
Site Address: 38 Market Parade, Havant, PO9 1QF
Proposal: Change of use from A1 (Shops) to A3 (Restaurants and cafes).
Application No: APP/16/01028 Expiry Date: 12/12/2016
Applicant: Mrs S Somes
Agent: Case Officer: Emma Chisnall
Ward: St Faiths

Recommendation: **GRANT PERMISSION**

1 Site Description

The site is located on the south side of Market Parade positioned centrally within a parade of shops with residential flats above. It is currently designated as an A1 use but has been operating under A3 use for two years under permitted development. It is close to Havant railway station and has servicing from the rear. It is not located in either the primary or secondary designated shopping frontage.

2 Planning History

None

3 Proposal

Change of use from A1 (Shops) to A3 (Restaurants and cafes). The shop known as 'Just Desserts' has been operating under the A3 use for two years under permitted development rights which were introduced in 2013 for changes of use from A1 to other uses in a bid to encourage the take up of vacant units. Full planning permission is now being sought from Class A1 to A3 now that the two years have ended.

The customers have a choice of taking away cold and hot desserts, eating in or taking away. The proposed design/works for the interior of the shop will be maintained as it is existing.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

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)

Havant Borough Design Guide Dec 2011

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

5 Statutory and Non Statutory Consultations

Economic Development - Retail and Town Centres Comment:

No adverse comment in regards to the application

Environmental Health Manager, Community Group Comment:

I refer to the above application under the Town & Country Planning Acts passed to this Service for comment.

I have read the enclosed documentation provided by the applicant and been on site to witness the operation. I can comment as follows:

I have no objection in principle to the change of use as proposed and which has been in operation as A3 for some time now.

It has been indicated that there are no plans at this point in time, to alter the range of food sold / prepared or provided, as listed in the submitted covering letter.

I would therefore ask that the range of food to be cooked / prepared at the premises shall be in accordance with the details contained in said submitted letter dated 22 September 2016, and no variation to that range shall be made without the prior written approval of the Local Planning Authority.

Planning Policy Comment:

The premises have been operating under a temporary change of use consent for approximately two years. The applicant is now seeking to make the A3 use permanent.

The relevant local plan policies are CS4: Town, District and Local Centres, DM2: Protection of Existing Community Facilities and Shops and DM5: Control of Food, Drink and Entertainment Uses.

The premises lie outside the primary and secondary shopping frontages, so concentration of use policies do not apply. However, paragraph 10.09 of policy DM2 recognises the importance of maintaining the vitality and viability of an area by avoiding a series of vacant units. As such, the marketing requirements of DM2 are reduced to six months in the case of shops outside the primary and secondary frontages. The intention is to maintain an active frontage that contributes to the surrounding local community.

In certain circumstances, it is possible for development consisting of a change of use from A1 to A3 to be permitted under a Notification for Prior Approval procedure, rather than through a planning application. Under the Prior Approval procedure, the impact on existing shopping provision would be a consideration (source: planning portal) but it is unlikely that marketing material would be requested.

On the basis that there are a high number of vacant units in Market Parade and that the premises have been operating successfully for the past two years, it is not considered appropriate to request marketing details in this instance. The use is contributing to the vitality and viability of Market Parade. If the proposal were being considered under the Prior Approval procedure, it is not considered that it would have a detrimental impact on the existing shopping provision; if anything, it would enhance the offer in what is otherwise a relatively vacant shopping precinct.

Conclusion

On the basis of the comments above, there is no objection to this proposal.

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: 18

Number of site notices: Not applicable.

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 of the change of use on the town centre
- (iii) Impact upon local amenity
- (iv) Shopfront design and access
- (v) Highway / parking considerations

(i) Principle of development

7.2 The site is located within an urban area where development is considered to be acceptable in principle subject to other development management considerations. This site is located within a designated town centre but is outside of a primary and secondary shopping frontage. As such, Policy AL3 and CS4 (Local, town and district centres) of the adopted Allocations Plan applies. Policy DM2 which protects community facilities and local shops also applies as the proposal would result in the change of use of a shop. Policy DM5 (Control of A3, A4 and A5 uses) also applies. Policy DM10 applies due to potential pollution caused through noise, smell and light. Policy DM21 refers to shopfront and signs which is also considered to be applicable to this application.

