

11 July 2018.

**PLEASE NOTE START TIME OF MEETING**

Dear Councillor,

A meeting of **PLANNING COMMITTEE A** will be held in the **Council Chamber** at these offices on **THURSDAY, 19 JULY 2018 at 7.00 p.m.** when your attendance is requested.

Yours sincerely,

KATHRYN HALL

Chief Executive.

**A G E N D A**

1. To note Substitutes in Accordance with Council Procedure Rule 4  
– Substitutes at Meetings of Committees etc.
2. To receive apologies for absence.
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.
4. To confirm the Minutes of the meeting of the Committee held on 21 June 2018. **Document A (attached)**
5. To consider the report of the Divisional Leader for Planning and Economy upon planning applications and other matters submitted to the Committee for determination. **Document B (attached)**
6. To consider any items that the Chairman agrees to take as urgent business.
7. Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given.

### Human Rights Act

The reports and recommendations set out in this agenda have been prepared having regard to the requirements of the Human Rights Act 1998.

### Risk Assessment

In formulating the recommendations on the agenda, due consideration has been given to relevant planning policies, government guidance, relative merits of the individual proposal, views of consultees and the representations received in support, and against, the proposal.

The assessment of the proposal follows the requirements of the 1990 Town and Country Planning Act and is based solely on planning policy and all other material planning considerations.

Members should carefully consider and give reasons if making decisions contrary to the recommendations, including in respect of planning conditions.

Where specifically relevant, for example, on some applications relating to trees, and on major proposals which are likely to have a significant impact on the wider community, potential risks associated with the proposed decision will be referred to in the individual report.

**NOTE:** All representations, both for and against, the proposals contained in the agenda have been summarised. Any further representations received after the preparation of the agenda will be reported verbally to Members at the meeting. Any other verbal or additional information will be presented at the meeting.

The appropriate files, which are open to Member and Public Inspection, include copies of all representations received.

Members are also reminded the representations, plans and application file will also be available for inspection at these offices from 6.00 p.m. on the day of the meeting.

To: **Members of Planning Committee A:** Councillors Ash-Edwards, M. Hersey, Marsh, Matthews, MUNDIN, Sweatman, Trumble, Walker, Wilkinson and Wyan.

**Minutes of a meeting of Planning Committee A  
held on Thursday, 21 June 2018  
from 7.00 p.m. to 8.25 p.m.**

**Present:** Edward Matthews (Chairman)  
Dick Sweatman\* (Vice-Chairman)

Jonathan Ash-Edwards  
Colin Trumble

Margaret Hersey  
Gary Marsh\*  
Howard Muddin

Neville Walker  
John Wilkinson  
Peter Wyan

\* Absent

**Also Present:** Councillors Moore and C. Hersey

The Chairman proposed to the Committee that Councillor Neville Walker act as Vice-Chairman for the duration of the Committee and this was agreed.

**1. SUBSTITUTES**

Councillor Christopher Hersey substituted for Councillor Dick Sweatman and Councillor Moore substituted for Councillor Marsh.

**2. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Marsh and Sweatman.

**3. DECLARATIONS OF INTEREST**

Councillor Peter Wyan declared a prejudicial interest in application DM/18/1646 as he is a co-opted member of a nearby sports club and gym which would be in direct competition with the proposed gym. Furthermore, Councillor Wyan declared a prejudicial interest in application DM/18/1746 as he had been the recipient of gifts or hospitality from the Applicants with the estimated value of at least £50. He will remove himself from the meeting for the duration of discussion and voting on these items.

**4. MINUTES**

The minutes of the meeting of the Committee held on 9 May and 24 May 2018 were agreed as a correct record and signed by the Chairman.

**5. APPLICATIONS AND OTHER MATTERS CONSIDERED**

DM/18/0897 – Land South West Of Handcross Primary School, London Road, Handcross, West Sussex, RH17 6HB.

Steve Ashdown, Team Leader for Major Development & Investigations, introduced the report for residential development and drew Members attention to the Agenda Update Sheet which included additional wording to Recommendation A, amended wording to conditions 5, 9 & 10 and an additional condition relating to the waste

collection arrangements. He confirmed that 32 of the dwellings had previously been granted on the site and therefore this application, in effect, proposes an additional 6 dwellings which would bring the total dwellings on the site to 102. No objections to this application had been received.

A Member noted that the affordable housing provision is continuing to be 30%.

A Member raised her concerns with respect to the spillage of spoil from work vehicles and asked if this is something that could be included in the Traffic Management Plan.

The Team Leader for Major Development & Investigations confirmed that it is good practice to cover the rear of work vehicles to prevent the spillage of spoil however it is more of a site management issue and not something that could be enforced via a planning condition.

A Member criticised the design of the scheme stating that the design was bland. He sought clarification on the differences between the density of the proposed design against the density of the previous design.

Another Member stated that it was good to use the best use of the land and was happy that the units are slightly smaller in size, which is welcome.

The Team Leader for Major Development & Investigations explained that he did not have the exact density figure but given that this application proposed additional dwellings it was slightly higher than already consented. . He did however note that the application is the last phase of the development and the scheme has been supported by the Urban Designer.

Councillor Wyan proposed to move to recommendation, as set out in the Report, which was seconded by Councillor Trumble and approved unanimously.

## **RESOLVED**

That planning permission be approved subject to the following recommendations and updated conditions contained in the Agenda Update Sheet;

### **RECOMMENDATION A**

That permission be granted subject to the completion of a satisfactory S106 Legal Agreement to secure affordable and appropriate infrastructure contributions and to the conditions listed at Appendix A.

Furthermore, allow officers to negotiate any Deed of Variation to the existing S106 Legal Agreements on the site as required to ensure appropriate mechanisms to secure the affordable housing and financial contributions across the various planning permissions.

### **RECOMMENDATION B**

That if the applicants have not entered into a satisfactory section 106 agreement to secure the necessary infrastructure payments and affordable housing by 21st September 2018 then the application should be refused at the discretion of Divisional Lead for Planning and Economy for the following reason:

*The proposal fails to provide the required infrastructure contributions necessary to*

*serve the development and the required affordable housing. The proposal therefore conflicts with policies DP20 and DP31 of the District Plan.*

**[Councillor Wyan removed himself from the meeting at 7:21pm and took no part in the following two applications]**

DM/18/1646 – Silver Birch Development Site, King Street, East Grinstead, West Sussex, RH19 3DJ

Steve Ashdown, Team Leader for Major Development & Investigations, introduced the report for the change of use of part of the ground floor at the Silver Birch Development Site from Class A1 (Shops) to Class D2 (24-Hour Gymnasium). He drew Members attention to the Agenda Update Sheet which corrected a number of typographical errors in the Report. Environmental Health Officers have looked at the scheme and have raised no objections but have recommended conditions.

