Site Address: 18 Rails Lane, Hayling Island, PO11 9LL
Proposal: Retrospective application for the change of use from A1 to mixed A1 and A3 to allow use of internal tables, and confirmation of permission for external tables on pavement area to the front of the property (within the curtilage of the site).

Application No:	APP/11/01205	Expiry Date:	13/09/2011
Applicant:	Mr Pepperell		
Agent:	Mr Murray I J Murray Associates	Case Officer:	Heather Lealan
Ward:	Hayling East		

Recommendation: **GRANT PLANNING PERMISSION IN RETROSPECT**

1 Site Description

1.1 The application address currently has permission for an A1 use and is located adjacent to Eastoke Corner. The use of the unit has been changed without the benefit of planning permission to a mixed use A1 and A3. It is an ice cream parlour selling ice creams, cakes, sundaes, hot and cold drinks for retail and for consumption on the premises. Tables and chairs have been provided within the premises and within the red line to the front elevation of the site on land not designated as highway and in the ownership of the landlord of the premises.

1.2 This unit has a glass frontage at ground floor level and residential flats with a balcony at first floor level.

1.3 There is a mix of units within the parade including an A1 local shop, Off Licence and a Gift Shop. Thus ensuring a strong A1 retail mix within the parade serving both local residents and tourists.

2 Planning History

05/70397/000
Change of use to Class A3 to trade as a coffee shop (no hot food) and sandwich bar - Permitted, this scheme did not include the provision of external tables and chairs to the front of the unit.

3 Proposal

3.1 Retrospective application for the change of use from A1 to Mixed A1 and A3 to allow use of internal tables and confirmation of permission for external tables on pavement area to the front of the property within the curtilage of the site.

4 Policy Considerations

National Policies

PPG24	(Planning and Noise)
PPS 1	(Delivering Sustainable Development)
PPS23	(Planning and Pollution Control)

Core Strategies 2011 forming part of the HBLDF

CS16	(High Quality Design)
DM10	(Pollution)
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Saved Policies of HBDWLP 1996 - 2011 forming part of HBLDF

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

5 Statutory and Non Statutory Consultations

Environmental Health - No comments

Development Engineer - No contribution or adverse comments

Planning Policy - Core Strategy policy CS4 and saved Local Plan policy TC1 are relevant to this application. As there is no primary shopping area identified in local centres there is no concentration test to apply on the change of use from A1. Considered that the change of use will enhance the vitality and viability of the local centre which serves both local shopping needs and tourists. The application therefore complies with policy CS4. Recommend approve on policy grounds.

Crime Prevention -External chairs and tables may be used in the commission of crime or anti-social behaviour and therefore the tables and chairs should be moved into the premises at night.

Atkins Planning Team - No objection to change of use. Request informative is added to any planning permission regarded connection to public sewerage system.

Property Services Manager - No HBC land involved and so Estates have no comments

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: 26

Number of site notices: One

Statutory advertisement: Not applicable.

Number of representations received: 4

Summary:

The external tables and chairs and associated customers and dogs block the stairwell and pavement

Comment: It should be conditioned that the external tables and chairs remain within the red line as shown on Plan 1 and not encroach outside of the curtilage of the site.

Noise from customers outside causes disturbance to the occupiers of the residential flats above the shop.
Comments: Hours of use should be restricted to 9am to 7pm.

Rubbish left out to the rear of the premises attracts animals
Comments: Condition should be applied to any planning permission for the collection of waste to be confirmed and agreed in writing with the LPA.

Do not consider that there is a need for a further food outlet, a retail unit would be more beneficial to area.
Comments: See section 7

Impact of a further food outlet on existing business in the area
Comment: If the proposal accords with local and national policy. See section 7

Concerns regarding breach of planning control and that the use commenced 4 months prior to current application and that local residents had to contact Local Councillors to get information regarding the breach.
Comment: Planning law allows for retrospective applications and it is not the remit of the planning report to consider the enforcement procedures.

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) Effect on existing retail units and tourist facilities
(iii) Effect on residential amenity
(vi) Effect on the character and appearance of area
(v) Adequacy of parking

(i) Principle of development

7.2 It is considered that this proposal is acceptable in principle. The unit is located in Rails Lane and so Core Strategy policy CS4 and saved Local Plan policy TC1 are relevant to this application. As there is no primary shopping area identified in local centres, there is no concentration test to apply on the change of use from A1. It is considered that the change of use will enhance the vitality and viability of the local centre which serves both local shopping needs and tourists. The application therefore complies with policy CS4. Furthermore, the unit was granted full A3 consent in 2005, however this use was never implemented.

(ii) Effect on existing retail units and tourist facilities

7.3 It is considered that the provision of an additional A1/A3 facility in the area will improve the economic viability of the area as a whole, attracting additional visitors both in the form of local residents and tourist visitors. Encouraging tourists to utilise existing A1

facilities in the area. It is not considered that there is an over provision of A3 facilities in the area.

(iii) Effect on residential amenity

7.4 It is noted that residential properties are located in close proximity to the proposal. It is not considered that there will be any unacceptable detrimental effect on these properties by this change of use; which is situated in a commercial parade. Although the addition of outside seating area may attract additional tourists to the parade, the proposed opening time (9.00am) and closing time (7pm) is not expected to have an unacceptable detrimental effect on the amenity of nearby residents; as it will not be open during the late evening through to early morning when reduced noise levels should be expected. The locality is already of a mixed nature including tourist and commercial activity and some degree of associated activity throughout the week and weekend should be expected in a leisure locality such as this.

(vi) Effect on the character and appearance of area

7.5 The unit has been modernized and refurbished to a very high standard. The usage and appearance of this unit can only serve to improve the shop frontage as a whole at Eastoke Corner, creating a more viable and visitor friendly image. The use is considered to be in character with the area.

(v) Adequacy of parking

7.6 It is considered that the parking provision in the surrounding area will sufficiently support this change of use.

8 Conclusion

8.1 It is considered that a mixed A1/A3 use is acceptable in this locality in terms of the impact on residential amenity and tourist provision in the locality. To this regard it is recommended that the application be permitted subject to planning conditions.

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9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **GRANT PLANNING PERMISSION IN RETROSPECT** for application APP/11/01205 subject to the following conditions