

Planning, Transport & Sustainability Division
Planning and Rights of Way (WEST) Panel - 9 February 2016
Planning Application Report of the Planning and Development Manager

Application address: 45 Lodge Road, SO14 6RL			
Proposed development: Change of use of ground floor from shop (use class A1) to hot food takeaway (use class A5) with a proposed extraction flue at the rear of the building (proposed operating hours of 16:00-23:30 daily)			
Application number	15/02348/FUL	Application type	FUL
Case officer	Kieran Amery	Public speaking time	5 minutes
Last date for determination:	21.01.2015	Ward	Bevois
Reason for Panel Referral:	More than five objections have been received.	Ward Councillors	Cllr Burke Cllr Rayment Cllr Barnes-Andrews

Applicant: Mr A Azimi	Agent: Mr Chris McDermott
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Recommendation Summary	Conditionally approve
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The proposed change of use would not be detrimental to the character of the local area or the amenities of local residents. The proposal would not be considered harmful to highways safety. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP7, SDP16, REI7, and REI8 of the City of Southampton Local Plan Review (March 2006) and CS13, CS14, CS18, CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010).

Appendix attached			
1	Development Plan Policies	2	Planning History
3	Opening hours in local area		

Recommendation in Full

Conditionally approve

1.0 The site and its context

1.1 The site is a ground floor retail unit within a two storey terraced property. The ground floor of the property is currently occupied by a shop (use class A1) and the first floor is a residential flat (use class C3).

- 1.2 The local area is characterised mainly by similar two-storey terraced residential properties. Although the wider area is primarily characterised by residential dwellings, there are a range of different use classes operating from the ground floors of surrounding properties which include:
- No.38 Lodge Road is a laundrette (use class Sui Generis).
 - No.47 Lodge Road is a hairdressers (use class A1).
 - No.48 Lodge Road is a shop (use class A1).
 - No.49 Lodge Road is a hot food takeaway (use class A5).
 - No.51 Lodge Road is a motor vehicle parts shop (use class A1).
 - No.58 Lodge Road is a hot food takeaway (use class A5).
 - No.59 Lodge Road is a public house (use class A4).

2.0 Proposal

- 2.1 The proposal is for the change of use of ground floor from shop (use class A1) to hot food takeaway (use class A5) with a proposed extraction flue at the rear of the building. When the application was originally submitted, it was proposed to open until 03:00 on a daily basis. However, following concerns raised from local residents and officers, it is now proposed that the use would not open later than 23:30 on a daily basis.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 Most relevant to this application are Local Plan policies SDP1, SDP7, SD9 and REI7 of the Local Plan. Saved policy SDP1(i) seeks to protect the amenity of local residents whilst, saved policy SDP7(v) supports development which would integrate into the local community. This refers not just to the physical or visual character of the area but also to the community that makes up the area. Saved policy SDP16(i) states that noise-generating development will not be permitted if it would cause an unacceptable level of noise impact.
- 3.4 Saved policy REI7(i) specifically relates to proposals for food and drink uses and states that for proposals involving classes food and drink uses, appropriate planning conditions should be imposed to prevent the generation of any undue noise or other forms of nuisance directly arising from the proposed use. This is particularly in relation to sound attenuation, the control of extract and ventilation equipment and the provision of litter bins.

4.0 Relevant Planning History

4.1 The relevant planning history is set out in **Appendix 2**. Previous permissions granted at this property are limited to an extension granted in 1962; a new shopfront granted in 1979 and; the change of use to a beauty salon approved in 1998.

5.0 Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application, a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice (22.12.2015). At the time of writing the report **8** representations had been received from surrounding residents. A summary of the material considerations raised by these objections is set out as follows:

5.1.1 Comment

Late night opening hours will result in increased noise disturbance to the detriment of the amenity of local residents.

Response

The proposed hours of operation have been revised to 16.00-23.30. These are consistent with existing hours of operation for similar uses within the area. Appropriate noise insulation will also be secured by condition in order to mitigate noise pollution. Given the mixed character of the area, subject to these controls, the Environmental Health Team has raised no objection to the proposal and as such, is considered to be acceptable.

5.1.2 Comment

There is insufficient parking in the local area to accommodate the proposed use. This will lead to increased parking stress and would be detrimental to highway safety.

Response

There are existing parking restrictions on Lodge Road and surrounding streets, with some short stay on-street parking bays on Lodge Road to serve the commercial uses that exist in the area. A takeaway use typically serves residents within the immediate area and the parking restrictions in place encourage access by more sustainable modes of transport, such as walking. Furthermore, it is important to note that the existing authorised use of the premises is retail which typically generates more traffic with more intensive servicing requirements than a takeaway use. As such, it is considered that the proposal would have a negligible, if not improved, impact in highways terms.

5.1.3 Comment

The proposed use would result in smells, vermin, and rubbish to the detriment of the amenities of local residents.

