
Site Address: 4 Purbrook Chase Precinct, Waterloooville, PO7 5QH
Proposal: Proposed change of use from retail shop (Class A1) to hot-food takeaway (Class A5); erection of flat-roofed rear extension; and the provision of an extraction system.
Application No: APP/13/00570
Applicant: Mr Ozdemir
Agent: Mr R Tutton
Ward: Purbrook

Expiry Date: 05/08/2013
Team: Team 1
Case Officer: Sally Smith

Recommendation: **GRANT PERMISSION**

1 Site Description

The site is the end ground floor unit on the northern side of the units in Purbrook Chase Precinct. It is next to a sandwich unit and then there are two takeaways in units 1 and 2. On the opposite side of the precinct is the Co-op and a barbers.

2 Planning History

Most relevant to No 4

03/60785/002 - Cafe and takeaway - Refused Dec 2003.

For the overall history in the Precinct

With respect to Unit No.1:

05/57717/006 - Change of use from retail (Class A1) to restaurant (Class A3) and hot food take away (Class A5) and installation of extraction flue to rear (north east elevation). Condition 2 of this permission restricts the times of sale of hot food from 11.00 hours until 22.00 hours Monday to Saturday and not at all on Sundays and recognised public holidays.

05/57717/007 - Variation to Condition 2 imposed on Planning Permission 05/57717/006 to allow trading between 12.00 - 14.30 and 17.00 - 22.00 hours on Sundays. Refused 07.10.05 on grounds of loss of amenity to nearby residential properties, and subsequently dismissed at appeal.

05/57717/008 - Variation to Condition 2 imposed on Planning Permission 05/57716/006 to allow the sale of hot food until 2300 hours Monday - Saturday. Refused 07/10/05 on grounds of loss of amenity to the Precinct and nearby residential properties.

08/57717/009 - Variation of Condition 2 of Planning Permission 05/57717/006 to allow the sale of hot food on Sundays from 1200 hours until 2200 hours. Refused 3/4/08 on grounds of loss of amenity to nearby residential properties.

With respect to Unit No 2:

94/59567/000

Change of use from hairdressers to fish and chip take away. Conditions requiring nothing to be sold between 2100 and 1100 hours, Monday to Saturday, and not at all on Sundays and Public Holidays. Permitted 20.07.98.

05/59567/003

Relief of Condition 3 of Planning Permission 94/59567 (range of foods to include Chinese food). Permission 14.06.05 which involved new larger flue to rear.

05/59567/005

Variation of Condition 1 of Planning Permission 94/59567 to allow the sale of hot food until 2200 hours, Monday to Saturday. Permitted 14.12.05.

APP/12/00436

Variation of Condition 1 of Planning Permission 94/59567 to allow the sale of hot food between the hours of 1100 and 2200 on recognised public holidays. Refused for the

following reason:

The proposal would give rise to noise, disturbance and odours on recognised Public Holidays, which would be harmful to the amenities of residential properties in the area and have the potential to lead to antisocial activity in the area. The proposal would therefore be contrary to saved Policies D I , PC1 and TC10 of the Havant Borough District Wide Local Plan 1996-2011. which forms part of the Havant Borough Local Development Framework, and Planning Policy Statements 1, 4 and 23.

Appeal dismissed 1/3/11

With respect to Unit No 3:

01/58977/005

Change of use to A3 (Chinese take away). Refused 16.08.02 on grounds of loss of shop serving local needs and loss of amenity to nearby residential properties.

With respect to Unit No 4:

02/60785/001

Change of use from bakery to A3 take away. Refused 16.08.02 on grounds of loss of shop serving local needs and loss of amenity to nearby residential properties.

03/60785/002

Change of use from bakery to A4 cafe and take away. Refused 01.02.03 on grounds of no marketing details to justify loss of shop and loss of amenity to nearby residential properties.

04/60785/003

Change of use A1-B2 to A3. Application withdrawn.

With respect to Unit No 5:

95/57160/001

Change of use to hot food take away. Opening hours from 1200 to 2230 hours, 7 days a week. Refused 08.05.92.