David Lewis and Sophia Webber, local residents, spoke against the application.

Johnathan Wadcock, agent of the applicant, spoke in favour of the application.

A Member expressed that, unfortunately, there is not a call for retail space anymore. She added that there is a night club and J D Wetherspoon close to the application site that has late night activity. It was felt that the gym users would not be drunk or disorderly so would be no problem with comings and goings and it was also noted that the car park users will most likely use parking spaces closest to the gym which are furthest away from the residential properties on Christopher Road and so therefore there would be minimal impact on the area's noise amenity. It was stated that the Travelodge at the site would also use the gym and, although the concerns of the residents were noted, the Member believed that their fears on this application would be groundless.

A Member agreed with the comments of the previous Member but sought clarification on whether the Committee can impose a condition which would restrict the use of the facility between 10pm and 6am.

The Team Leader for Major Development & Investigations confirmed that the application in front of the Committee is for a 24hr gymnasium and the applicants would have a right to appeal the decision if a condition restricting hours was imposed or if the application was refused.

A Member outlined how the application is the first of its kind in this district and offering a service to a different type of demographic. He added that hotels, like the Travelodge that will be above the application site, are 24hr access already and as there will be no 'kick out' time, there will be less noise impact. Another Member agreed with such comments and stated that if there were any noise disturbance then this could be reported to, and dealt with by, Environmental Health.

The Chairman sympathised with the residents who have raised their concerns previously in relation to the noise disturbance from the nearby nightclub but it would be difficult to oppose this application. He then took Members to the recommendation contained in the Report, with the correction of minor wording in condition 3, which was approved unanimously.

## RESOLVED

That permission be granted subject to the conditions listed at Appendix A and updated conditions listed in the Agenda Update Sheet.

DM/18/1746 – Saint Hill Manor, Saint Hill Green, East Grinstead, West Sussex,  
RH19 4NG

Steve King, Planning Applications Team Leader, introduced the Report for the removal of condition 1 from planning permission DM/16/3611. He directed Members to the Agenda Update Sheet which contained a correction to the wording of condition 1. He set out a complaint that was raised by a neighbour with regard to the breach of the restriction of coach use on the site outside of the permitted hours of between 8am and 9pm.

Andrew Metcalfe, planning consultant of the applicant, spoke in favour of the application to remove condition 1 entirely.

The Chairman expressed his understanding as to why the officers had reached their conclusion and how he took exception to the accusations about Members by the objector, as were copied into the Report. He also noted that the Environmental Health Officer is in favour of completely removing the condition.

A Member expressed his support to the additional trial period so neighbours can feel confident that their concerns are met. He raised his concerns about hindrance of traffic affecting the arrival of coaches from late night functions and pondered whether it would be fair to prevent them arriving if they were unduly held up.

The Planning Applications Team Leader confirmed that any complaint with regard to a breach of the condition is for the Council to decide whether it is appropriate and in the public interest to take action against the person/organisation that breached the condition. He added that officers take a pragmatic view with regard to breaches and if, for example, there were regular breaches then they would look to take action.

A Member queried how the Council can monitor the situation.

The Planning Applications Team Leader confirmed that the Council has two methods of monitoring noise; Environmental Health Officers can provide noise recording equipment to any complainer or they rely on comments/complaints from neighbours.

A number of Members queried whether the 9 month trial period was too long of a period.

The Planning Applications Team Leader confirmed that the Council felt that 9 months was appropriate in lieu of the breaches however confirmed that it is open to the committee to decide if they would like a different period.

A Member stated that Councillors are told that the Applicants are now adhering to the conditions set in place during the original application following the previous breaches but it is too early now to see if there is evidence of this. He felt that it was perfectly reasonable to give enough time to see that the conditions are working and adhered to and so the 9 month period was appropriate. Therefore, Councillor Trumble proposed to move to the recommendation which was seconded by Councillor M. Hersey. This was approved with 6 votes in favour and 3 against.

**RESOLVED**

That planning permission be approved subject to the conditions set in Appendix A and the amended condition in the Agenda Update Sheet.

**[Councillor Wyan returned to the meeting at 8:21pm]**

DM/18/1814 – The Yards, Cross Colwood Lane, Bolney, Haywards Heath, West Sussex, RH17 5RY

The Chairman introduced the application for the variation of condition 1 relating to planning application DM/16/2857. He noted that it was before the committee as the applicant is a District Council Member. As there were no Members wishing to speak on this item, the Chairman took Members to the recommendation to approve, as set out in the Report, which was agreed unanimously.

**RESOLVED**

That permission is granted subject to the conditions outlined at Appendix A.

EF/14/0143 – Land North Of Bylanes Close (now Buttinghill Drive), Cuckfield, West Sussex, RH17 5GQ

Steve Ashdown, Team Leader for Major Development & Investigations, introduced the report for the planning enforcement investigation and breach of planning control where the land owner has failed to comply with the requirements of an Enforcement Notice in relation to the public open space and drainage provision. He confirmed that the site has been completed for a number of years and applicants did undertake work but the land slipped again. Nothing has progressed since the Enforcement Notice was issued, although a meeting with the developer had been arranged, and informed the committee that they are being asked to provide the Solicitor to the Council authorisation to proceed to a prosecution should it be considered appropriate.

The Chairman noted that there were no Members wishing to speak on this item so took Members to the recommendation, as set out in the Report, which was agreed unanimously.

**RESOLVED**

That the owner of the land is prosecuted for noncompliance with the Section 172 Enforcement Notice, subject to the Solicitor to the Council being satisfied that there is sufficient evidence to do so.

Meeting closed at 8:25pm

Chairman.