Response

The application is accompanied by a detailed specification for extraction equipment which has been reviewed by the Council's Environmental Health team and found to be acceptable. A condition is recommended to ensure that the equipment is provided before the use commences and to secure its retention.

Litter bins can be provided on site to prevent any littering, in accordance with saved policy RE17 (iv). It is also important to note that the use would also be subject to licensing requirements.

5.1.4 Comment

Late night opening hours will result in an increase in anti-social behaviour.

Response

The proposed hours of operation have been revised to 16:00-23:30. These are consistent with existing hours of operation for similar uses within the area. The existing hours of operation of the retail unit are not regulated by planning condition. Furthermore, given the mixed and busy nature of Lodge Road it is not considered that the proposed opening times would be unduly disruptive to nearby residents. Therefore, given the existing situation, the proposed hours of operation would not be considered to contribute significantly to a detrimental impact on the safety and security of the local area.

5.2 **Consultation Responses**

5.2.1 **Environmental Health** - No objection in principle subject to conditions to secure the extraction equipment and soundproofing.

5.2.2 **Highways Development Management** – Generally, A1 use creates more vehicular trips on average than an A5 use. Also, the sizes of the servicing vehicles are generally larger with a retail use and the frequency of servicing being greater. Therefore in terms of traffic impact, the proposed change of use will generate minimal if not, reduced amount of impact to the public highway.

5.2.3 In terms of parking issues, Lodge road itself is restricted by double yellow lines on one side and marked out public parking bays (2 hours restriction) on the other. The proposal will not alter the existing arrangement and therefore in terms of highway safety, there are no foreseeable major concerns. Due to minimal difference in trip generations, the development is not considered to increase demand for these spaces. Furthermore, these are public spaces with any member of the public to park. The nearest unrestricted parking along a residential area would be Earl's Road but the chances of people parking there will be the same if not more with the current retail use.

5.2.4 In summary, the proposed development is considered to create minimal and possibly less traffic impact in terms of vehicular trips and servicing requirements and therefore no objections are raised.

6.0 **Planning Consideration Key Issues**

6.1 The key issues for consideration in the determination of this planning application are:

- (i) The principle of development;
- (ii) Impact on the amenities of local residents and;
- (iii) Parking and impact on highway safety.

6.2 (i) Principle of development

6.2.1 Policy RE17 of the Local Plan supports food and drink uses in town, district and City centre locations and whilst the application site does not fall within such a designated centre, the character of Lodge Road is mixed with the application site already being in non-residential use. As such, the proposal is consistent with Core Strategy policies CS6 and CS7 which seek to protect employment uses in the City and the principle of development is acceptable.

6.3 (i) Impact on the amenities of local residents

6.3.1 Where the proposed use would occupy a unit with residential dwellings above and to the east there is a potential for noise disturbance. RE17(ii) states that any adverse impact on the amenities of neighbouring residential premises by reason of noise and disturbance within the premises can be prevented by the installation of sound attenuation measures by appropriate conditions. In this instance a condition would be attached to an approval decision ensuring that the use hereby approved shall not commence until sound insulation measures against internally generated noise and vibration have been provided in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The measures shall be thereafter retained as approved.

6.3.2 The hours of operation will also be conditioned so that the use will not be operational outside of the hours of 16:00 to 23:30 throughout the week. These opening hours are consistent with similar uses within the local area. Given the existing situation, these hours are not considered unreasonable in terms of the impact on residential amenity. A table detailing the opening hours of surrounding uses is set out in **Appendix 3**. Given the existing presence of similar uses within similar hours of operation, the proposed hours would not be considered to significantly contribute to any detrimental impact on residential amenity.

6.3.3 There has been some concern raised regarding the potential for the proposed use to result in the generation of fumes and odour, litter, and vermin. Saved Policy RE1 7 (iii) states that any adverse impact caused by cooking smells can be prevented by the installation of fume filtration and extraction equipment. The application does proposed an extraction flue to the rear of the property which utilizes activated carbon to remove odours. The Environmental Health team have confirmed that the scheme for the extraction ducting appears appropriate apart from the omission of rubber anti vibration mounts which need to be fitted to minimise structure borne sound. This will be secured by condition 05.

6.3.4 The proposed extraction equipment would not be visible from the street and would not have a significant overbearing impact on the neighbouring property no.43 Lodge Road as the main chimney would only project from the rear wall of no.45 by 0.4m. For this reason it is not considered visually intrusive and is acceptable in terms of impact on the character of the host property and local area.

6.3.5 Saved policy RE17(iv) states that any adverse impact on the amenities of the area through the discarding of litter is prevented by the provision of litter bins on the premises. Securing the provision of litter bins therefore addresses the concerns regarding litter and vermin.

6.3.6 Subject to these safeguards, it is considered that the effect on the development on nearby residents can be adequately mitigated to avoid harm to amenity.

6.4 (iii) Parking and impact on highway safety

6.4.1 As noted above, the existing established use of the premise is retail and generally, retail uses generate more vehicular trips on average than a hot food takeaway use. Also, the sizes of the servicing vehicles are generally larger with a retail use and the frequency of servicing being greater. Therefore in terms of traffic impact, the proposed change of use will generate minimal if not, reduced amount of impact to the public highway compared to the potential impact associated with A1 use.

