

HAVANT BOROUGH COUNCIL

At a meeting of the Development Management Committee held on 5 June 2014

Present

Councillor Mrs Shimbart (Chairman)

Councillors Brown, Buckley (Vice-Chairman), Hilton, Keast and Turner

1 Apologies for Absence

Apologies for absence were received from Councillors Heard, Galloway and D Smith.

2 Minutes

The Minutes of the meeting of the Development Management Committee held on 27 March 2014 were agreed as a correct record and signed by the Chairman.

3 Matters Arising

There were no matters arising.

4 Declarations of Interest

There were no declarations of interests.

5 Chairman's Report

The Chairman advised the Committee:

- (a) of future major applications: that would be submitted to meetings of the Committee from 17 July 2014.
- (b) that the Inspector's report on the Local Plan Allocations was expected in late June/early July 2014 and that the matter would be likely to be submitted for consideration by the Cabinet and Council on 23 July 2014; and
- (c) that twin applications for Emsworth to be designated as a 'neighbourhood area' and for the Emsworth Forum to be designated as the 'neighbourhood forum' for the purposes of neighbourhood planning in Emsworth would be considered by the Cabinet on 25 June and Council on 23 July 2014.

6 Matters to be Considered for Site Viewing and Deferment

There were no matters to be considered for site viewing and deferment.

7 Deputations

The Committee received the following deputations/representations:

- (1) Mr Turgay (objector) – APP/14/00269 – 38 Park Parade, Havant (Minute 8)
- (2) Councillor Ponsonby (ward councillor) - APP/14/00269 – 38 Park Parade, Havant (Minute 8)

8 APP/14/00269 - 38 Park Parade, Havant

Proposal: Change of Use from retail (use class A1) to kebab takeaway (use class A5).

The Committee considered the written report and recommendation of the Executive Head of Planning and Built Environment to grant permission.

The Committee also received supplementary information, circulated prior to the meeting, which gave:

- (a) details of additional conditions; and
- (b) an update on the appeal decision relating to application APP/13/01237

During the meeting the Committee was advised that condition 6 as set in the report should be replaced by Condition 7 as set in the supplementary information referred to above

The Committee was addressed by the following deputees:

- (1) Mr Turgay, who objected to the proposal for the following reasons:
 - (a) the proposed development would have a detrimental impact on the financial viability of existing takeaway shops in the area leading to job losses and/or closure of these existing businesses;
 - (b) there was a sufficient number of takeaway food shops in the area; and
 - (c) the footfall for the shopping centre was very limited;
- (2) Councillor Ponsonby acknowledged that it would be difficult to refuse this application on planning grounds. However she requested the Committee to take the following concerns into account:
 - (d) the existing food outlets were struggling to survive: an additional food outlet would be likely to lead to job losses and the closure of existing food outlets;

- (e) recent guidance from the National Institute for Health Care and Clinical Excellence (NICE) had linked high levels of obesity with takeaway food outlets. In response to this correlation some Councils were seeking to limit the number of takeaway food shops in shopping centres e.g. Birmingham City Council restricted the number of takeaway food outlets in a shopping centre or parade to 10%
- (f) although it was proposed to extend the extraction flue above roof level of the hairdressing salon above, the proposal would adversely affect the financial viability of this business by reason of fumes and smells; and
- (g) there was no direct fire exit onto the street or a rear courtyard. It was proposed that a fire exit be established via the entrance hall to the hairdressing business: the door to this entrance hall would normally be locked when the hairdressing salon was closed.

Councillor Ponsonby gave notice that she would be submitting a motion to a future Council meeting for the adoption of a policy restricting the number of takeaway shops in a shopping centre or parade to 10%.

In response to questions raised by members of the Committee, the officers advised that:

- (1) no planning grounds could be found to justify refusing this application;
- (2) the unit was currently a secondary frontage: in the emerging Allocations Plan the unit would not have designated frontage because of the number of vacant units in the area;
- (3) although details of the ratio of A5 to A1 units in the whole shopping centre were not readily available at the meeting, the ratio of A5 to A1 units (including the proposed used) in the immediate frontage was in accordance with the Council's policies;
- (4) the premises above the takeaway food shop was business and not residential as set out in the report,
- (2) the application proposed that the route for the extraction flue would be provided internally. In view of the concerns raised by the Committee, an informative could be attached to the permission advising that the Council would be unlikely to support the provision of an external flue;
- (3) the fire exit would be dealt with under controls such as Building Regulations. In view of the concerns raised concerning the adequacy of the proposed fire exit, an informative could be attached to the permission advising of the need to comply with other regulations; and

- (4) the NICE guidance could not be used to justify refusal.