**MID SUSSEX DISTRICT COUNCIL**

**PLANNING COMMITTEE A**

**19 JUL 2018**

**INDEX TO ITEMS REPORTED**

**PART I - RECOMMENDED FOR APPROVAL**

<b>ITEM</b>	<b>REFERENCE</b>	<b>LOCATION</b>	<b>PAGE</b>
01	DM/18/1353	19 Station Road, Burgess Hill, West Sussex, RH15 9DE	<b>9 - 32</b>

**PART II - RECOMMENDED FOR REFUSAL**

<b>ITEM</b>	<b>REFERENCE</b>	<b>LOCATION</b>	<b>PAGE</b>
N/A	None		

**PART III – OTHER MATTERS**

<b>ITEM</b>	<b>REFERENCE</b>	<b>LOCATION</b>	<b>PAGE</b>
N/A	None		



# MID SUSSEX DISTRICT COUNCIL

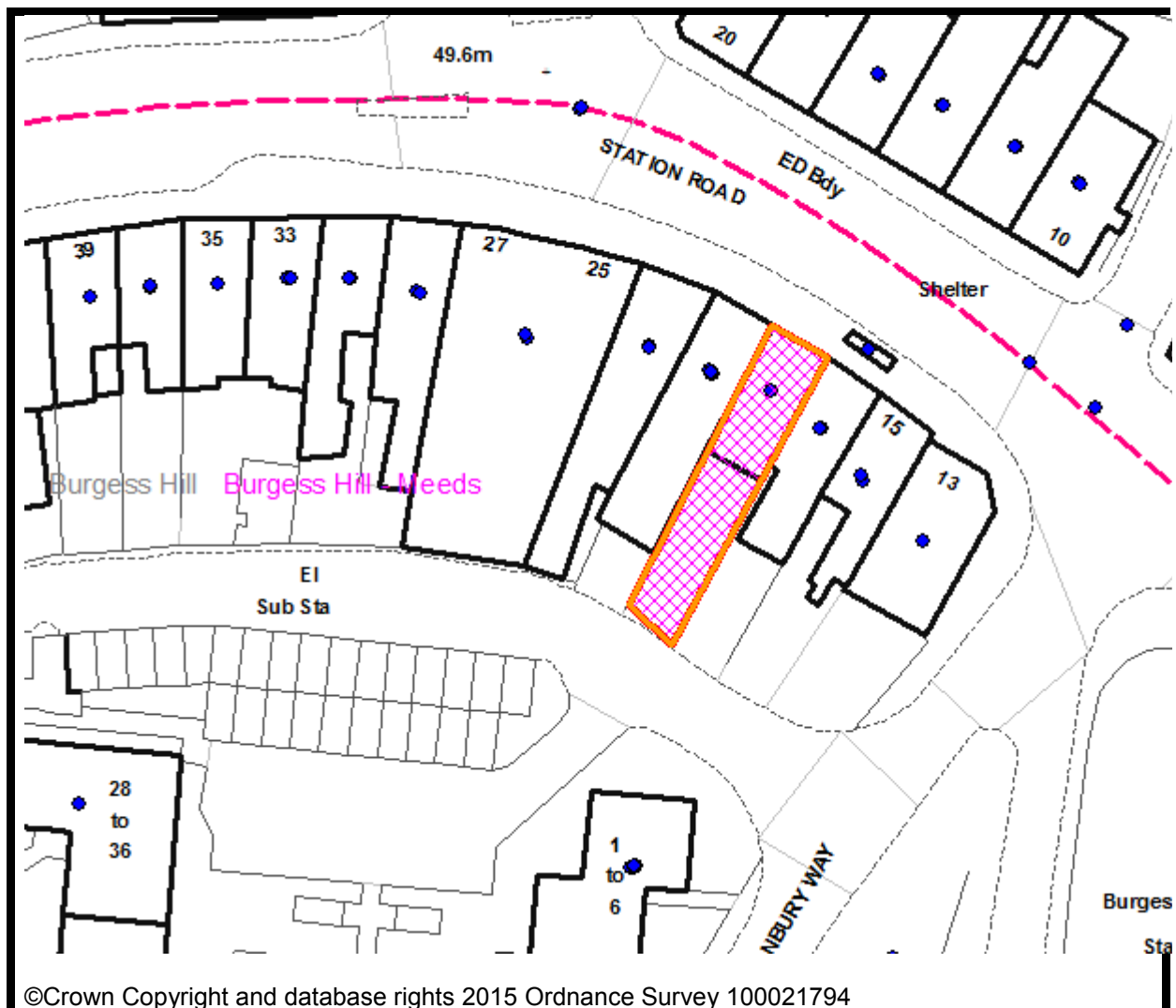
PLANNING COMMITTEE A

19 JUL 2018

## PART I – RECOMMENDED FOR APPROVAL

### Burgess Hill

1. DM/18/1353



**19 STATION ROAD BURGESS HILL WEST SUSSEX RH15 9DE  
PROPOSED CHANGE OF USE FROM (A1 USE) VACANT RETAIL UNIT TO  
(A5 USE) FAST FOOD TAKEAWAY AND CONVERSION OF THE FIRST  
FLOOR OF THE PROPERTY INTO A ONE BEDROOM SELF-CONTAINED**

**FLAT. (C3) AMENDED PLANS RECEIVED 06.06.2018 SHOWING  
REVISED ROUTE OF MAIN EXTRACT FLUE.  
MR SHAMSUL ALAM  
GRID REF: EAST 531564 NORTH 118868**

POLICY: Built Up Areas / Classified Roads - 20m buffer / Radon Gas  
Safeguarding Zone / Sewer Line (Southern Water) / Sewer Line  
(Southern Water) / SWT Bat Survey / SWT Bat Survey /

ODPM CODE: Change of Use

8 WEEK DATE: 20th June 2018

WARD MEMBERS: Cllr Richard Cherry / Cllr Anne Jones /

CASE OFFICER: Deborah Lynn

#### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Lead, Planning and Economy on the application for planning permission as detailed above.

#### **EXECUTIVE SUMMARY**

This application seeks planning permission to change the use of a vacant ground floor A1 retail unit to an A5 fast food takeaway and convert the first floor to form a one bedroom self-contained flat.

This application has been called in to be determined at committee by Councillors Anne Jones and Richard Cherry on the grounds of impact upon neighbouring amenities.

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The application site lies within a sustainable town centre location where there is access to shops and services and public modes of transport. As such, the principle of residential development is deemed acceptable under policy DP6 of the Mid Sussex District Plan. The site also lies within a secondary shopping frontage as designated by the District Plan, whereby A5 uses are encouraged; the proposed

change of use to an Indian takeaway is therefore deemed acceptable in principle.

The proposed development would result in the provision of 1 new dwelling (flat) which would make a minor but positive contribution to the District's housing supply. The New Homes Bonus is a material planning consideration and if permitted, the local planning authority would receive a New Homes Bonus for the proposed unit. The proposal would also result in the employment of contractors for the duration of the conversion with the increased population likely to spend in the local community, albeit such benefits would be very limited given the modest nature of the proposal.

These factors weigh in support of the proposal.

In other respects, the proposed development is considered to have a neutral impact in terms of impact on highways and parking provision and impact on the Ashdown Forest in respect of nitrogen deposition. The Council's Environmental Protection Officer is satisfied that potential impact upon adjoining residents in respect of noise and odour can be controlled via planning conditions.

