

Recommendation: **GRANT PERMISSION**

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

Southern Water Developer Services

Updated Comments: No additional comments

No objection. Informative requested in relation to connection to the public foul or surface water sewer. Advice in relation to surface water drainage, maintenance of wastewater grease trap or kitchen waste pipe or drain that is installed and that the site lies within the Source Protection Zone.

Officer Comment: *An informative will be included with the decision referencing Southern Waters requirements.*

Economic Development

No comments

Environmental Health Manager

Updated Comments:

I've had a look at the more detailed report Ventilation & Extraction statement, submitted in relation to the extraction systems to be employed.

I note that reference is made to a noise level of 67 dB & that silencers that can reduce sound levels by 10 dB can be fitted if required. As it appears no noise / acoustic assessment has been carried out, I have no idea as to the existing background noise levels in relation to the advised noise output levels of the proposed systems to be employed, and whether or not the silencers that may or may not be used will suffice or whether they will actually be required.

I would therefore suggest that the applicant provide an acoustic assessment in relation to this application in order that a clearer understanding of the potential noise levels, and whether any mitigation measures are required. This is in order to ensure that there is no adverse impact on the nearest residential receptors.

I would also ask that it be clarified what the proposed cuisine will be, if known, and if not to what level the odour and grease control currently proposed, will suffice going

forward.

Previous Comments:

The addition of an extraction system to serve a hot food take-away, could lead to a detrimental loss of amenity if not nuisance, to nearby residential properties due to odour, noise and vibration. In this case from the drawing viewed, it would appear that mirror image take aways are being considered, which would indicate a doubling up of extraction units?

There is residential accommodation directly above this shop and within a distance of 25 metres. Detail has been provided relating to the proposed method to be utilized for the control of odours from the extraction system. This is suggested to be by an integrated electrostatic precipitator and an odour control unit, which if implemented, should suffice in the control of odours. However, dependent on the cuisine to be prepared, it may still require a high rise flue outlet to the proposed extractor unit, if not being currently planned.

However there is very little other detail concerning the proposed extraction system other than detail provided which relates to the proposed type of fan to be used and comparative sound pressure levels of the different models, at 3 metres distance. The drawing submitted also shows the extractor outlet terminating at the kitchen window; is this the terminal outlet? A ventilation system with silencer is mentioned in the design & access statement, but no silencer (nor details of the expected reduction levels) is indicated on the submitted drawings. Also there is no clear indication provided as to anti-vibration measures, noise reductions or predictions of noise impact, especially in terms of BS4142:2014 in relation to the nearest residential receptors. Therefore, if the Committee were of a mind to approve this application I would ask that the following conditions be applied to any consent granted:-

Condition 1 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.

Condition 2 The extraction equipment installed in pursuance to Condition (No.1) 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.

Condition 3 A scheme shall be agreed in writing with the Local Planning Authority, which specifies the provisions to be made for the control of noise

emanating from the extraction system. The agreed measures shall be put in place, before the development hereby permitted commences.

Reason: To protect the amenities of occupiers of adjoining properties.

Contamination / Pollution / Construction Risk

It is noted that works consist of internal alterations & minor exterior only, not entailing construction groundworks. The property was constructed on brownfield land, so some made ground would be expected at the site, but prior land use is likely to be residential or commercial (retail); negligible risk with respect to continuing commercial use. Existing buildings were constructed between 1961 & '66, so Asbestos is likely to have been used extensively at original construction, and is likely to still be present within building fabric, particularly in ducting & suspended ceilings, but also potentially in flooring, sanitaryware/plumbing/plasterwork and electrical installations. This is considered to be a H&S issue adequately regulated by the Control of Asbestos & Construction Design & Management regulations, and not material to planning. Asbestos within buildings is not contamination, it is 'potential pollution', harmful to construction staff and neighbours if inadequately identified or improperly handled. I would recommend the applicant commission a pre-conversion Asbestos survey to identify any Asbestos Containing Materials within the property that might be disturbed during construction works, in order that these may be appropriately managed. You may wish to include this as an informative on any notice of positive determination of this application. In dealing with any complaints about construction related dust, Environmental Health will assume the applicant to be fully aware of the asbestos risk when making any enforcement decisions.