95/57160/001

Change of use from retail to Chinese take away. Refused 04/11/96 on grounds of concentration of A3 uses undermining retail function; loss of amenity; odours.

Appeal dismissed 08.07.96.

With regard to Unit No 6:

03/52821/003

Change of use to A3 take away. Refused 13.06.03 on grounds of loss of shop serving needs; loss of amenity; smell and noise.

06/52821/004

Change of use from A1 (Retail) to A2 (Betting Office). Permission 16.04.07.

With regard to Unit No 7:

98/52275/002

Change of use to A3. Refused 10.12.98 on grounds of concentration of A3 uses affecting retail function; loss of amenity; noise and smells.

04/55275/003

Extensions to No's 7 and 8; new shop front to No's 7 and 8 to make a combined single unit. Permitted 13.05.04

Also adjacent to Unit 4

07/72462/000 - Maisonette. Permit 18/12/07

3 Proposal

To change the use from A1 to A5; rear extension and flue.

4 Policy Considerations

National Policies

National Planning Policy Framework 2012

Core Strategies 2011 forming part of the HBLDF

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

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health Manager, Community Group -

Details required in respect of noise from equipment and machinery; vibration details from odour ducting and outside flu; methods to suppress and control odour, waste collection measures and lighting details.

Crime Prevention -Minor Apps

No comments

Development Engineer -

Recommend granting of permission subject to provision of cycle storage as shown.

Planning Policy -

Promoting Havant Borough's Economy

The proposed development is located with the defined Crookhorn Local Centre. Policy CS5 supports appropriate town centre uses (which include Class A5) in such centres. Of greater relevance, however, is Policy DM5 which sets out specific criteria that would need to be met in order for such a proposed use to be acceptable. Most of these criteria are amenity matters against which the proposal can be assessed on its individual merits.

Criterion 7, however, has wider policy implications. Policy DM2.1 requires the demonstration of an active marketing process to establish the premises' non-viability for the authorised use. The Design & Access Statement accompanying the application does refer to some marketing activity that has taken place, but this would not appear to be as extensive as strictly required by policy. However, it should be noted that the property has been vacant for a number of years, which is not only a reasonable (though hardly definitive) indication of the lack of market interest, but is also to the continuing detriment of the appearance of the precinct.

Furthermore, the proposed A5 use falls within the general classification of 'retail' and would clearly perform a retail/community service function not dissimilar to a shop. The replacement of a vacant (shop) space with another retail use can only have a positive effect on the vitality and viability of this local centre, and would benefit the local economy. In this instance, it is considered that these matters outweigh any deficiencies in the marketing information presented with the application.

Policy Principle of Development: There are no policy objections to the proposed development, and provided that the proposal meets the amenity criteria of Policy DM5 permission should be granted.

Regeneration & Development -
Raise no objection

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: 11

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 2

Summary:

- a) Concern over litter, smell and noise
- b) There needs to be a balance of units in the Parade. Two hot food takeaways and a cafe in the parade is enough.

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 Appearance of the Area
- (iii) Effect on Amenity of the Locality and Adjacent Residents
- (iv) Parking Considerations

(i) Principle of development

7.2 The site is within a local centre and subject to CS5 which supports appropriate uses in such centres. Whilst this would add to the proportion of A5 uses in the parade (increasing to 3 of 6) Policy consider it would serve a retail/community function. The shop has been vacant for 8 years and it is considered that bringing it back into use could only have a positive effect on the vitality and viability of this local centre. Policy DM5 is important detailing the criteria that need to be addressed and these are addressed below and do not impact on the issue of principle. DM2 also has to be addressed re marketing but there is adequate information to show that it has been marketed unsuccessfully during the period of vacancy.

7.3 Also of importance is the new permitted Development Order of 2013 which introduces a Class D which provides for an A1 unit to change to a Class A5 use for a period of 2 years. Therefore the Government is allowing such a change of use so unless there is

a policy issue at local level the principle is acceptable. There are no conditions under that provision to submit details re cooking processes, ventilation and noise mitigation. Providing a planning permission for the use enables there to be control over these aspects and this is addressed below.

