions shall be in relation to:

- Carrying out development in accordance with the information submitted
- Air Conditioning/ Chiller Room
- Maintenance of Equipment
- Suppress and disperse fumes
- Opening Hours
- Deliveries
- Lighting

Informative's shall be in relation to hours of work and Dust

Planning Policy

Principle of Development:

The site lies within the urban area as defined by Policies CS17 and AL2 of the Local Plan. These policies seek to concentrate new development within the five urban areas of the borough. The proposal is for a change of use from Class A1 to A5. The site falls within Rails Lane Local Centre as defined by Policies CS4 and AL3. The designated local centres in the borough do not have defined primary and secondary frontages; therefore, criteria 3) and 4) of Policy AL3, which aim to retain a proportion of A1 uses in designated frontages, do not apply.

The proposal is supported by criterion 1) of Policy AL3 as it provides a main town centre use within an established local centre, along with criteria 2) and 5) of Policy CS4 as it would enhance the evening economy and retain an active ground floor frontage.

Land Use Class A5:

Policy DM5 sets out criteria for the control of food and drink uses to avoid environmental problems such as fumes, odour and litter. The application should demonstrate that all the criteria of DM5 can be met.

Shopfronts and Signs:

The proposed shop front will need to be appropriate in size, scale and design to the character of the building and the street scene. Moreover, the provisions of Policy DM21 will need to be met.

Section 5.0 of the submitted Design & Access Statement states that the flue will be cited on the rear of the property and that:

“as there is to be no new extension, there will not be any changes in the streetscape or character of the building in the area”.

These statements are supported by Policy DM21. It is also noted and supported that:

“any signage required for the proposed change of use would be subject to the appropriate separate advertisement consent”.

Parking:

Policy DM14 and the Havant Borough Parking SPD (July 2016) set out the minimum parking standards for new development in the borough (excluding residential).

However, as the site is situated within Rails Lane Local Centre; this policy and SPD will not apply as the centre is well served by the car park to the north of site (situated between St Hermans Road and Southwood Road) along with parking along the Sea Front and on-street parking immediately in front of the site.

Flooding:

The site is in flood zone 1; however, access to the site along Rails Lane is in Flood Zone 2. [National Guidance](#) states that a flood risk assessment (FRA) is required for development in flood zone 2 and/or 3 including minor development and changes of use. The Planning Policy Team recommend that Hampshire County Council (HCC) as the Local Lead Flood Authority is consulted to ascertain whether an FRA would be required for this application.

Regeneration of the Borough:

South Hayling is identified in the Local Plan (Core Strategy) as an area in need of regeneration (Policy CS6). The concept of South Hayling's regeneration has been developed further in the emerging [Draft Havant Borough Local Plan 2036](#) under Policy KS4. More specifically, Rails Lane Local Centre is identified in the Eastoke

Corner Regeneration Area (Phase 2). The draft plan has only highlighted the Council's vision of the site at present, greater detail on design and reconfiguration is still required and will be developed as part of the next stage of the Local Plan process. As such, it is important to make the applicant aware of the Council's aspirations at this point.

Developer Contribution:

As the application is for a change of use from class A1 to A5, the development will not be CIL liable and will not have to pay the Solent Recreation Mitigation Partnership (SRMP) contribution. Therefore, Policies CS21 and DM24 do not apply.

Recommendation:

It is recommended that HCC is consulted to ascertain whether a flood risk assessment (FRA) is required.

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: 7

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 upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Highways and Parking
- (v) Flooding

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. As a designated local centre the application site does not have a defined primary or secondary frontage however policies CS4 and AL3 do apply which seeks to promote the vitality and viability of the centres. The proposed use is appropriate to a local centre and would contribute to an enhance its vitality and viability as a local centre.

7.3 The proposed use is also considered to comply with Policy CS4 of the Core Strategy in that it would enhance the evening economy and support a small independent business.

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

- 7.4 As noted above the A5 use compliments the local centre and would provide a service for local residents. As such it is considered a sustainable development that is appropriate to the character and appearance of the area.
- 7.5 The development would result in minor changes to the appearance of the front of the building with potential revised signage which may require a separate application for advertisement consent.
- 7.6 To the rear there are limited changes proposed with an extractor duct shown positioned to the south side of the unit above the ground floor window and to the left of the air conditioning unit. . The submitted detail in the elevation plans indicate the proposed appearance of the installation. Subject to conditions in relation to the visual changes the physical changes to the building are considered modest and acceptable.