The proposed development is therefore considered to comply with policies DP1, DP2, DP4, DP6, DP17, DP21, DP26, DP7, DP28 and DP29 of the Mid Sussex District Plan 2014-2031.

In light of the above, the planning balance is considered to fall significantly in favour of granting planning permission.

### **RECOMMENDATION**

It is recommended permission be granted subject to the conditions outlined at Appendix A.

## **SUMMARY OF CONSULTATIONS**

(Full responses from Consultees are included at the end of this report as Appendix B)

### **WSCC Highways**

Given the existing use of the site, and having consideration for the context of the town centre location, the Local Highways Authority does not consider that the proposal would have 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 32), and that there are no transport grounds to resist the proposal.

### **MSDC Environmental Protection**

No objections subject to the use of planning conditions to mitigate impact regarding noise and odour. Proposed hours of use appear acceptable and should be conditioned.

### **MSDC Street Naming and Numbering**

Add informative in respect of formal address allocation.

## **Sussex Police**

No major concerns with the proposals, however additional measures to mitigate any identified local crime trends should be considered. Concerns were expressed regarding potential for illegal on street parking.

## **SUMMARY OF REPRESENTATIONS**

A total of 13 letters of representation have been received from 4 local residents. 10 letters object to the proposal, 3 are in support:

- Amended plans show that the new flue will be an eyesore
- Neighbouring properties will be affected by overpowering smells emitted from the Indian takeaway, front door to adjoining flat is by kitchen
- Smell of food and odours from existing takeaways in Station Road are already overbearing and strong at 6.30pm
- Control of odours from premises is totally reliant upon competence of staff in cleaning and maintaining carbon filters
- No need for any further Indian restaurants/takeaways - already 10 in town with 3 within 50 yards of application site
- Terraces of commercial premises on both sides of roads are predominantly professional services - estate agents, letting agents, convenience stores
- Proposal will downgrade professional area of town - terrace is declining into a row of fast food outlets
- Change of A5 use is a shame, still a need for offices and commercial space in this part of town
- Should have regard to national policy regarding obesity and new takeaways being opened in close proximity to schools
- Proposal could affect property value and possible commercial rental prospects due to long opening hours and odours, a large amount of money has been spent on refurbishing no. 17
- Proposal will result in more customers visiting the premises than previous shop - there will be more foot fall, causing more disturbance, noise and possible anti-social behaviour
- Proposal will lead to a lot more illegal parking on road due to bus stop and double yellow lines to front of premises, cars and delivery vans already park illegally to front of premises as parking spaces opposite are often full
- Proposal will lead to congestion of service road at rear if they offer a delivery service
- There have been issues with overflowing rubbish to rear of no. 19
- Another takeaway will not make any difference considering the existing number of takeaways
- Proposal will make use of an empty shop which has been closed for a long time
- Will provide more choices for local residents when considering what to eat
- Burgess Hill is a dead town, too many shops are closed. Proposal is in a commercial area where there are hot food businesses.

- Peoples lifestyles have changed - people are not interested in going out, want to stay home and eat
- There is a huge demand for Indian food in this area.

## **TOWN COUNCIL OBSERVATIONS**

Burgess Hill Town Council recommend refusal of the application as amended, on the grounds that it would be unneighbourly, having a negative effect on amenity. Concerns were raised over the increase in traffic and lack of parking. The committee felt that there were a sufficient number of existing takeaway outlets in the town.

The Town Council previously recommended approval of the application as originally submitted; whilst concerns were expressed about issues raised by the adjoining resident, there was no valid planning reason for refusal.

## **INTRODUCTION**

This application seeks planning permission to change the use of a vacant ground floor A1 retail unit to an A5 fast food takeaway and convert the first floor to form a one bedroom self-contained flat.

This application has been called in to be determined at committee by Councillors Anne Jones and Richard Cherry on the grounds of impact upon neighbouring amenities.

## **RELEVANT PLANNING HISTORY**

BH/151/75 - concrete hardstanding for car parking at rear of Opticians premises. Permission - 05.08.1975.

BH/255/76 - change of use from residential to opticians consulting room. Permission - 11.01.1977.

BH/069/85/A - one fascia sign one projecting box sign. Deemed Consent - 17.06.1985.

BH/238/88 - new shop front. Permission - 19.09.1988.

BH/239/88 - internally illuminated fascia sign. Permission - 26.10.1988.

BH/036/89 - single-storey rear extension. Permission - 15.03.1989.

BH/004/97 - 1 no. externally illuminated fascia sign and 1 no. externally illuminated projecting sign. Permission - 13.02.1997.

08/02506/ADV - fascia sign and projecting sign. Permission - 06.10.2008.

## **SITE AND SURROUNDINGS**

No. 19 Station Road is a two storey mid terrace building situated within a parade of commercial premises; the building has been extended to the rear with a single storey flat roof extension. The property lies on the southern side of the road, approximately 80 metres to the north-west of Burgess Hill railway station. The building is currently vacant, having been previously occupied by Vision Express Opticians who have re-located to no. 35 Church Road. The property benefits from an A1 retail use at ground floor area with storage area above.

A bus stop with surrounding double yellow lines lies to the front of the property with a parade of commercial properties and on street parking spaces situated on the opposite side of the road.

An area of hardstanding lies to the rear of the building which can accommodate up to 4 cars. A service road lies beyond this providing access to the rear of the properties and flats at Wolstonbury Court.

### **APPLICATION DETAILS**

Plans show that the ground floor of the premises will be converted to form an A5 Indian takeaway, with a waiting area and counter to be sited at the front of the building and kitchen and wc to the rear. The business will employ 6 full time staff and will operate from 11 am to 11pm seven days a week.

At first floor level, the existing storage area will be converted to form a one bed self-contained flat, which will be accessed from the rear of the building at ground floor level.

Plans as originally submitted showed that the extract flue to the takeaway would be arranged so that it ran internally through the kitchen of the first floor flat above. Plans have subsequently been amended to show that the proposed extract flue will exit the building via the flat roof of the rear extension and extend up against the exterior rear wall of the building and chimney stack to the rear.

In terms of planning policy, the application site lies within the built up area of Burgess Hill, a Secondary Shopping Frontage and Retail Quarter as defined by the Mid Sussex District Plan and Burgess Hill Neighbourhood Plan.

### **LIST OF POLICIES**

#### **Mid Sussex District Plan 2014-2031**

The District Plan was formerly adopted on the 28th March 2018.