6.4.2 In terms of parking issues, Lodge road itself is restricted by double yellow lines on the north side and marked out public parking bays (2 hours restriction) on the south. The proposal will not alter the existing arrangement and therefore in terms of highway safety, there are no foreseeable major concerns. Due to minimal difference in trip generations, the development is not considered to increase demand for these spaces. Furthermore, these are public spaces where any member of the public to park. The nearest unrestricted parking along a residential area would be Earl's Road but it is likely that the numbers people parking on Earl's Road in association with the proposed use will be the same if not less than the current retail use.

6.4.3 In summary, the proposed development is considered to create minimal, or potentially less traffic impact in terms of vehicular trips and servicing requirements. The proposed development is therefore not considered to have a detrimental impact on highways safety.

7.0 Summary

7.1 In summary, the proposed change of use would not have a significant detrimental impact in terms of material harm to the amenities of local residents due to conditions which secure noise mitigation measures and limited hours of operation. Also, it would not result in a significant impact on highways safety compared to the existing retail use.

8.0 Conclusion

8.1 As such, the proposal is judged to have an acceptable impact and, being in accordance with the saved development plan policies as set out in section 4 and **Appendix 1**, it can be supported for conditional approval.

Local Government (Access to Information) Act 1985 **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(vv), 7(a), 9(a), 9(b)

KA for 09/02/16 PROW Panel

PLANNING CONDITIONS

01. APPROVAL CONDITION - Full Permission Timing Condition – Change of use

The development works hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. HOURS OF OPERATION – Performance condition

The use hereby approved shall not operate outside the hours of:

Monday to Sunday 16.00 to 23.30 hours

Unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of neighbouring residents.

03. HOURS OF WORK FOR DEMOLITION / CLEARANCE / CONSTRUCTION

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:

Monday to Friday 08:00 to 18:00 hours

Saturdays 09:00 to 13:00 hours

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

04. NOISE & VIBRATION (INTERNAL NOISE SOURCE)

The use hereby approved shall not commence until sound insulation measures against internally generated noise and vibration have been provided in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The measures shall be thereafter retained as approved.

Reason: To protect the amenities of the occupiers of existing nearby properties.

05. EXTRACTION EQUIPMENT RUBBER MOUNTS – Pre-Commencement condition

The use hereby approved shall not commence until the extraction equipment hereby approved is fitted in accordance with the submitted information with the addition of rubber anti-vibration mounts to minimise structure borne sound. The equipment shall thereafter be retained and maintained as approved whilst the takeaway use is in operation.

Reason: To protect the amenities of the occupiers of existing nearby properties.

06. LITTER BIN PROVISION – Performance condition

Before the use commences, at least one litter bin shall be provided on the premises, to be available for use at all times throughout the hours of operation hereby approved.

Reason: To mitigate any adverse impact on the amenities of the local area caused by the discard of litter.

07. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority. For the avoidance of doubt the works shown on the plans in connection with application 14/01941/FUL do not form part of this approval.

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

POLICY CONTEXT

Core Strategy - (January 2010)

CS13 Fundamentals of Design

City of Southampton Local Plan Review – (March 2006)

SDP1 Quality of Development
SDP7 Urban Design Context
SDP9 Scale, Massing and Appearance

Supplementary Planning Guidance

None.

Other Relevant Guidance

The National Planning Policy Framework 2012

Relevant Planning History

1227/16 -

Erection of an extension to an existing shop and living accommodation.

Approved with conditions: 11/09/2962.

1558/M21/45 –

Installation of a new shopfront at 45-47 Lodge road.

Approved with conditions: 24/07/1979.

980248/W –

Change of use from retail shop to beauty salon.

Approved with conditions: 17/04/1998.

Hours of operation in local area

Address No.	Use Class	Monday-Friday	Saturday	Sunday and Bank Holidays
28		9.00 – 23.00	9.00 - 23.00	9.00 – 23.00
31A		11.00 – 23.00	11.00 – 23.00	11.00 – 22.00
38	Laundrette (Sui Generis)	8.00 – 21.00	8.00 – 21.00	8.00 - 21.00
47	A1	8.00 – 19.00	8.00 – 19.00	Closed
48	A1	6.00 – 23.00	6.00 – 23.00	6.00 – 23.00
49	A5	17.30 – 23.00	17.30 – 23.30	17.30 – 23.00
51	A1	9.00 – 17.00	9.00 – 15.00	Closed
58	A5	11.00 – 23.00	11.00 – 23.00	11.00 – 23.00
59	A4	16.00 – 00.00	14.00 – 00.00	16.00 – 00.00
89	A1	8.00 – 23.30	8.00 – 23.30	8.00 – 23.30
96	A5	11.00 – 23.30	11.00 – 23.30	11.00 – 23.30

15/02348/FUL



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