7.3 The application would result in the A1 use being replaced by an A3 use. This is considered to retain the vitality of the town centre and is considered further below.

(ii) Impact of the change of use on the town centre

7.4 Planning Policy have been consulted in regards to the change of use from A1 to A3 for the shop at Market Parade of which no objection has been raised. Policy states that under normal circumstances the unit at 38 Market Parade might be required to provide 6 months worth of marketing information however as the unit is outside of the primary and secondary frontage coupled with the intent to stop units within the parade becoming vacant and that under the prior approval process the marketing element of the policy is not normally required, a decision has been made that marketing information will not be expected to be submitted as part of the application.

7.5 Policy DM2 of the Local Plan requires that proposals for the loss of community uses or shops should submit marketing evidence (over a period of 12 months), to justify that

the premises is not longer commercially viable or suitable for another community use before planning permission can be considered. However in the case of this application, as the proposed (and current) use for the premises is a cafe/restaurant, it is considered that this proposal would not result in the loss of a community use. A cafe/restaurant can be argued to provide a community use and as such, the Council could not fairly insist on the provision marketing information in this case. Therefore the proposal accords with Policy DM2 of the Local Plan and no marketing information is required. Furthermore, the fact that the cafe/restaurant has been and continues to operate successfully for the past two years suggests that this is a viable use for the town centre, enhancing the shopping area which contains in some areas vacant units.

(iii) Impact upon local amenity

- 7.6 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 a an A3 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.
- 2.. The installation of equipment in relation to hot food does not materially detract from the building.
3. Adequate provision for the disposal, storage and collection of waste are in place
4. There would be no adverse impact on parking and traffic movement that would be likely to create hazards
5. The development would not cause unacceptable disturbance to the occupiers of nearby residential properties.
6. Any marketing requirements are met.

- 7.7 Environmental Health have been consulted on the application and have not advised of any history of complaints relating to the use of the building as a cafe/restaurant over the last two years. The nature of the food sold does not require any frying and as such, the use does not give rise to any cooking odors. However Environmental Health have requested that the cooking/preparation and types of food to be sold is carried out in accordance with the details submitted in the covering letter and that no variation to that range shall be made without the prior written approval of the Local Planning Authority. This will be conditioned as part of the decision.

- 7.8 There is no proposal for a bin outside of the shopfront as the goods are generally consumed within the shop however there are bins present within the vicinity of the area. It is considered that the proposed use of the building would not result in excessive noise which would result in an unacceptable disturbance for nearby residential properties. The proposed hours of operation in the summer range from 11:00-19:00 which are not considered to be antisocial hours given the town centre location. As such, the use would not result in undue noise and disturbance to residential properties within the immediate vicinity. Opening hours will be conditioned as part of the application.

(iv) Shopfront Design and Access

- 7.9 Policy DM21 of the allocations plan specifically considers shop fronts and require that their design be appropriate in size and scale. No changes to the shop front have been shown or proposed to the existing however a change of signage can be installed without an application so long as it accords with the advertisement regulations.

(v) Highway / parking considerations .

- 7.10 The proposal does not include any specified parking provision for visitors or staff. However, this is similar to the majority of other businesses within the town centre given and is considered to be a sustainable location within close proximity to several car parks.

8 Conclusion

- 8.1 Overall it is considered that the proposal for a permanent change of use would continue to result in a number of positive factors to the town centre and complies with all the relevant local planning policies and national planning policy. Therefore the application is recommended for approval..

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/16/01028 subject to the following conditions:-

- 1 The premises shall only be open for trade or business between the hours of 10:00-21:00 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.
- 2 The premises shall not alter the range of food sold/prepared or provided as listed in the submitted covering letter dated 22.09.16 from Ms S Some without the prior written approval of the Local Planning Authority.
Reason: In the interests of the amenity of the area and nearby residential properties in particular and having due regard to policy 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 accordance with the following approved plans:
Floor Plan with Measurements: Received 05.10.16
Shop Layout Plan: Received 05.10.16
Location Plan: Received 05.10.16
Block Plan: Unique Plan Reference 00163617-C2B942
Covering Letter dated 22.09.2016
Opening Times via Email 05.12.2016
Reason: - To ensure provision of a satisfactory development.