
Site Address: Imperial Palace, 37 Belmont Grove, Havant, PO9 3PT
Proposal: Variation of condition 2 of Planning Permission APP/20/00316 relating to amendment to previously approved plans.
Application Type: Variation/Relief of Condition
Application No: APP/22/00379 Expiry Date: 03/06/2022
Applicant: Co-operative Group Food Limited
Agent: Miss Morrison Case Officer: Lesley Wells
Pegasus Planning Group Ltd
Ward: Bedhampton

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The site to which this application relates is located at 37 Belmont Grove, Havant. It is bound by Bedhampton Road to the south and Belmont Grove to the north and east. The former Imperial Palace restaurant sits within the western portion of the site with its ancillary car park and access to the east. The original use of the property was a public house (Belmont PH), with a use change under permitted development rights occurring around 2010.
- 1.2 There are trees and a grassed area abutting the pavement to the south-west. There are trees along the north-east boundary.
- 1.3 The site is adjoined to the west and beyond by residential dwellings and sits opposite four retail units to the east. The wider area is predominately residential.
- 1.4 The area of the site is approximately 0.47 hectares.

2 Planning History

90/50093/001 - Retention of satellite dish on south (front) elevation., REF,15/04/1991
01/50093/006 - Single storey flat roofed extension to existing kitchen (South Elevation)- Revised application., PERM,20/11/2001
01/50093/005 - Single storey flat roof extension to existing kitchen (south elevation) and formation of garden furniture compound on west boundary, PERM,15/05/2001
00/50093/004 - Canopy to internal yard area to north/west., PERM,29/01/2001
98/50093/003 - Alterations to existing car park layout (part retrospective), PERM,24/11/1998
06/50093/008 - Single storey extension to bar/restaurant to front (east) and side (north) elevations, new disabled toilet and access ramp to north elevations, revision to car parking layout., REF,17/11/2006
APP/10/00518 - Retention of 1No. externally illuminated fascia sign to east elevation, 1No. externally illuminated and 1No. non-illuminated sign to south elevation and 2No. externally illuminated post signs to south and east boundary., PERM,01/11/2010
APP/20/00283 - Installation of plant equipment associated with proposed foodstore within external enclosure at the rear, northern side of the building., PERM,09/12/2021

APP/20/00316 - Change of use Class A3 (restaurant) to Class A1 (foodstore) with single storey side extensions and alteration to access., PERM,09/12/2021

Officer comment: *This is the application which the current proposal seeks to vary.*

APP/21/00530 - Display of 2No. Internally Illuminated Co-op Logo; 1No. Non illuminated Welcome text; 1No. internally illuminated totem; 2No. non-illuminated sign posts; 6No. wall mounted banner frames; 1No. wall mounted vinyl sign; 3No. vinyl post mounted signs; 2No. vinyl laminate signs., PERM,09/12/2021

3 Proposal

- 3.1 Variation of condition 2 of Planning Permission APP/20/00316 relating to amendment to previously approved plans. Permission APP/20/00316 relates to '*Change of use Class A3 (restaurant) to Class A1 (foodstore) with single storey side extensions and alteration to access*'
- 3.2 Minor alterations are proposed to the appearance of the building, comprising a reduction in the height of the roof parapet, and to the footprint of the approved rear extension. The height of the parapet is to be reduced by approximately 0.73 metres around the perimeter of the roof leaving a fascia band of approximately 1.0 metres. No access is provided to the roof and therefore the approved railings have been omitted from the elevations as they are no longer required. In addition to the change to the parapet, part of the approved extension to the south west elevation of the building has now been removed from the proposal. The proposed new wall, as illustrated in the extract from the Approved Ground Floor Plan (drg. no. 163094 AP 31B) has been omitted from the Proposed Ground Floor Plan and the elevations have been updated accordingly.
- 3.3 Planning permission ref. APP/20/00316 was approved subject to a Section 106 Agreement. Clause 16.2 to this Agreement confirms that the Agreement shall apply to any planning permission subsequently granted under Section 73 of the Act or any other planning permission granted under such powers. As such, the determination of this application will not affect the status of the signed Agreement, or the obligations contained therein

