

ITEM NO: 09

Application No.
19/00658/PAR
Site Address:

Ward:
Crown Wood

Date Registered:
22 July 2019

Target Decision Date:
16 September 2019

11 Horndean Road Bracknell Berkshire RG12 0XQ

Proposal: **Prior approval application for the change of use from A1 (retail) to A3 (restaurant).**

Applicant: Mr Jian Quan Chen

Agent: Mr Stuart Butcher

Case Officer: Sarah Horwood, 01344 352000

development.control@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)

OFFICER REPORT

1. SUMMARY

1.1 Prior approval application is sought for the change of use of the ground floor of 11 Horndean Road from A1 (retail) to A3 (restaurant) use by virtue of Class C, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

1.2 It is not considered that the proposed change of use from A1 to A3 use would result in an adverse impact on the amenity of the surrounding properties and area in terms of noise, odour, or the handling and storage of waste. Furthermore, there would be no adverse transport or highway impacts and the proposed change of use would also not adversely impact the sustainability of the existing shopping area.

1.3 The proposal is therefore considered to be acceptable and prior approval can be granted.

RECOMMENDATION
Delegate to the Head of Planning to grant Prior Approval as per the recommendation in Section 12 of this report following the expiration of the consultation period.

2. REASON FOR REPORTING APPLICATION TO COMMITTEE

2.1 The application has been reported to the Planning Committee as the application has to be determined within 56 days.

3. PLANNING STATUS AND SITE DESCRIPTION

PLANNING STATUS
Within defined settlement
Within a neighbourhood centre known as Forest Park.

3.1 11 Horndean Road is a ground floor unit located within a local parade. There are residential units at first floor level above the commercial units. To the rear of the units is a service yard.

3.2 There is a public car park to the west of the building. Directly to the north of the site is a community centre and to the south is a medical centre.

4. RELEVANT SITE HISTORY

4.1 The most relevant applications relating to the site are:

608606 approved for neighbourhood centre comprising Community centre, doctor's surgery, 17 flats 3 houses, 3 shops, 8 workshops and associated parking.

15/00751/PAR granted for prior approval change of use from A1 (Retail) to A3 (Restaurants and Cafes) under permitted development rights. Not implemented and expired.

19/00310/FUL approved for installation of extraction chimney on rear elevation of building.

5. THE PROPOSAL

5.1 This application is a prior approval application for the change of use from A1 (retail) to A3 (restaurant). The proposal relates to the ground floor of the unit at 11 Horndean Road for use as a fish and chip restaurant. The floor layout of the building as proposed would comprise a kitchen area to the rear of the building, customer/staff toilet, freezer, customer counter and a dining area.

5.2 The application is made on the grounds that the development is permitted development under Class C, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which relates to changes of use from retail, betting office or pay day loan shop or casino to restaurant or café. The developer must however apply to the Local Planning Authority for determination as to whether prior approval is required for the proposed change of use from A1 to A3.

5.3 In assessing this type of prior approval application the Council can only assess whether the proposal results in any implications as set out in the above legislation. If there are no implications associated with these matters, the development is considered to be permitted development.

6. REPRESENTATIONS RECEIVED

Winkfield Parish Council

6.1 No comments received at time of writing of this report.

Other representations

6.2 No comments received at time of writing of this report.

6.3 The consultation period expires on 16 August 2019. Any comments received past the deadline of the Committee Report will be included on the Supplementary Report. The recommendation is that the application be then delegated to the Head of Planning in view of any comments received between the Planning Committee of 15 August 2019 and the consultation deadline of 16 August 2019.

7. LEGISLATION

7.1 As the application is made on the grounds that the development is considered to be permitted development by virtue of Class C, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relating to change of use from A1 (retail) to A3 (restaurant), the development must therefore be assessed against the relevant caveats of this specific class. The legislation is set out below in its entirety.

Class C – retail, betting office or pay day loan shop or casino to restaurant or cafe
Permitted development

C. Development consisting of—

(a) a change of use of a building from a use—

(i) falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order,

(ii) as a betting office or pay day loan shop, or

(iii) as a casino,

to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes order
or

(b) development referred to in paragraph (a) together with building or other operations for the provision of facilities for—

- (i) ventilation and extraction (including the provision of an external flue), and
- (ii) the storage of rubbish,

reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.