(iii) Impact upon residential amenity

- 7.7 Whilst there are residential flats above, no objection has been received to this application. The current use for the unit is Elly's Wine Store which operates under standard trading hours.
- 7.8 The proposed A5 takeaway would be located within the local centre which includes a variety of business uses including cafes and restaurants. Within such mixed use areas there is a balance to be considered between commercial activity expected in a local centre and the impact on residents. No 10 has residential flats above and therefore careful consideration needs to be given to the potential impacts of the use. Policy DM5 of the Local Plan sets out criteria in relation to such uses:
- 7.9 The first relates to mitigation measures being incorporated where hot food preparation is proposed and these are addressed by the Councils Environmental Health department. In this case conditions are proposed to address potential impacts from smell and noise.
- 7.10 The second criteria relates to the appearance of extract equipment. Details shown on the elevation drawing suggest a large external ducting for the flue, however, this is considered to not be visually harmful when considering its position to the rear of the unit and other neighbouring units uses and equipment.
- 7.11 The third criteria relates to measures being suitable for the range and nature of hot food prepared at the premises. The information submitted confirms the use of the site as a fried chicken takeaway and is considered to be acceptable with this range and nature of food. A condition shall be included to ensure all equipment is regularly maintained in order to address further potential impacts from smell and noise.
- 7.12 The fourth criteria relates to refuse and a condition relating to commercial waste provision is recommended. There are existing waste bins close to the site on Rails Lane and outside the premises.
- 7.13 The fifth issue relates to parking/traffic impacts and is considered under (iv) below.
- 7.14 The sixth relates to unacceptable disturbance to occupiers of nearby residential property at times when activity in the immediate vicinity would otherwise be at a relatively quiet level. The application form indicates intended hours as 11.00 am to 23:00 Monday to Saturday and 11:00 to 22:00 Sunday and Bank Holidays. Given the nature of the environment and other uses along Rails Lane the opening hours

proposed are considered to be appropriate to permit reasonable trading hours whilst not causing a nuisance to neighbouring dwellings. An acoustic report has also been submitted to demonstrate the base level of current noise and the proposed noise level as a result. This has been assessed by the Environmental Health officer who has considered this impact to be limited, pending the works being carried out in accordance with this report and information submitted. This shall be conditioned as part of the decision and the report listed as part of the approved documents which shall also be controlled with a condition. A condition on delivery times shall also be included to ensure that this does not result in a noise nuisance to local residents.

7.15 The final criteria relates to marketing requirements which are not relevant in this case.

7.16 The current management appear to be operating a successful business without causing harm to neighbouring amenity - whilst Planning has no control over future management the scale of the business would appear appropriate to its site and setting and can be controlled via an hours condition. Any future noise/smell/disturbance issues can be investigated via other legislation ie by Environmental Health and the Police

(iv) Highways and Parking

7.17 The site is considered to be well served by public car parking with car parking to the north of the site along Sea Front Road and between St Hermans Road and Southwood Road. In addition, there is a layby to the front of the premises. The development engineer (highways) Traffic Management have raised no objections to the proposals

(v) Flooding

7.18 Given the use of the site and that no residential use is occupying the site at ground floor further information in regards to flooding is considered to not be required at this stage.

8 Conclusion

8.1 In conclusion, the proposed change of use is considered to be acceptable and subject to conditions would represent an appropriate use whilst ensuring that any environmental impacts for residents are minimised. The hours and scale of business is considered appropriate to the area with residential flats above but should be conditioned to prevent any significant extension of opening hours later into the night which could be harmful to residential amenity. The proposal also complies with policy CS4, DM5 of the Core Strategy aswell as AL3 of the Allocations plan. Therefore the application is considered to represent sustainable development and is recommended for permission.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/18/00176 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:

Proposed Floor and Elevation Plan: Drawing No B-02 A
Existing Floor and Elevation Plan. Proposed Section Plan and Photographs: Drawing No B-01 A
Fan Specification Systemair details: Reference MUB 062 560D4-A2 IE2 Received 14.05.2018
Accoustic Report: Received 10.07.2018 via email Reference 18114-002
Design and Access Statement: Received 08.02.2018
Technical Specification for Ducts/Extractor System: Received 08.02.2018
Site Location Plan: Reference OI1201277
Reason: - To ensure provision of a satisfactory development.
- 3 The premises the subject of this permission, if used for the purposes of a hot food and takeaway (Class A5), shall not open to the public before 11:00 hours or remain so open after 23.00 hours Monday to Saturday. Sunday and Bank Holidays: 11:00am to 22:00
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 2012
- 4 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 2012.
- 5 The extraction equipment installed in pursuance to Condition (No.4) above 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 2012.

- 6 The change of use hereby permitted shall not commence until details and/or specification of bin provision relating to the takeaway 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 dispose 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 2012.
- 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 2012
- 8 If any equipment is to be installed such as refrigeration and / or air conditioning units, schemes shall be agreed in writing with the Local Planning Authority and approved in writing prior to any development taking place. 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.
- 9 The works shall be carried out and maintained in accordance with the Accoustic Report received 10.07.2017 Reference 18114-002.
Reason: To protect the occupants of nearby residential properties from noise disturbance and to be in accordance with policy DM10 of the Havant Borough Core Strategy 2011 and National Planning Policy Framework 2012.

- 10 Delivery vehicles (including mopeds and motorbikes) shall only be taken and/or dispatched from the site between the hours of 7:00am- 20:00pm Monday to Friday and 7:00am-19:00 Saturdays and not at all on Sundays and recognised public holidays.
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 2012.
- 11 No floodlighting or other form of external lighting scheme shall be installed unless it has been approved by the Local Planning Authority. Such details shall include, Location, height, type and direction of light intensity of illumination. Any lighting scheme agreed in writing by the Local Planning Authority shall not thereafter be altered without prior consent other than for routine maintenance, which does not change its details.
Reason: To ensure the residential amenity of the property is not unacceptably impacted upon by light disturbance/ pollution and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework
- 12 The development hereby permitted shall be used for hot food takeaway A5 use class 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 2012