DP1	sustainable economic development
DP2	town centre development
DP4	housing
DP6	settlement hierarchy
DP17	Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
DP21	transport
DP26	character and design

DP27 dwelling space standards  
DP28 accessibility  
DP29 noise, air and light pollution

### **Burgess Hill Neighbourhood Plan**

The Burgess Hill Neighbourhood Plan was made on the 28th January 2016 and therefore forms part of the development plan, carrying full weight.

TC4 the retail quarter  
S4 parking standards for new developments

### **National Planning Policy Framework (March 2012)**

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

Paragraph 12 of the NPPF states that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise ...

Paragraph 17 of the NPPF sets out 12 principles that the planning system should play that underpin both plan making and decision taking. This paragraph confirms that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. It also confirms that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

With specific reference to decision-taking the document provides the following advice:

Para 150 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Para 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 196 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the

development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Para 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

*National Planning Policy Guidance*

*Technical Housing Standards*

## **ASSESSMENT**

The main issues considered relevant to this application are:

- the principle of development;
- impact on the character of the area;
- impact on the amenities of neighbouring residents;
- parking provision and impact on highways;
- impact on the Ashdown Forest SPA and SAC; and
- space standards and quality of accommodation.

### **Principle of development**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70(2) of the Town and Country Planning Act 1990 states:

*"In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations."*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.



Using this as the starting point, the development plan in this part of Mid Sussex consists of the Mid Sussex District Plan and the Burgess Hill Neighbourhood Plan.

In respect of the proposed one bedroom flat, the District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land. The balance to be applied in this case is therefore a non-tilted one.

As the proposed development is within the built up area of Burgess Hill, the principle of residential development is considered acceptable under Policy DP6 of the District Plan which states:

*"Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design), and not cause harm to the character and function of the settlement."*

In addition, it should be noted that under policy DP6, Burgess Hill is classed as a category 1 settlement, with a comprehensive range of employment, retail, health education, leisure services and facilities. These settlements will also benefit from good public transport provision and will act as a main service centre for the smaller settlements. Given that the application site lies in a town centre location, with close proximity to shops and services and public transport, the principle of residential development is considered acceptable.

In respect of the proposed change of use from an A1 retail use to A5 takeaway, policy DP2 of the District Plan is considered relevant:

*"Secondary shopping frontages are the smaller areas on the edge of, or beyond, the primary shopping frontages. A high proportion of Class A1 - A5 uses appropriate to a shopping area, which contribute to the pedestrian flow and attractiveness of the area, should be retained. Within secondary shopping frontages as defined on the Policies Map change of use will be permitted where:*

- *The proposal would sustain and enhance the vitality and viability of the shopping area;*
- *The cumulative effect of non-Class A1 - A5 shop uses is not so great as to undermine the attractiveness of the shopping area."*

The site also lies in the retail quarter as designated by the Burgess Hill Neighbourhood Plan. Policy TC4 of the Neighbourhood Plan relates the retail quarter and states:

*"Development will be brought forward through private sector investment. The Retail Quarter is centred on the existing outdoor and indoor shopping area - linked between Church Walk and the Martlets Shopping Centre as well as the retail units in Church Road. New developments supported for this area include food retail and other new retail opportunities, a new square and employment. This Quarter links with the Leisure and Entertainment Quarter and supports a new cinema for the town, The existing retail offer will be maintained and enhanced in this area together with maintaining the level of car parking and improving the quality of the provision."*

The District Plan clearly states that in secondary shopping frontages, a high proportion of Class A1-A5 uses should be retained, as these contribute to the pedestrian flow and attractiveness of the area. Policy TC4 of the Neighbourhood Plan states that new development for food retail will be supported in this area, however it is not considered that an A5 takeaway use would constitute 'food retail'. In this instance, it is considered that more weight should be given to the District Plan policy, having been adopted at a later date than the Neighbourhood Plan.

In addition, it is considered that the proposed A5 use is an appropriate use in this location as the parade of buildings currently contains several fast food establishments. The proposal is therefore in keeping with existing uses and will contribute to the vitality and viability of the area.

In light of the above, the principle of the proposed A5 takeaway use is deemed acceptable.

The following sections of the report will consider the relevant matters associated with the proposed development in the context of the development plan and other material planning considerations, including the NPPF in order to undertake the necessary assessment outlined above.

### **Impact on the character of the area**

Policy DP26 of the Mid Sussex District Plan relates to design and states:

*"All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should*
- *normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*

- *positively addresses sustainability considerations in the layout and the building design;*
- *take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development."*

The proposed development includes external alterations to the building. These are proposed to the rear of the building and will include the installation of a large flue, the replacement of a ground floor window with door (to serve the flat) and enlargement of stepped area. Plans show that new signage is proposed to the front elevation but this does not fall to be considered under this planning application.

Plans as originally submitted showed that the flue would be routed to run internally through the proposed first floor flat and out the main roof of the building by the chimney stack; however this was not considered to be ideal in terms of impacting upon the amenities of the first floor flat. Plans have subsequently been amended on the 06.06.2018 to show that the flue will exit the building via the flat roof of the ground floor rear extension and will extend up against the main rear wall of the building, falling in line with the top of the adjoining chimney stack. Plans, as amended, will have greater impact upon the visual amenity of the area than plans as originally submitted. Concerns have been expressed from neighbouring residents that the flue will appear as an eyesore, detracting from the appearance of the area. Whilst these concerns are noted, it is not considered that the rear of the properties as viewed from the access road are particularly attractive, with a variety of extensions and additions that have been added. The proposed flue will be sited against the existing chimney stack and adjoining flue at no. 21, and when viewed in the context of surrounding properties is not considered to detract from the appearance and character of the area. The proposal is therefore considered to accord with policy DP26 of the Mid Sussex District Plan.

### **Impact on highway safety**

Policy DP21 of the Mid Sussex District Plan relates to transport and requires development to be sustainably located to minimise the need for travel and provide adequate car parking taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport. Schemes should avoid severe additional traffic congestion and should protect the safety of road users and pedestrians.

Policy S4 of the Burgess Hill Neighbourhood Plan states that all new housing developments must comply with parking standards for Burgess Hill which state that a 1 bed owned flat should have 1.1 non-allocated space and 1 allocated space. A 1 bed shared or rented flat should have 0.5 non-allocated provision and 1 allocated space.

The application site currently benefits from 4 off road parking spaces to the rear of the property which are likely to be used by staff of the takeaway although this has not been confirmed. The application site is located in a sustainable town centre location and is accessible by transport modes other than a private motor vehicle.

The Highways Authority at West Sussex County Council has been consulted on the proposal and has advised that no highways concerns would be raised to a residential flat being provided a nil parking provision in a location such as this. It would be beneficial if the flat could be provided a secure and covered cycle parking provision. If achievable such a provision should be secured via planning condition.