Additional Informatives:

Regarding Hours of Work and Dust

Planning Officer Comment: *Suggested conditions and informatives shall be included as part of the decision.*

Planning Policy

Updated Comments: No updated comments

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 site falls within Waterlooville Town Centre as defined by Policies CS4 and AL3. These policies support the development of main town centre uses within the borough's town, district and local centres in order to promote their vitality, viability and footfall. Main town centre uses are defined in Annex 2 on page 53 of the [National Planning Policy Framework \(NPPF\) \(2012\)](#). More specifically, the proposal is supported by criterion 5 of Policy CS4 as it would help to retain an active ground floor frontage.

Policy AL3 identifies the site as a secondary shopping frontage within the town centre. Nevertheless, as stated in the 2017 Havant and Waterlooville Town Centres Study, 2015 figures showed that the proportion of occupied A1 units across all secondary frontages in Waterlooville was 46%, which is well above the 25% threshold in criteria 4 of Policy A3. It is noted that street level vacancies were 13.85% in April 2017 which has risen and remained relatively static between May 2014 and April 2016.

Marketing of the site is required by Policy DM2 which generally states that a marketing period of at least 12 months is required for any shop in a secondary retail frontage.

However, when considering the marketing evidence provided and the length of the current vacancy of the units, it is considered that a reduced marketing period of six months may be appropriate.

Policy DM5 sets out criteria for the control of food and drink uses to avoid environmental problems such as fumes, odour and litter. The proposals should demonstrate compliance with Policy DM5 in order to safeguard the amenity of the properties to the rear of the site and that of the tenant(s) living on the first floor of the building. By meeting the requirements of Policy DM5, the provisions of Policies DM10 (Pollution) and DM18 (Protecting New Development from Pollution) would also be met.

Shopfronts and Signs:

The proposed shop front would 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 would need to be met.

Developer Contributions:

As the application is for a change of use from class A1 and Sui Generis to A3/A5, the development would not be CIL liable and would not have to pay the Solent Recreation Mitigation Partnership (SRMP) contribution. Therefore, Policies CS21 and DM24 would not apply.

Recommendation: No objection in principle provided the provisions of Policies DM5 and DM21 are met.

Traffic Management

The traffic team has no adverse comment to make on this application

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: 1

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
I am the owner of the property adjacent to the application site 258 / 258A London Road which has a well established ground floor restaurant. I object to the proposals on the following grounds: 1. There is an over intensification of A3 / A5 uses in the centre of Waterlooville.	See section 7 for an assessment of the acceptability of the change of use in

The design & access statement submitted is not entirely correct in the number of other A3 / A5 premises listed.	principle.
2. The drawings submitted indicate two number units of A3 / A5 usage. This will create further competition which will be to the detriment of my business.	Not a material planning consideration
3. There will be the opportunity at a later date to allow both of these units to be combined to create a much larger A3 / A5 usage.	Not part of the current application
4. The extraction system / flue to be employed is unclear. The final extraction position will cause nuisance to the surrounding residential units including the current planning proposals at this address which has yet to be determined. No details of suppression / filters submitted.	See 7(iii) below.
5. The proposals indicated on this application do not include details of the interaction of the current planning application for two number flats at first floor level.	This has been taken into account in the Environmental Health Officer's assessment and in 7(iii) below.
6. Details of refuse storage / collections unclear.	See 7(iii) below.

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 local amenity
- (iv) Adequacy of Parking and Access

(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.

Within the town centre policy CS4 states that (amongst other matters) planning permission will be granted for appropriate town centre development proposals that:

5. Encourage high quality, mixed-use development in designated centres that retain active ground floor frontages

The change of use within the town centre is considered appropriate. The current application would ensure a use in the two current vacant units, improving the viability of the ground floor use and enhancing the local economy. Whilst the commentary to Policy DM2 indicates that a marketing period of 12 months would normally be required in respect of changes of use of shops in primary or secondary frontages, the

Planning Policy consultation response indicates that, against a backdrop of high levels of A1 representation in secondary frontages in WaterlooVille, and a rising level of vacancy, the 6 month marketing period undertaken at the time of the application submission may be regarded as appropriate.