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)
CS4	()
DM10	(Pollution)
DM11	(Planning for More Sustainable Travel)
DM12	(Mitigating the Impacts of Travel)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM2	(Protection of Existing Community Facilities and Shops)
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
DM21	(Shopfronts, Signs, Security Shutters and Advertisements)
DM19	(Small Shops outside Town, District and Local Centres)
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

Councillor D Guest

No comment.

Councillor Gary Robinson

No comment.

Councillor Mark Inkster

No comment.

Highway Authority - Final Comment

I have reviewed the documents and find these acceptable, subject to there being sufficient parking on site for the number of contractors. Parking on the highway is unacceptable and should be avoided.

Officer Comment: *In response to Highways' comments, the agent advised that typically there will be 8-10 contractors on site at one time during the works, using 3-4 vehicles. 6 staff parking spaces are provided on site in the Construction Traffic Management Plan Rev A. This level of parking is considered to be acceptable.*

The CTMP was initially submitted in compliance with condition 3 imposed on planning permission APP/20/00316. The agent then requested that this formed part of this application. Hence the consultation with the Highway Authority. However, following further discussions with the agent it was agreed that condition 3 be discharged under planning permission APP/20/00316, which has been the case. In view of this, a condition has been recommended that the development operates in accordance with the Construction Traffic Management Plan Rev A approved under the discharge of condition 3 of planning permission APP/20/00316.

Highway Authority - 1st Comment

The applicant is seeking to discharge condition 3 which reads as follows:
No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:

- (a) A programme of and phasing of demolition (if any) and construction work;*
- (b) The provision of long term facilities for contractor parking;*
- (c) The arrangements for deliveries associated with all construction works;*
- (d) Methods and phasing of construction works;*
- (e) Access and egress for plant and machinery;*
- (f) Protection of pedestrian routes during construction;*

(g) Location of temporary site buildings, compounds, construction material, and plant storage areas;

Demolition and construction work shall only take place in accordance with the approved method statement.

Reason - In the interests of residential amenity and having due regard to Policies CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

The discharge this condition, the applicant has submitted a Construction Traffic Management Plan (CTMP) which the Highway Authority have reviewed and have the following comments to make.

Traffic Management

Vehicle movements:

It is noted that vehicle routes are to be sign posted. A diagram is required showing the proposed routing of construction vehicles. It is noted that construction vehicles should use the most direct routing to the site possible minimising the impact on residential areas.

Reversing movements are to be under the control of a banksman – this is considered acceptable.

Vehicles and plant:

Parking is to be provided on site. A diagram is required showing the available parking spaces on site for contractors.

Vehicle work areas:

Vehicle marshals are to control vehicle movements where vehicle and pedestrian areas are unable to be segregated. This measure is considered acceptable.

Site Vehicle Entrance/Exit:

As previously mentioned, a diagram will be required showing proposed routing of construction vehicles for approval by the Highway Authority.

It is noted that wheel wash facilities will be available to remove any mud from vehicle wheels upon egressing the site. A diagram is required showing the location of these facilities. They should be located as close to the site exit as possible. The applicant should also have access to a road sweeper should this be required. The CTMP should be amended accordingly with this addition.

Loading and Unloading:

No unloading is to take place on the surrounding roads, only within the remit of the site boundary. This is acceptable.

Client/Surrounding Environmental Restrictions:

Deliveries will need to be booked in advance to minimise more than one occurring at the same time due to site constraints. This is acceptable.