As the Mid Sussex District Plan was adopted after the Neighbourhood Plan was made, policy DP21 would be given precedence over policy S4 of the Neighbourhood Plan. As such and in light of Highways comments, a potential nil parking provision for the flat is deemed acceptable.

With regards to the proposed takeaway use, the following comments have been received:

*"No trip rate information data has been provided. However A5 use class floor space typically generates vehicular movements in the early evening period. The site is located in a town centre location and thus the resultant trips generated would be done so at times outside the network peak of the immediate vicinity.*

*I'm also mindful of the floor space area subject of this application (77.3 sqm). On balance it would be difficult to substantiate that the resultant trips associated with this proposal will result in a highway capacity issue.*

*Given the existing use of the site, and having consideration for the context of the town centre location, the Local Highways Authority does not consider that the proposal would have 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 32), and that there are no transport grounds to resist the proposal."*

As a bus stop and double yellow lines lie to the front of the premises, the road protection markings should prohibit on street parking in locations that would be detrimental to highway safety. Sussex Police has raised concerns that the proposal may result in more illegal parking, however such parking would be enforceable by law.

The proposed development is therefore considered to comply with policy DP21 of the Mid Sussex District Plan.

### **Impact on amenities of adjacent residents**

Policy DP26 of the Mid Sussex District Plan relates to amenity and states that development should not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);

Policy DP29 states that the quality of people's life will be protected from unacceptable levels of noise, light and air pollution.

The Council's Environmental Protection Officer has been consulted on the proposal as amended, and has advised that the proposal has potential to negatively impact upon adjoining residential amenities, particularly the proposed first floor flat, due to noise and odour from the kitchen extract fan, noise from customers, noise from mopeds and cars making deliveries, noise from waste bins being emptied and noise from kitchen staff preparing food and clearing down at the end of shift.

The Council's Environmental Protection Officer has advised that planning conditions can be used to mitigate impact for most of the issues raised. In respect of customer and delivery noise, this can be controlled by restricting the hours of use; the proposed opening hours of 11am to 11pm are deemed acceptable and can be conditioned to protect neighbouring amenities. Likewise, large deliveries and the collection of bins can be conditioned to restricted times to ensure that they do not adversely impact on local residents. Considering the existing uses within the parade, where there are a number of fast food takeaways, it is not considered that the proposal would result in a significant increase in noise and disturbance.

In respect of the extract unit, information has been submitted providing details of odour and grease controls to be installed together with a maintenance plan for the control units. Noise specifications have also been submitted. The Council's Environmental Protection Officer has advised that further information is required to ensure that the level of noise generated by the unit is acceptable in relation to adjoining residents and that further details are submitted regarding the control of fumes and smell emissions as well as a maintenance and monitoring schedule for the odour control unit; this can be controlled via conditions.

In addition to the above, the applicant should be made aware that planning permission does not prevent investigations and action being taken by the Environmental Protection team should justified complaints be received with regards to noise, smoke or odour.

In light of the above, it is considered that the proposed development is acceptable in terms of impact upon adjoining residential amenities; the proposal is therefore considered to accord with policies DP26 and DP29 of the Mid Sussex District Plan.

### **Ashdown Forest SPA and SAC**

Under the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to satisfy itself that any plans or projects that they regulate (including plan making and determining planning applications) are not likely to have a significant effect on a European site of nature conservation importance. For most developments in Mid Sussex, the European sites of focus are the Ashdown Forest Special Protection Area (SPA) and Ashdown Forest Special Area of Conservation (SAC). Planning permission cannot be granted by the District Council where the likelihood of significant effects exists. The main issues are recreational disturbance on the SPA and atmospheric pollution on the SAC, particularly arising from traffic emissions.

The application site is outside of the 7km zone of influence and thus there would be no effect on the SPA from recreational disturbance.

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as windfall development, such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

This application has been screened for its potential effects on the SPA and SAC. This exercise has indicated that there is no likelihood of significant effects. A screening assessment sets out the basis for this conclusion.

### **Space Standards**

Policy DP26 of the Mid Sussex District Plan states that development should be of a high quality design and layout and should not cause significant harm to the amenities of future occupants of new dwellings. Policy DP27 states that all new residential development should comply with minimum nationally described space standards for internal floor space and storage. Nationally described space standards recommend a 1 bed flat for 1 person should have a minimum gross internal floor area of 39 square metres plus 1 square metre of built in storage.

Plans submitted indicate that the internal floor space of the flat will be approximately 42 square metres excluding the bay window, and therefore the proposed development is considered to provide a satisfactory standard of accommodation for future residents, thereby complying with policies DP26 and DP27 of the Mid Sussex District Plan.

### **Planning balance and conclusions**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The application site lies within a sustainable town centre location where there is access to shops and services and public modes of transport. As such, the principle of residential development is deemed acceptable under policy DP6 of the Mid Sussex District Plan. The site also lies within a secondary shopping frontage as designated by the District Plan, whereby A5 uses are encouraged; the proposed change of use to an Indian takeaway is therefore deemed acceptable in principle.

The proposed development would result in the provision of 1 new dwelling (flat) which would make a minor but positive contribution to the District's housing supply. The New Homes Bonus is a material planning consideration and if permitted, the local planning authority would receive a New Homes Bonus for the proposed unit. The proposal would also result in the employment of contractors for the duration of the conversion with the increased population likely to spend in the local community, albeit such benefits would be very limited given the modest nature of the proposal.

These factors weigh in support of the proposal.

In other respects, the proposed development is considered to have a neutral impact in terms of impact on highways and parking provision and impact on the Ashdown Forest in respect of nitrogen deposition. The Council's Environmental Protection Officer is satisfied that potential impact upon adjoining residents in respect of noise and odour can be controlled via planning conditions.

The proposed development is therefore considered to comply with policies DP1, DP2, DP4, DP6, DP17, DP21, DP26, DP7, DP28 and DP29 of the Mid Sussex District Plan 2014-2031.

In light of the above, the planning balance is considered to fall significantly in favour of granting planning permission.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

### **Approved Plans**

2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Applications".

Reason: For the avoidance of doubt and in the interest of proper planning.

