

App.No: 160617 (PPP)	Decision Due Date: 29 July 2016	Ward: Sovereign
Officer: Anna Clare	Site Visit: 20 May 2016	Type: Planning Permission
Site Notice(s) Expiry date: n/a		
Neighbour Con Expiry: 26 June 2016		
Press Notice(s): n/a		
Over 8/13 week reason: n/a		
Location: 36 Beatty Road, Eastbourne		
Proposal: Change of use from class A1 (Bakery), to A3 & A5 (restaurant & takeaway)		
Applicant: Mr Ayhan Kiratli		
Recommendation: Refuse Planning Permission		

Executive Summary:

The application proposes the change of use from Class A1 to Class A3/A5 (Restaurant/hot food take away) within a designated Local Shopping Centre. The application is before Planning Committee due to the number of objections.

The proposed change of use is contrary to policy as the loss of the Class A1 unit would further erode the class A1 units within the parade, result in the parade of shops not predominantly being Class A1 resulting in harm to the vitality and viability of the local centre.

It is also considered that the proposed opening times until 11pm would be detrimental in this predominantly residential area as would likely lead to noise and disturbance for the surrounding residential properties. The applicant has also failed to demonstrate the proposed ducting would be sufficient to alleviate smell nuisance to the surrounding residential properties.

Therefore it is recommended that the application is refused.

Relevant Planning Policies:

National Planning Policy Framework

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres

Eastbourne Core Strategy Local Plan Policies 2013

B2 Creating Sustainable Neighbourhoods

C13 St Anthony's & Langney Point Neighbourhood Policy
Eastbourne Core Strategy Local Plan 2006-2027
D4 Shopping - St Anthony's (Beatty Way) Local Shopping Centre

Eastbourne Borough Plan Saved Policies 2007
SH7 District Local and Neighbourhood Centres
US5 Tidal Flood Risk
HO2 Predominantly Residential Areas
HO20 Residential Amenity

Site Description:

The site refers to an existing retail unit within an established Local Shopping Centre as defined by Saved Policy SH7 of the Borough Plan 2007. The unit is ground floor in a parade of units with residential units above. The unit is currently occupied by a Class A1 Bakery.

Relevant Planning History:

950266 (No.38 Beatty Road)
Change of use from retail shop (A1) to hot food take-away (A3).
Planning Permission
Approved conditionally
19/07/1995

110319 (No.44 Beatty Road)
Change of use from Launderette to Café A3.
Planning Permission
Approved conditionally
06/09/11

Proposed development:

The application proposes the change of use from retail (Class A1) to restaurant and take away (Class A3 and A5). The layout plan submitted with the application shows 1 table with 4 chairs, the rest of the floorspace is given to food cooking, preparation and storage. Therefore I would consider the proposal more a Class A5, it is unlikely that many would choose to eat in with only 1 table provided, this is more likely a table to wait at for a take away to be prepared.

Consultations:

Objections have been received from;

- 25 Beatty Road
- 34 Beatty Road
- 54 Beatty Road
- 52 Fraser Avenue
- 38 Beatty Road

Covering the following points;

- Additional traffic and people
- Noise increase
- Litter from take away

- Noise and smell from vents
- Opening hours unsuitable in residential area
- Loss of retail outlet
- Attracts seagulls

A petition has also been submitted with 105 signatures in objection to the application.

Strategy and Commissioning Officer Planning Policy

Raised an objection to the application as the proposed would be contrary to policy. This change of use would further decrease the retail provision in this shopping centre.

Appraisal:

Principle of development:

The application site is located within the St Anthony's and Langney Point Neighbourhood as identified in the Core Strategy (adopted 2013) and is a Local Shopping Centre. It is located within an area of which several policies are applicable from the Eastbourne Borough Plan (2001-2011) and the Core Strategy (adopted 2013).

The Core Strategy identifies the Vision for the St Anthony's and Langney Point neighbourhood as 'St Anthony's & Langney Point will increase its economic importance to the town through the provision of additional employment floorspace and jobs, whilst enhancing its levels of sustainability through the provision of additional affordable housing and community and health facilities and reducing the impact of the car.'

The principle of policy D4 (Shopping) is to provide 'a sustainable network of local shopping. The Council will enable the enhancement of consumer choice and strengthening of the vitality, viability and accessibility of the district and local centres by supporting new retail development.'