Development not permitted

C.1 Development is not permitted by Class C if—

(a) the cumulative floor space of the existing building changing use under Class C exceeds 150 square metres;

(b) the development (together with any previous development under Class C) would result in more than 150 square metres of floor space in the building having changed use under Class C;

(c) the land or the site on which the building is located is or forms part of—

- (i) a site of special scientific interest;
- (ii) a safety hazard area; or
- (iii) a military explosives storage area;
- (d) the site is, or contains, a scheduled monument; or
- (e) the land or building is a listed building or is within the curtilage of a listed building.

Conditions

C.2— (1) Where the development proposed is development under Class C(a) together with development under Class C(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) noise impacts of the development,
- (b) odour impacts of the development,
- (c) impacts of storage and handling of waste in relation to the development,
- (d) impacts of the hours of opening of the development,
- (e) transport and highways impacts of the development,
- (f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and

(g) the siting, design or external appearance of the facilities to be provided under Class C(b), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class C(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (f) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class C is permitted subject to the condition that development under Class C(a), and under Class C(b), if any, must begin within a period of 3 years starting with the prior approval date.

8. ASSESSMENT

8.1 The proposed change of use from A1 to A3 is assessed as follows:

C.1

- (a) The cumulative floor space of the existing building changing use under Class C would not exceed 150 square metres (the floor space involved being approximately 66 square metres);
- (b) the development (together with any previous development under Class C) would not result in more than 150 square metres of floor space in the building having changed use under Class C;
- (c) the land or the site is not, or does not form part of-
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area; or
 - (iii) a military explosives storage area;
- (d) the site is not, and does not contain, a scheduled monument;
- (e) the land or building is not a listed building, and is not within the curtilage of a listed building.

Conditions

C.2— (1) Where the development proposed is development under Class C(a) together with development under Class C(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) noise impacts of the development,

8.2 The ventilation and extraction unit was considered and approved by planning permission, LPA ref: 19/00310/FUL and therefore does not form part of this application. The extractor unit as installed comprises 2no. silencers, one directly below first floor windows sited on the rear elevation of the building serving the residential flat and one directly above the window. A planning condition was imposed on permission 19/00310/FUL which relates to the sound rating level of the extractor unit to ensure it does not exceed prevailing background noise levels by a specified amount.

8.3 The unit has been in commercial use at ground floor level and is sited in an established local parade where there are a mix of commercial uses, including A5 takeaways and an A4 public house. It is not considered that the use of the unit for a A3 restaurant would result in additional adverse impact to the residential amenities of surrounding dwellings through noise impacts.

8.4 As discussed in greater detail in part (d) below, the proposed operational hours of the A3 use would also be reasonable within an established local parade.

8.5 Should noise issues become problematical in the future, this could be dealt with by the statutory powers of the Council's Environmental Health Section.

8.6 It is therefore not considered that there would be adverse impact of noise from the proposed change of use.

(b) odour impacts of the development,

8.7 The extractor unit as installed and approved by planning permission, LPA ref: 19/00310/FUL includes a bag filter (which deals with grease impact) and a carbon filter (which deals with odour impact). The surface of the carbon filter traps contaminants and mitigates odour. A cleaning schedule has been provided with the application which details that the bag filter would be changed on a weekly basis and the carbon filter on a monthly basis.

8.8 It is therefore not considered that there would be adverse impact of odour from the proposed change of use.

(c) impacts of storage and handling of waste in relation to the development,

8.9 The unit has an existing servicing area to the rear of the building which includes refuse storage. This would remain as part of the proposed change of use.

(d) impacts of the hours of opening of the development,

8.10 The proposed A3 use would operate between the following hours:

- 12:00 to 14:00 hours and 17:00 to 22:00 hours Monday to Thursday;
- 12:00 to 14:00 hours and 17:00 to 22:30 hours Friday and Saturday,
- 17:00 to 22:00 hours on Sundays;
- 12:00 to 14:00 hours and 17:00 to 22:00 hours on public holidays.