### **Construction phase**

3. No work for the implementation of the development hereby permitted shall be undertaken on the site on Bank or Public Holidays or at any time other than between the hours 08:00 to 18:00 hrs on Mondays to Fridays and between 09:00 to 13:00 hrs on Saturdays.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

### **Pre-occupation conditions**

4. Odour: The development hereby permitted shall not be brought into use as a Class A5 establishment until a scheme for the installation of equipment to control the emission of fumes and smell from the premises has been submitted to and approved in writing by the Local Planning Authority, and the scheme as approved has been implemented. The submitted odour control scheme shall be in accordance with best practice eg the principles of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and shall include a Risk Assessment for Odour eg Annex C of the DEFRA guidance as well as a maintenance and monitoring schedule for the odour control system, to ensure adequate control of odours, to align with the manufacturer's instructions.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

5. Plant & Machinery: Unless otherwise agreed in writing, noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is brought into use as a Class A5 use establishment and thereafter be maintained in accordance with the approved details.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

6. Soundproofing: The development hereby permitted shall not be brought into use as a Class A5 establishment until a soundproofing scheme, which achieves a minimum airborne sound insulation value of 50dB (DnTw+Ctr dB) for the floors/ceilings that are between the commercial unit at ground floor and the residential unit above, has been submitted to and approved in writing by the Local Planning Authority and the scheme as approved has been implemented.



Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

7. The dwelling hereby permitted shall not be occupied until provision has been made within the site in accordance with details to be submitted to and approved by the Local Planning Authority for the parking of bicycles clear of the public highway and such space shall not thereafter be used other than for the purposes for which it is provided.

Reason: To enable adequate provision for a facility which is likely to reduce the amount of vehicular traffic on existing roads and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

8. The development hereby permitted shall not be brought into use unless and until recycling and dustbin enclosures have been provided as part of the development in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the siting and design thereof.

Reason: To safeguard the appearance of the property and the amenities of the area and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

#### **Post-occupation monitoring/management conditions**

9. Opening Hours: The business shall not operate outside of the following hours:

08:00 to 23:00 hours.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

10. Deliveries and collections: No deliveries or collections of commercial goods or waste outside the following hours:

Mon to Fri 07:00 to 19:00 hours

Sat 08:00 to 13:00 hours

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

#### **Plans Referred to in Consideration of this Application**

The following plans and documents were considered when making the above decision:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Proposed Floor and Elevations Plan	2017/113/PL2	C	06.06.2018

Existing Floor and Elevations Plan	2017/113/PL1	28.03.2018
Location and Block Plan	2017/113/PL1	28.03.2018

## **APPENDIX B – CONSULTATIONS**

### **Burgess Hill Town Council**

Recommend Approval ' concerns were expressed about the issues raised by resident next door. There was no valid planning reason for refusal.

### **Burgess Hill Town Council**

Recommend Refusal ' It would be unneighbourly. It would have a negative effect on amenity which contravenes Policy B3 of the District Plan. Concerns were raised over the increase in traffic and the lack of parking.

The Committee felt there were a sufficient number of existing take-away outlets in the town.

### **WSCC Highways**

#### **Comments received 14/05/2018**

This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information.

I refer to your consultation in respect of the above planning application and would provide the following comments.

#### Context & Principle

This application has been identified in the MSDC RAG (Red, Amber and Green) Report as "Amber"; a site visit will be undertaken in due course with an additional response provided advising any additional observations.

This application seeks the proposed change of use of 19 Station Road, Burgess Hill from (A1 Use) vacant retail unit to (A5 Use) fast food takeaway, and Conversion of the first floor of the property into a one bedroom self-contained flat. (C3).

The application documents specify the change of use equates to circa 77 sqm.

#### Parking

The application form indicates that the site is served with 4 off street car parking spaces, these will be retained. Presumably there are located within the rear yard, and thus would likely be used by staff of the proposed take away rather than customers.

Existing on street/paid for parking provision will have to be used to accommodate any customer parking demand.

The Local Highways Authority does not have a formal parking standard for A5 use class. However from experience of other Local Highways Authority standards it is generally accepted that A1 use parking demand is in line with that of A5.

The Local Highways Authority therefore has no evidence to conclude that the proposed will create a significant increase in parking demand over the existing use.

The site is sustainably located within a town centre location and is accessibly by transport modes other than a private motor vehicle.

No highways concerns would be raised to a residential flat being provided a nil parking provision is a location such as this. It would be beneficial if the flat could be provided a secure and covered cycle parking provision. If achievable such a provision should be secured via planning condition.

#### Trip Rate

No trip rate information data has been provided. However A5 use class floor space typically generates vehicular movements in the early evening period. The site is located in a town centre location and thus the resultant trips generated would be done so at times outside the network peak of the immediate vicinity.

I'm also mindful of the floor space area subject of this application (77.3 sqm). On balance it would be difficult to substantiate that the resultant trips associated with this proposal will result in a highway capacity issue.

#### Conclusion

Given the existing use of the site, and having consideration for the context of the town centre location, the Local Highways Authority does not consider that the proposal would have 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 32), and that there are no transport grounds to resist the proposal.

#### **Comments received 24/05/2018**

The Local Highway Authority (LHA) carried out a site visit on 23rd May 2018.

We observed the town centre location of the site and confirm that road protection markings in the vicinity prohibit on-street parking in locations that would be detrimental to highway safety.

To the rear of the site staff parking will be retained, this has been operating without evidence of highway safety concern.

As per previous comments the LHA do not consider that the change of use and addition of single flat will cause significant increase in parking demand over the existing use. Considering the town centre location the LPA should consider whether secure and covered cycle parking can be secured via condition.

#### **MSDC Environmental Protection**

### Main Comments:

I write further to my comments on the 4th June 2018, as the agent for the application has now submitted new plans showing the chimney for the extract unit will run to towards the rear of the property, and then go vertically through the flat roof and continue up the rear wall and terminate at chimney level.

My comments are therefore updated accordingly.

### Updated comments:

The application is for a change of use from retail unit to a fast food take away. This change has the potential to negatively impact the residential amenity of nearby residential premises, particularly the proposed first floor flat, due to noise and odour, most likely from the following sources:

- Noise from kitchen extract fan
- Odour from kitchen extract fan
- Noise from customers collecting/waiting for food
- Noise from mopeds/cars making deliveries
- Noise from waste bins being filled/emptied
- Noise from kitchen staff preparing food/ clearing down at end of shift

Use of planning conditions can be used to mitigate the impact from most of these, but customer noise and delivery vehicle noise (if applicable) may well only be controllable by restricting the hours of use. Having looked at the proposed hours of use, these do appear acceptable and should be conditioned.

With regards to large deliveries and collections of bins, the times of these should be conditioned in order to ensure they do not impact on local residents. Such undertakings have inherently loud activities, such as engine and chiller noise from large vehicles, tailgate movements, and cages being moved and arranged. These suggested restricted times do not relate to the delivery and collection of takeaways, which should come under the opening hours.