Eastbourne Borough Plan policy SH7 (District and Neighbourhood Centres) states that 'within the district, local and neighbourhood centres, proposals for the change of use of existing ground floor shopping units from Class A1 uses to uses in Classes A2 and A3 will be considered having regard to the following criteria:

- a) the location and prominence of the premises within the shopping frontage;
- b) the floorspace and frontage of the premises;
- c) the number, distribution and proximity of other ground floor premises in use as, or with planning permission for, A2 and A3 uses (within any centre A1 uses should predominate);
- d) the particular nature and character of the use proposed, including the level of activity associated with it;
- e) whether the use would harm residential amenity (see Policy HO20);
- f) whether adequate short term parking facilities are available.

The proposal would be contrary to policy as it would further erode A1 uses within the parade. The Local Shopping Centre consists of nine units, two of which are A3 class, two A2 class and one D1 (survey October 2015 + site visit June 2016).

The balance of uses is a valid consideration in maintaining the vitality and viability of district, local and neighbourhood centres. Too many non-A1 uses may result in dead frontage that makes the centre less attractive to shoppers so that ultimately it becomes less viable.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

There would likely be an impact from smell if suitable extraction equipment was not used. The ground floor unit extends to the rear beyond the existing rear terrace/entrances of the residential properties above. Given this the applicant could not run a duct to the top of the property to discharge above residential windows.

The ducting/filters would need to be sufficient at ground floor level to alleviate odours, given no specification/documentation has been provided to show otherwise, it is considered that the proposal would likely lead to smell nuisance detrimental to the amenity of the residential properties above.

The proposal includes opening times of 11am to 11pm, this is a residential area, with residential properties above the proposed use. Other shops within the parade have opening times restricted by planning conditions as below.

No.44 – COU to Class A3 granted 2011 – Hours of operation restricted to 8am to 930pm (currently in use as a café).

No.38 – COU A1 to Hot Food Take Away granted 1995 – Hours of operation restricted to 8am to 930pm (Currently in use as Fish and Chip shop).

The proposed operating times until 11pm are considered unacceptable in this residential area and would likely have detrimental impacts in terms of noise impact from patrons coming and going until 11pm.

Design issues:

In terms of design the change of use would have limited impact on the visual appearance of the building. Ducting would be minimal given the location of the unit and therefore there would be little impact on the visual appearance of the building.

Impacts on highway network or access:

It is probably unreasonable to assume that a Class A5 would result in additional traffic than could potentially be drawn to a class A1, albeit the times may be different for the largest footfall which for a Class A5 is likely to be the evening time. Therefore it is not considered a reason for refusal could be substantiated on the grounds of impact on parking in the area.

Other considerations

Although a number of changes of use can be considered under prior approval, this does not extend to changes of use Class A1 to A5. Class A1 to A3 could be considered under Class C of Part 3 Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended) though the LPA would not consider

the proposed use to be Class A3 given the lack of facilities for consumption of food on the premises. Regardless the site is situated within a Local Shopping Centre as defined by Saved Policy SH7 of the Borough Plan 2007 and it would likely be considered that the impact of the change of use would be detrimental to the sustainability of the key shopping area should an application for prior approval under the above class be submitted.

Human Rights Implications:

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

Conclusion:

The proposed change of use is contrary to policy as the loss of the Class A1 unit would further erode the class A1 units within the parade, result in the parade of shops not predominantly being Class A1 resulting in harm to the vitality and viability of the local centre.

It is also considered that the proposed opening times until 11pm would be detrimental in this predominantly residential area as would likely lead to noise and disturbance for the surrounding residential properties.

The applicant has also not submitted any documentation to demonstrate that the proposed ducting would be sufficient to mitigate smell nuisance from cooking on the premises and therefore it is considered that this would result in impacts on the amenity of the residential properties above and surrounding.

Recommendation: To refuse planning permission for the following reasons.

1. The proposed change of use from Class A1 to Class A5 is contrary to saved policy SH7 of the Borough Plan 2007 and Policy D4 of the Core strategy 2013, the loss of the A1 would further decrease the retail provision in this shopping centre which would harm the vitality and viability of the local centre.
2. The proposed opening times until 11pm would result in harm to the residential amenity of the surrounding residential properties from noise and disturbance contrary to policy B2 of the Core Strategy Local Plan 2013.
3. The applicant has failed to demonstrate that the proposed ducting will be sufficient to alleviate smell nuisance on the surrounding residential properties contrary to saved policy HO20 of the Borough Plan 2007 and policy b2 of the Core Strategy Local Plan 2013.

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.