The Committee discussed this application in detail together with the views raised by the deputees. Although the Committee sympathised with the deputees, it could not find any planning reasons to justify refusal. Therefore, subject to the informatives referred to (2) and (3) above, it was reluctantly

RESOLVED that Application APP/14/00269 be granted permission subject to:

I. 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 The takeaway premises hereby permitted shall not open to the public before 1200 hours or remain so open after 2400 hours.

Reason: To protect the amenities of nearby residential properties and having due regard to policies DM5 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 3 No development hereby permitted shall commence until a specification of the provision to be made for the storage and disposal of refuse following the commencement of the use hereby permitted has been submitted to and approved in writing by the Local Planning Authority. This must also include a scheme for the dispose of customer refuse and litter. The use hereby permitted shall not commence until the implementation of such provision for refuse has been completed in full accordance with such an approved specification.

Reason: To safeguard the amenities of the locality and having due regard to policies DM10 and DM5 of the Local plan (Core Strategy) which forms part of the Havant Borough Local Development Framework.

- 4 The change of use hereby permitted shall not commence until details of bin provision relating to the takeaway facility have been submitted to and approved in writing by the Local Planning Authority. The development should not be brought into use until a bin has been provided in accordance with the approved details.

Reason: To safeguard the amenities of the locality and having due regard to policies DM10 and DM5 of the Local plan (Core

Strategy) which forms part of the Havant Borough Local Development Framework.

- 5 No delivery vehicles (including moped's and motorbikes) are to be used in conjunction with the hereby permitted A5 use.

Reason: To safeguard the amenities of the locality and having due regard to policies DM10 and DM5 of the Local plan (Core Strategy) which forms part of the Havant Borough Local Development Framework.

- 6 Prior to the development being brought into use, equipment shall be installed for the filtration and extraction fumes and smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. The extraction vent should be located above first floor level. Details of the equipment shall be submitted to and approved in writing by the Local Planning Authority, and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason: To ensure that unsatisfactory cooking odours outside of the premises are minimised in the interests of the amenities of occupiers of nearby properties and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012. of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

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

Location and block plan - P1

Existing elevations - P2

Floor plans existing and proposed - P3

Design and Access Statement - received on 10/4/14

Ventilation Statement - received on 10/4/14

Reason: - To ensure provision of a satisfactory development.

8. The extraction equipment installed in pursuance of Condition 7 above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority and shall not be resumed until the system has been restored to full working order. Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of extraction equipment, shall be kept

and made available for inspection at the premises by Officers of the Local Planning Authority, to facilitate monitoring of compliance of this condition.

Reason: To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected and having due regard to Policies DM5, DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

9. Any proposal relating to install noise making equipment (i.e. refrigeration units, air conditioning, extract ventilation equipment) shall be agreed and approved in writing by the Local Planning Authority prior any development takes place.

Reason: To protect the occupants of nearby residential properties from noise, vibration and/or odour nuisance.

10. Noise resulting from the use of any/all plant, machinery or equipment shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality) when measured according to British Standard BS4142-1997.

Reason: in the interests of protecting the local residents from unreasonable noise levels which would be detrimental to the residential character of the area.

II. Informatives advising that:

- (a) the fire exit required Building Regulation approval; and
- (b) the Council was unlikely to support an external flue.

9 Appointment of the Site Viewing Working Party

The Committee considered the appointment of the Site Viewing Working Party for the ensuing year.

RESOLVED that

- (a) that the Site Viewing Working Party be constituted with the following terms of reference:

Title: Site Viewing Working Party

Membership: All members of the Development Management Committee

Standing Deputies: Councillors Galloway, D Smith and Hart

Chairman: Chairman of the Development Management Committee

Vice Chairman: Vice Chairman of the Development Management Committee

Function: To inspect sites relating to planning applications, and other matters referred to it by the Development Management Committee and officers and to inspect sites as necessary and request additional information if necessary.

- (b) members of the Development management Committee (including Standing Deputies) be appointed to the Working Party referred to in (a) above; and
- (c) members appointed to the Working Party referred to in (a) above continue to be members and constitute that Working Party until the first meeting of the Committee after the annual meeting of the Council subject to the members concerned remaining members of the Council during that time.

The meeting commenced at 5.00 pm and concluded at 5.57 pm

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Chairman