Delivery Management

The CTMP states that no deliveries will be accepted before 07:00 and unloading must be completed by 17:30 Monday to Friday. This is not acceptable. A commitment should be made within the CTMP stating that no deliveries are to take place in the network peak hours (Weekday AM 08:00-09:00 and Weekday PM 17:00-18:00). All deliveries are to be planned on a two-week schedule to minimise any congestion. This is considered acceptable.

Pedestrian Segregation on Site

Sufficient pedestrian segregation measures are proposed. These are considered acceptable.

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: 36

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 3

Comment	Officer Comment
Support	
Very minor alterations to the original application - no significant difference to the impact of the shop on the surroundings or neighbours. HBC to permit this application quickly to allow works to commence and the shop to be brought into use - preferable to a vacant building.	Most of the comments are covered in Section 7 below.
Object to an entrance being created opposite 16 and 18 Belmont Grove and a drop kerb outside of the houses. Object to a perfectly healthy tree being cut down to the north of the site. The tree would not be of any harm to the building and is over the perimeter line and obscures the building for the residents in Belmont Grove.	This opening was agreed on the earlier application and this variation would not affect the consideration of this proposal. The trees to be removed were agreed as part of the earlier application as the Arboricultural Officer found they were poor quality category C specimens which were not suitable to protect under a TPO.

Formal unanswered complaint with HBC in relation to the planning permission for Change of Use to retail use of this building based on the failure of the processes required by the Local Plan when seeking consent for retail use exceeding the stated floor area in the Local Plan on a building which was not within the recognised and defined retail centres of Havant, I believe it would be inappropriate to deal with any further planning matter on this property before and until my complaint has been handled and any consequences that flow from the outcome which may therefore include a judicial review on the decision have been first resolved.	The complaint into the approval of the earlier application was dealt with outside of the planning process in accordance with the Council's normal practices.
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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) Access and Parking
- (v) Trees
- (vi) CIL

(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.

7.3 Section 73 of the Town and Country Planning Act 1990, as amended, provides for the determination of applications to develop land without compliance with conditions previously attached. It only provides for the variation of conditions attached to an existing permission; it does not provide a means of varying the development permitted (other than through the imposition of new/varied conditions). Given the previous permission, the principle of the development is considered to be acceptable.

7.4 Section 73 further sets out that:

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

On this basis the analysis of this application focusses solely on the nature of the changes proposed to the plans compared to those approved under APP/20/00316.

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

- 7.5 The proposed minor changes to the building will not affect the overall appearance of the development as a whole. The change to the south west elevation involves the retention of existing external walls and results in a slight decrease in the footprint of the building from the approved and will serve to break up the south western elevation, adding visual interest. The changes to the roof parapet will lower the apparent height of the single-storey part of the building, reducing the overall bulk of the building.
- 7.6 The need to submit details of materials was imposed as condition 4 under the original application, albeit it was discussed with the agent that it would form part of this application. It was subsequently agreed with the agent that the materials which were found to be acceptable, would be discharged under condition 4, which has been the case. Therefore, a condition is recommended that the development shall proceed in accordance with condition 4, discharged under planning permission APP/20/00316.

(iii) Impact upon residential amenity

- 7.7 The impact of the development on residential amenity was considered acceptable under permission APP/20/00316 and the variations proposed would not affect that consideration.

(iv) Access and Parking

- 7.8 The impact on the access and parking was considered to be acceptable under permission APP/20/00316 and the variations proposed would not affect that consideration.
- 7.9 The requirement for a Construction Traffic Management Plan (CTMP) was imposed as condition 3 on planning permission APP/20/00316. The Highway Authority was consulted over the CTMP, and following some revisions raised no objection, subject to adequate on site parking, which was confirmed and the condition was discharged. Therefore, a condition is recommended that the development shall proceed in accordance with the CTMP, discharged under planning permission APP/20/00316.

(v) Trees

- 7.10 The impact on the trees was considered to be acceptable under permission APP/20/00316 and the variations proposed would not affect that consideration.

