

Recommendation: **GRANT PERMISSION**

For 12 - 13 North Street Arcade:
APP/14/00557

Variation of condition 3 of 98/52768/001 to allow the premises to trade for delivery sales only until 0100 hours on Fridays and Saturdays from the front of the premises only. Permit.

3 Proposal

3.1 Variation of condition 4 with respect to hours of opening; removal of condition 5 with respect to provision of screening for roof plant and variation of condition 6 to amend approved plans to provide for relocation of plant to lower roof – all of planning permission APP/14/01036; together with discharge of conditions 2 and 3 of same permission with respect to acoustic performance and fume mitigation.

3.2 The proposal has been supplemented with additional information, following concerns expressed during the related licencing application, which has proposed revised opening hours of 0600 to 0000 Sunday to Wednesday and 0600 to 0300 Thursday to Saturday but with no outside serving beyond 2300 on any day. It is also proposed to serve coffee only at 0600.

3.3 At the same time as this application was with the Council an application was made for a licence which had longer hours seeking an 0200 closing time on all days with music until 0100. This resulted in an objection from Development Management to the licence and also one from Environmental Health. The licence application was subsequently amended to correlate with the planning proposal in this application and a hearing into the licence cancelled.

4 Policy Considerations

National Planning Policy Framework 2012

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS4	()
DM10	(Pollution)
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

DM21	(Shopfronts, Signs, Security Shutters and Advertisements)
AL3	(Town, District and Local Centres)

Listed Building Grade: Not applicable.

Conservation Area: Adjacent St Faiths Conservation Area

5 Statutory and Non Statutory Consultations

Development Engineer - Highways

No adverse comments

Environmental Health Manager

Original observations raised concerns over the repositioning of the plant to the single storey roof in view of potential noise nuisance for the residential flats. Discussions

have taken place with the consultant engineer and amendments submitted. On the matter of odour mitigation the Engineer has satisfied concerns of environmental health. The original amendments to hours of opening were of concern; screening could impact on an acoustic assessment. A replacement condition is proposed to address any noise issues if the plant noise requires mitigation once installed.

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: 29

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 3

1. Discrepancy with licence hours proposed. Noise concerns from Six Bells after 11.30 most nights. Would like the restaurant to close at 11 pm.
2. Concern over the proposal for music. (*Officer comment: This is a matter for the licence*)

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 and impact on the town centre
- (ii) Impact upon the streetscene
- (iv) Impact upon residential amenity

(i) Principle of development and impact on the town centre

The principle of a Class A3 restaurant use in this location was established through the earlier permission. The matters to be addressed by the changes proposed are the impact on the streetscene and residential amenity.

(ii) Impact upon the streetscene

The original permission provided for plant on the roof although details were still required for acoustic and odour mitigation (conditions 2 and 3). The submissions made in this application provide for the plant on the lower single storey roof within the Arcade. The original submitted drawing has been amended following discussion with Environmental Health and will be less extensive. It will have less impact than the plant approved previously but will still be in the public view within the Arcade itself. It is therefore considered that screening is required and a detail has been submitted. On this basis the revised positioning is considered acceptable in street scene terms and will accord with the requirements of CS16.

(iii) Impact upon residential amenity

On the matter of odour, Environmental Health have confirmed that the information from the Consultant engineers has resolved reservations. As this application is a S73 application and a fresh permission is to be issued it is considered that an odour mitigation condition need not be reapplied and nor does the earlier condition have to be discharged.

With respect to the noise from the plant the revisions to the plant details have been considered by Environmental Health and considered acceptable. However, there is potential for some noise implications from the plant when installed and so a condition is proposed to address this eventuality.

With respect to opening hours there are a number of establishments that open beyond 2300 within North Street and it is the public houses that have tended to create the problems of noise. A restaurant should provide for a different venue within the night time economy and not create the same issue. However, it is considered reasonable that a later opening hour would be acceptable for the inside of the premises as long as the outside area is not open for the serving to customers beyond 2300 hours. On the matter of the earlier opening, which is to offer a service to the train commuters, with a restriction on the nature of the activity (hot drinks and microwave food only) the activity in North Street should not be adversely affected to the detriment of the amenity of the area. The condition is worded to allow for later opening on Christmas Eve and New Year's Eve until 0100. Taken together the revised condition proposal accords with the amended Licence application which was granted on 17th November 2015.

8 Conclusion

On the basis of the revised conditions the proposal is considered acceptable.

9 **RECOMMENDATION:**

That the Head of Planning authorised to **GRANT PERMISSION** for application APP/15/01088 subject to the following conditions:

- 1 The premises shall only be open to the public between the hours of 0600 and 0000 Sunday to Wednesday and 0600 to 0030 Thursday to Saturday except on Christmas Eve and New Year's Eve when the premises may be open until 0100 hours. However, there shall be no outside service beyond 2300 on any day and between the hours of 0600 and 0800 on any day no hot food shall be served other than that which is prepared in a microwave.
Reason: To protect the amenities of nearby residential properties and having due regard to policies DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 2 Screening shall be provided to the proposed roof plant and equipment in accordance with the details approved in writing by the Local Planning Authority. The approved screening shall thereafter be retained and maintained.
Reason: In the interests of the character and appearance 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 2012.

- 3 The external plant and equipment hereby approved shall be installed to meet the criteria of British Standard BS 4142-2014 in that any noise emanating from such plant/equipment is sufficiently mitigated to achieve No Observable Adverse Effect Level (NOAEL) or better, at the nearest sensitive (residential) receptors.

Reason: To safeguard the amenities of occupiers of neighbouring residential properties and having due regard to policies CS11.4, CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

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

Design and Access Statement approved pursuant to APP/14/01036
Supporting Statement for developing the existing Under-croft approved pursuant to APP/14/01036

PWP Ventilation and Extraction Statement approved pursuant to APP/14/01036

Block Plan KAD 19 A SK2 approved pursuant to APP/14/01036

Floor Plans General Arrangement 5193 1200L

Floor Plans General Arrangement 5193 1201J

Floor Finishes 5193 1202 A

Roof Plan 5193 1206B

Elevations Sheet 1 5193 1300D

Elevations Sheet 2 5193 1301D

Elevations Sheet 3 5193 1302H

BF Engineering Services Ltd Kitchen Extract System Rev B

Reason: - To ensure provision of a satisfactory development.