8.11 There is a residential unit sited on the first floor of the building, along with a residential unit above the adjoining unit at no. 10. The local parade at Horndean Road includes 2no. A5 uses - a Chinese takeaway at no. 10 and a pizza takeaway at no. 6, along with an A1 use – Tesco Express. The 2no. A5 uses close at between 22:30 hours and 00:15 hours and the A1 use closes at 23:00 hours. As such, the operational hours proposed for the A3 use would be similar to existing commercial units within close proximity to the site and would not be considered to adversely affect the residential amenities of neighbouring occupiers.

8.12 It is therefore not considered that there would be any adverse impact from the proposed opening hours of the development.

(e) transport and highways impacts of the development,

8.13 The proposed A3 use would require the provision of 5no. parking spaces which is considered an appropriate parking requirement. This exceeds the requirements for an A1 use of this unit (the current lawful use) which would require 2 to 3 parking spaces. However, the unit is located in a local precinct, with a public car park which is shared with other local facilities. There is a wide residential catchment which could access the site via non-car modes. Thus, it is not considered that the proposal would give rise to on-street parking issues.

8.14 The unit has access to an existing delivery/servicing area to the rear of the site.

8.15 It is therefore not considered that there would be any adverse transport and highways impacts.

(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

8.16 The existing A1 premises (formerly in use as a video rental store) has been vacant since 2014 according to Council records. This is a significant period of some 4-5 years where the unit has not been in use. It is normally desirable to safeguard and retain A1 units, especially where such A1 uses are important to the area such as the only newsagent, local convenience store or post office. In this instance, the unit was formerly in use as a video rental store which provided a specialist retail service within the parade. The duration of time which the retail unit has been vacant for, its modest floor area and the existence of a popular A1 retail unit in the parade (Tesco Express) are factors that may have caused the unit to remain vacant. Given the duration of vacancy of the unit, it is evident that there is no reasonable prospect of the building being brought back into an A1 use.

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and

8.17 The existing parade comprises a mix of uses, including an existing A1 retail unit (Tesco Express), 2no. A5 takeaways and an A4 public house (The Woodcutters). Paragraph 80 of the National Planning Policy Framework (NPPF) encourages the creation of allowing businesses to invest, expand and adapt. Paragraph 85 goes onto state that policies should promote the vitality and viability of town centres. The proposed use of the unit as an A3 restaurant would bring a vacant unit (vacant since 2014) back into use which would be desirable and would not adversely impact the sustainability of the shopping area. The proposal would contribute towards the diversity of services available in the local parade and its vitality. The proposed use would attract people to the local parade who could then utilise other services available in the parade such as the A1 retail unit or A4 public house.

8.18 As such, the proposed use of the unit for A3 use would not adversely affect the sustainability of the shopping area.

(g) the siting, design or external appearance of the facilities to be provided under Class C(b),

8.19 The prior approval application relates solely to the use of the premises.

8.20 The ventilation and extraction unit was considered and approved by planning permission, LPA ref: 19/00310/FUL and therefore does not form part of this application.

8.21 No alterations are proposed to provide refuse storage (this would remain as existing) as stated on the application form.

9. CONCLUSIONS

9.1 It is not considered that the proposed change of use from A1 to A3 use would result in an adverse impact on the amenity of the surrounding properties and area in terms of noise, odour, or the handling and storage of waste.

9.2 Furthermore it is not considered that the proposed change of use would result in adverse transport or highway impacts and would not have an adverse impact on the sustainability of the existing shopping area.

9.3 No external alterations have been considered as part of this prior approval application.

9.4 The proposal is therefore considered to be acceptable and prior approval can be granted as the development complies with Class C, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

10. RECOMMENDATION

10.1 That the application be delegated to the Head of Planning to grant Prior Approval following the expiration of the consultation period and subject to the following condition:

1. This decision is based on the following plans and details received by the Local Planning Authority on 22 July 2019:

Drawing HR002
Drawing HR005
Drawing HR006
Document – additional information

Informatives:

1. The operation of a restaurant/cafe will require the Food Business Operator to Register details with Bracknell Forest Council and have them placed on a Public Register, in accordance with Article 6 (2) of Regulation (EC) No 852/2004. It is therefore recommended that the applicant contact the Local Authority's Licencing team on 01344 352000 or licence.all@bracknell-forest.gov.uk

2. If food is catered and supplied, the premises will be subject to a food safety inspection by Environmental Health. The Council's Environmental team can be contacted on environmental.health@bracknell-forest.gov.uk