- 7.3 Notwithstanding the marketing position, Policies CS4 and AL3 seek to promote the vitality and viability of the centres. The proposed use is appropriate to a town centre location and would contribute to and enhance its vitality and viability. Based on the Planning Policy response it is clear that the target retail representation rates set out under policy AL3 would continue to be met following implementation of the development. On balance therefore the change of use proposed is considered appropriate in the context of WaterlooVille Town Centre.

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

- 7.4 As noted above the A3/A5 use complements the town 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. It is noted that first floor flats have been approved to be erected above both 260 and 262 London Road, and these are reflected in the submitted drawings.
- 7.6 The proposed change of use would maintain the existing and original footprint of the two units with access remaining at ground floor to the rear of both units.
- 7.7 The site falls within WaterlooVille Town Centre as defined by Policy CS4. This policy encourages appropriate town centre development proposals which support small and independent businesses; moreover, Policy CS4 seeks to promote the vitality and viability of the identified town centres. In addition, the London Road public realm is an area of particular focus in the regeneration of the Borough under Policy CS6. Therefore, the appropriate re-use of current vacant units are supported by these two policies.

(iii) Impact upon local amenity

- 7.8 The proposed A3/A5 Cafe/Restaurant would be located within the town 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 town centre and the impact on residents. No 260-262 have recently been granted planning permission for residential units above the site 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 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/A5 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

7.10 With regard to the first criteria, Environmental Health have been consulted on the application and whilst the documentation submitted did not provide details relating to the existing background noise level, confirmation was given that this information can be conditioned to ensure that any new use does not breach BS4142:2014 in relation to the nearest residential receptors.

7.11 The second criteria relates to the appearance of extract equipment. Details shown on the elevation drawing propose two new modest extractors to the rear with the flues serving these positioned internally - these are considered to not be visually harmful when considering their position to the rear of the unit and other neighbouring units uses and equipment.

7.12 With respect to nuisance from smells, the information submitted provides some detail in this regard with the remaining to be conditioned as part of any decision. Given the town centre location and examples of A3/A5 uses within London Road it is considered that the proposed use is not likely to lead to unacceptable nuisance, however, conditions in respect of further details for the mitigation of noise and smells are recommended.

7.13 The proposed hours of operation are considered to be acceptable as there is already an established evening trade with other A3/A5 uses nearby on London Road. There is also no evidence to suggest that an additional cafe/restaurant would increase anti-social behaviour and noise in this central town centre location.

7.14 The fourth criteria relates to refuse and a condition relating to commercial waste provision is recommended. There are existing waste bins along London Road and in close proximity to the premises.

7.15 The fifth issue relates to parking/traffic impacts and is considered under (iv) below.

7.16 The final criteria relates to marketing requirements which is covered in (i) above.

7.17 Taken together, the proposal is for the change of use of the buildings to a cafe/restaurant A3/A5 use. This type of use could potentially transmit smell, noise and vibration into any premises either attached to, above or in the vicinity of the premises. The Council's Environmental Health Officer has been consulted on the application and has raised no objection subject to condition relating to the installation and maintenance of suitable plant, machinery and equipment. A condition would be imposed on the granting of planning permission restricting the opening hours of the premises and deliveries to ensure that it does not harm the amenity of the locality of nearby occupiers. A further condition regarding the maintenance of equipment and machinery shall also be included. Any future noise/smell/disturbance issues can be investigated via other appropriate legislation ie by Environmental Health and the Police

(iv) Adequacy of Parking and Access

- 7.18 The application site has a car park to the rear alongside public car parks to the north, rear and west of the site. The site is situated within a highly accessible location and due to the number of public car parks in the area and its proximity to a bus corridor, it is considered that no parking provision would be required for this proposal. This Council's Development Engineer has been consulted on the proposal and has raised no objection.

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 Policies CS4 and DM5 of the Core Strategy as well 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/18/00059 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:
Design and Planning Statement: Received 04.04.2018
Specification and Schedule of Ventilation: Received 04.04.2018
Ventilation and Extration 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.
- 3 The premises the subject of this permission, if used for the purposes of a cafe/restuarant (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 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.
- 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.
- 6 The extraction equipment installed in pursuance to Condition (No.5) 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 2018.
- 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.

- 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.
- 9 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.
- 10 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.