(ii) Effect on Appearance of the Area

- 7.4 The appearance of the rear extension and removal of the garages will not have an adverse impact on the appearance of the area. The 2 storey element of this unit is stepped against the two storey element of the unit adjacent and so the flue sited at the junction of the two storey elements will not be over prominent to the rear. The flue is to be coloured buff. There are other flues at the rear of this side of the Parade and so the introduction of this flue is not thought sufficiently harmful visually to warrant a refusal.

(iii) Effect on Amenity of the Locality and Adjacent Residents

- 7.5 Issues that need to be addressed under DM5 are detailed below with comments re the proposals:

1. Measures to mitigate the impact of hot food preparation - more details are required and conditions are proposed.
2. Visual impact - addressed in (ii) above.
3. Measures in 1 are suitable for food to be prepared. Condition proposed.
4. Waste collection - A condition is proposed re litter; the rear yard provides for the unit's own waste.
5. Parking - addressed in (iv) below
6. Residential disturbance - the applicant has proposed 10.00 am to 10.00 pm Monday to Saturday and not at all on Sunday's and Bank Holidays. This is acceptable and accords with the hours of the other 2 takeaways in the parade and the closing time of the Co-op. There is no concern raised by the Police (Crime Prevention).

(iv) Parking Considerations

- 7.6 The Parade is provided with a parking area and the Development Engineer recommends permission.

8 Conclusion

- 8.1 Approval recommended subject to conditions. CIL is not applicable.

9 **RECOMMENDATION:**

That the Executive Head of Planning and Built Environment be authorised to **GRANT PERMISSION** for application APP/13/00570 subject to the following conditions

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date on which this planning permission was granted.
Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 Construction of the extension and flue hereby permitted shall not commence until samples and details of all external facing, finishes and roofing materials shall be submitted to and approved by the Local Planning Authority. Thereafter only such approved materials and finishes shall be used in carrying out the development.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 3 Notwithstanding the details submitted with the application no externally visible or audible plant, machinery or structures required for ventilation or filtration purposes shall be installed at the premises unless and until details of the external appearance and acoustic performance of the same have been submitted to and approved in writing by the Local Planning Authority. Any such plant, machinery or structure shall thereafter be installed and maintained in accordance with the approved details.
Reason: To safeguard the amenities of the locality and/or occupiers of neighbouring property and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 4 Notwithstanding the details submitted with the application the use hereby permitted shall not commence until a more detailed scheme for filtration and extraction of fumes generated (by cooking processes) at the premises has been submitted to and approved in writing by the Local Planning Authority and the approved filtration and extraction scheme has been completed in full accordance with all detailed components of such scheme. At all times thereafter, all elements of that scheme shall be maintained in a wholly efficient and effective working order.
Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 5 The premises shall not be open outside the hours of 10.00 am and 10.00 pm Monday to Saturday and not at all on Sundays and recognised Public Holidays.
Reason: In the interests of the area generally 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 2012.
- 6 The use hereby permitted shall not commence until provision has been made for the disposal of litter resulting from the use, and such provision shall be in accordance with details agreed in writing with the Local Planning Authority.
Reason: In the interests of the amenity of occupiers of nearby 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 2012.

- 7 The use hereby permitted shall not commence unless and until details of the range of food proposed to be sold at the premises has been submitted to and approved in writing by the Local Planning Authority. Thereafter there shall be no change in the range of food sold unless appropriate measures are undertaken and agreed in writing by the Local Planning Authority to the extraction system approved under Conditions 3 and 4 of this consent.

Reason: To protect the amenities of occupiers of adjoining properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 8 The development shall not be brought into use until a minimum of 2 parking spaces and 2 cycle spaces have been provided within the curtilage of the site and thereafter all of those spaces kept available for such purposes.

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 2012.

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

Application form

Site and Location Plans 18.12.F12.100 Rev A

Existing Plan 18.12.F12.101 Rev A

Existing Elevations 18.12.F12.102 Rev A

Proposed Plan 18.12.F12.103 Rev B

Proposed Elevations 18.12.F12.107 Rev B

Planning Design and Access Statement

Reason: - To ensure provision of a satisfactory development.