Regarding noise from the kitchen and preparation area affecting the flat above, Building Regulations Part E covers the soundproofing of Dwelling Houses and Flats formed by material change, but does not deal with required levels of protection between commercial and residential units. It is therefore recommended that should the application a point where it can be granted, that a soundproofing condition be imposed in order to protect the residents.

With regards to the extract unit, All Ventilation & Extraction Ltd have submitted plans for the unit, which include an details of the odour and grease controls to be installed, and a maintenance plan for the control units.

With regards to noise from the extract unit, while specifications for the unit have been submitted, further information is required to show that it will not cause noise issues to nearby residents. Given All Ventilation & Extraction Ltd have also designed the unit proposed at 33 Station Road, I assume this units noise levels have been

designed based on the findings of the noise assessment by Noico Ltd (ref: 580529/1) dated 23rd May 2018, but that needs to be confirmed in writing along with what levels will be achieved at the nearby windows to where the flue is running.

In terms of odour control the main control will be the carbon block, which under optimum conditions is highly effective at reducing odour. Carbon blocks are however sensitive to grease and moisture, and the dwell time must be sufficient for its intended use. I note G4 panel filters have been recommended to prevent grease passing into the carbon. Additionally the high level of discharge should allow any odour to disperse within the air before reaching sensitive properties.

Having discussed the proposed system with All Ventilation & Extraction Ltd, I am aware the dwell time for the currently proposed carbon block is 0.15 seconds. As a minimum I would recommend this to be doubled to at least a 0.3 second dwell time. This will require upgrading the carbon block and possibly also the fan to cope with the additional pressure drop. For that reason a full odour condition should still be attached, so a final odour and extract plan can be agreed before the system is installed.

The applicant should also be aware that with the proposed carbon block system it is vitally important the pre-filters / panels are cleaned and maintained regularly, or the carbon can become contaminated with grease, and its ability to deal with odour will deteriorate rapidly. If the carbon block becomes contaminated with grease then it cannot be repaired, and would have to be replaced at great expense in order to maintain the odour abatement. It is therefore critical that the system is maintained.

While it is recommended that this application be approved with conditions, the applicant should be aware that planning permission does not prevent investigations and action being taken by the Environmental Protection team should justified complaints be received with regards to noise, smoke or odour.

#### Recommendation:

Approve with conditions

1. Odour: Odour: The development hereby permitted shall not be brought into use as a Class A5 establishment until a scheme for the installation of equipment to control the emission of fumes and smell from the premises has been submitted to and approved in writing by the Local Planning Authority, and the scheme as approved has been implemented. The submitted odour control scheme shall be in accordance with best practice eg the principles of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and shall include a Risk Assessment for Odour eg Annex C of the DEFRA guidance as well as a maintenance and monitoring schedule for the odour control system, to ensure adequate control of odours, to align with the manufacturer's instructions.

2. Plant & Machinery: Unless otherwise agreed in writing, noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the

nearest existing noise sensitive premises, shall not exceed 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is brought into use as a Class A5 use establishment and thereafter be maintained in accordance with the approved details.

3. Soundproofing: The development hereby permitted shall not be brought into use as a Class A5 establishment until a soundproofing scheme, which achieves a minimum airborne sound insulation value of 50dB (DnTw+Ctr dB) for the floors/ceilings that are between the commercial unit at ground floor and the residential unit above, has been submitted to and approved in writing by the Local Planning Authority and the scheme as approved has been implemented.

4. Opening Hours: The business shall not operate outside of the following hours:  
08:00 to 23:00 hours

5. Deliveries and collections: No deliveries or collections of commercial goods or waste outside the following hours:  
Mon to Fri 07:00 to 19:00 hours  
Sat 08:00 to 13:00 hours  
Reason: to protect the amenity of local residents.

### **MSDC Street Naming and Numbering**

Please could I ask you to ensure that the following informative is added to any decision notice granting approval:

Informative: Info29

The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming & Numbering Officer before work starts on site. Details of fees and advice for developers can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.

### **Sussex Police**

Thank you for your correspondence of 25th April 2018, advising me of a planning application for the proposed change of use from vacant retail unit to fast food takeaway, at the above location, for which you seek advice from a crime prevention viewpoint.

I have had the opportunity to examine the detail within the application and in an attempt to reduce the opportunity for crime and the fear of crime I offer the following comments.

The National Planning Policy Framework demonstrates the government's commitment to creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion, and with the level of crime and anti-social behaviour in Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends should be considered.

The premises seeks to trade between 11:00 - 23:00, 7days a week.

There is mention of retaining the four car parking slots to the rear of the premises within the Planning Statement submitted in support of this application, this will serve the proposed new C3 residential dwelling and the premises employees. However, there is no mention of any available parking space for persons picking up their meal by car to park in, other than the existing on-street parking at the parade, which is limited.

There is a bus stop outside the premises and double yellow line the whole length of the parade here and limited parking opposite. Should this be full, this could encourage illegal parking, either within the bus stop or on the double yellow lines and has the potential to create vehicle congestion. There is no mention of deliveries taking place from the above premises and the subsequent parking of these vehicles whilst waiting for orders. If this does materialise, I have concerns where these vehicles would be parked given that parking is limited at the location.

I recommend that the applicant checks to ensure all existing doors and windows are adequate and fit for purpose and where necessary, ensure locks that conform to BS 3621 / 8621 respectively, as a minimum standard are fitted. Any new doors and windows to be replaced should conform to LPS 1175 SR2 or STS 202 BR2. I recommend the fitting of a monitored intruder alarm system within the premises.

Where the new entrance door is being created for the residential flat, it is to conform to PAS 024-2016 and have external dusk till dawn lighting.

Consideration is to be given to the amenity of the immediate and nearby residents for additional noise, litter, smells and a potential increase in vehicle movements. Sussex Police fully supports Policy B3 of the Mid Sussex Local Plan, which is to safeguard the amenity of neighbouring residential occupiers.

The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.

This letter has been copied to the applicant or their agent who is asked to note that the above comments may be a material consideration in the determination of the application but may not necessarily be acceptable to the Local Planning Authority. It

is recommended, therefore, that before making any amendments to the application, the applicant or their agent first discuss these comments with the Local Planning Authority.



# **MID SUSSEX DISTRICT COUNCIL**

PLANNING COMMITTEE A

**19 JUL 2018**

**PART II – RECOMMENDED FOR REFUSAL**

NONE

# **MID SUSSEX DISTRICT COUNCIL**

PLANNING COMMITTEE A

**19 JUL 2018**

**PART III – OTHER MATTERS**

NONE