(vi) CIL

- 7.11 As to CIL, it has been confirmed that the development is not liable and the variations proposed would again not affect that consideration.

8 Conclusion

- 8.1 The current proposal seeks to amend condition 2 applied to the original planning permission reference APP/20/00316 under a S73 application. The amendments are minor in nature and are considered to be acceptable in planning terms and conditional planning permission is recommended.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/22/00379 subject to the following conditions:

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

Proposed Site Plan - Drawing No. PA11
Proposed Ground Floor Plan - Drawing No. PA13
Proposed Elevations - Drawing No. PA16A
Proposed Elevations - Drawing No. PA17A
Details attached to the email dated 7 July 2022.

Reason: To ensure provision of a satisfactory development.

- 2 The development hereby permitted shall be carried out in strict accordance with the Construction Traffic Management Plan Rev A details approved under the discharge of condition 3 of Planning Permission APP/20/00316:
*Construction Traffic Management Plan prepared by Uplands.
Traffic Routing Plan.
Site Set Up Plan.
Construction Schedule of Works prepared by RAME Architects|.
Email of 17/8/22.*

Reason In the interests of highway safety and residential amenity and having due regard to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 3 The development hereby permitted shall be carried out in strict accordance with the external materials and fencing details approved under the discharge of condition 4 of planning permission APP/20/00316:
*Materials Schedule prepared by RAME Architects
LBS Brindle Red Heavy Texture Clay brick, Weinerberger Solid Blue Class A Engineering Smooth brick,
Smooth Concrete White Render & Haddonstone Q570 String Course and TLT395 TecLite Capping Natural Stone.
Traditional featherboard wood for the boundary with Euroguard Regular Jacksons fencing for the plant equipment area.*

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

- 4 The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.

Reason: In the interests of highway safety and having due regard to policy DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The premises shall only be open for trade or business between the hours of 06.00 and 23.00.

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.

- 6 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2020, and any Town and Country Planning (General Permitted Development) Order, the premises shall only be used for retail services and for no other purposes within Class E of the above Use Classes Order.

Reason: In the interests of amenity and having due regard to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 Servicing and deliveries to or from the premises shall only take place (except for daily newspapers/magazines delivery) between the hours of 07:00 to 20:00 Monday to Sunday (including Public or Bank Holidays) and shall be restricted to 3 deliveries a day. Delivery vehicles to the site shall be restricted in length to 10.35m.

Reason: In the interests of the amenities of occupiers 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.

- 8 No external lighting/ floodlighting shall be installed on the site until such details have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed, operated, and maintained in accordance with the approved details.

Note: When submitting details for approval, it is requested that a report from a competent Lighting Professional is provided, confirming that the external lighting installation meets the standards for Environmental Zone (E3) as set out in the "Guidance Notes for the Reduction of Obtrusive Light" (Guidance Note 01/20) issued by the Institute of Lighting Professionals

Reason: In the interests of the amenities of occupiers of nearby residential properties and 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 retail unit hereby approved shall not exceed 360 sqm, with a maximum gross retail sales area of 235 sqm (retail sales definition – the retail sales area within the building (i.e. all internal areas accessible to the customer), but excluding checkouts, lobbies and walkways behind the checkouts).

Reason: In the interests of residential amenity and highway safety and having due regard to policies CS16 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 10 The first floor and basement as shown on approved drawing numbers 19 and 32 attached to Planning Permission reference APP/20/00316 shall not be used together or in association with the retail use hereby approved, which shall include any ancillary retail uses, except for providing access for essential building maintenance to these areas.

Reason: In the interests of residential amenity, parking and highway safety and having due regard to policies CS16 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 11 The development hereby permitted shall be carried out in strict accordance with the Arboricultural Method Statement and Tree Protection plan by Ground Control Professional Service attached to Planning Permission reference APP/20/00316.

Reason: To safeguard the health and wellbeing of the trees in the interests of the amenity of the area having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.