

Report to	Planning Applications Committee
Date	18 July 2018
By	Director of Planning
Local Authority	Lewes District Council
Application Number	SDNP/18/02353/FUL
Applicant	Mr and Mrs T Rea
Application	Locate mobile food van and static store to retail food and drink from a static position time limited 1st July 2018 to 30th October 2018 and thereafter from 1st April 2019 to 30th October in every year thereafter
Address	Kingston Farm The Street Kingston Lewes East Sussex BN7 3PB

Recommendation: That the application be Refused for the reasons set out in paragraph 10 of this report.

Executive Summary

I Site Description

1.1 The site is the farmyard of Kingston Farm, which is located about halfway along the south side of The Street. The site is within the heart of the village, and within the Kingston Conservation Area. The farmyard is entered into from The Street between an agricultural building on one side and two old garages on the other side.

1.2 The farmyard is bounded by a large Grade II listed flint barn which faces across the farmyard towards The Street, and an attached single storey former cattle shed, which is also listed, on the west side. On the east side is a flint wall, beyond which is part of the cattle shed on three sides, and a flint boundary wall on the east side, on which are two dwellings whose gardens back onto the site.

2 Proposal

2.1 The proposal is for a mobile food van (effectively a trailer typically seen at outdoor events) to be stationed in the farmyard, selling food and drink for consumption both within the farmyard (tables and chairs are within the yard for 'alfresco' dining) and on a take-away basis. The principle food for sale is pizza, which is baked on site within the van.

2.2 The proposed hours are:

Monday	10.30 to 17.00hrs
Tuesday	10.30 to 20.30hrs

Wednesday	10.30 to 20.30hrs
Thursday	10.30 to 20.30hrs
Friday	10.30 to 21.30hrs
Saturday	10.30 to 21.30hrs
Sunday	10.30 to 18.00hrs

2.3 The submitted site plan shows the food van would be positioned on the west side of the yard, next to the former cattle shed. A "mobile toilet facility" would be sited in front of the flint barn. Two visitor parking spaces are shown adjacent to the flint wall on the east side. Under cover seating is shown within the former cattle shed. A 'container', which has been used as a farm shop, is shown in the yard behind the old garages.

2.4 The food and drink use took place, without planning permission, between May and October 2017. Customers were able to sit outside at tables and dine 'alfresco', as well as buying pizza to take-away. The premises were advertised as 'BYOB' (bring your own bottle).

2.5 An application in 2017 for the use was withdrawn before being decided by the Council, after the planning officer indicated that the application was to be refused under delegated powers. An enforcement notice has subsequently been served against the use, which is subject to appeal. Further information on these matters is given later in the report.

2.6 This "revised" application, according to the Statement, has "addressed the principal problem and the pizza oven is now gas fired".

2.7 If the Committee, acting for the South Downs National Park Authority, decide to approve the application, the enforcement notice would be withdrawn. If the Committee refuse the application, the appeal against the enforcement notice would continue, and the question of whether the use would be acceptable would be settled by the Inspector deciding the enforcement appeal.

2.8 The application indicates the intention that the use commences on 1 July 2018. If this application is granted, commencement on 1 July 2018 would be authorised by the permission. If not, commencement would be unauthorised.

3 Relevant Planning History

3.1 **SDNP/17/01944/FUL:** Operation of two mobile food vans. This application was submitted in April 2017. At the time the use was operating in the yard which meant that, although the use was unlawful, it enabled planning and environmental health officers to monitor its impact in the locality. Issues were evident that the use was having an un-neighbourly effect, at first primarily from smoke from the van and then from noise and disturbance from evening use within the yard.

3.2 Towards the end of the monitoring period officers concluded that the use was not acceptable. The agent was therefore advised that officers were minded to refuse permission, and in response the application was withdrawn before a decision to refuse permission was issued.

3.3 An enforcement notice was subsequently served, as follows.

3.4 **SDNP/17/00753/COU:** Enforcement notice (EN) served 18 January 2018. The breach of planning control alleged in the EN was "the material change of use of land....from agricultural use to a mixed use for agricultural use and for the stationing of a mobile trailer unit and the use of the mobile trailer unit to cook and sell hot food from the land".

3.5 The reason for issuing the EN was:

3.6 *"The presence of the food trailer is uncharacteristic and unsympathetic to the character of the area, which in this location is within the Kingston Conservation Area and the South Downs National Park.*

The food trailer unit by its incongruous appearance also adversely affects the setting of nearby listed buildings.

3.7 *The use of the land for the operation of a hot food trailer unit in this location has impacts upon neighbouring amenity by causing noise and disturbance and cooking odours and smoke, adversely affecting the living conditions of local residents.*

3.8 *The unauthorised trailer unit is contrary to policies ST3 (a) and (c), H2 and H5 of the Lewes District Local Plan and the National Planning Policy Framework 2012."*

3.9 The steps required to comply with the EN were:

3.10 "(i) *Permanently cease the use of the land for the stationing of a mobile food trailer unit and the use of the mobile trailer unit for cooking and selling hot food from the land*

3.11 "(ii) *Permanently remove the food trailer unit from the land along with any debris resulting in its removal*".

3.12 The time period for compliance was "one month from the date this notice takes effect": (ie by 16 March 2018).

3.13 An appeal was lodged against EN, which has yet to be determined by the Planning Inspectorate.

4 Consultations

Kingston Parish Council Consultee

4.1 Initial submission:

4.2 KPC initially commented that it had no objection to the provision of a food outlet and farm shop at Kingston Farm, provided that conditions were attached requiring that further efforts should be made to minimise disturbance to neighbours from cooking smells, including requiring the Applicant to (a) locate the pizza van to the far west side of the farm yard furthest away from the wall with the neighbours on the east and (b) take professional advice on increasing the height of the 'chimney' from the cooking oven to better disperse the fumes and on installing a best practice fume control system such as is in use at The Juggs public house. In order to minimise the disturbance from noise which neighbours experienced during earlier operation of the pizza facility, KPC requested that representatives of LDC Planning and Environmental Health Departments meet with the Kingston Farm neighbours and the applicant to agree the daily hours of operation for the pizza outlet and farm shop, and for the use of the customer seating facilities. In addition, to assist in noise reduction, KPC requested that the seating facilities should only be permitted to be sited on the far west side of the farm yard, furthest away from the wall with the neighbours on the east.

4.3 Revised submission:

4.4 Following our initial comments, the applicant submitted additional information, largely in response to our concerns, which clarify the layout of the pizza outlet and farm shop and suggested changes to the operating hours which KPC has reviewed.

4.5 KPC has consistently stated that whilst it has no objection in principle to the provision of a farm shop and food outlet, conditions should be attached to any approval with the objective of minimising the disturbance to neighbours to the east of the farmyard from cooking smells and noise and recognising the historic nature of the area. KPC also considers that it is important that all parties should be encouraged to work together to agree how these can best be achieved.

4.6 Considering the revised submission by the Applicant:

1. Whilst it proposes that the pizza outlet be located at the west side of the farm yard, it does not include any specific proposals to address our particular concerns regarding cooking smells and fumes. Rather the applicant agrees to 'investigate the possibility of extending the flue' and makes no mention of providing any fume control system as is normal for commercial cooking facilities.
2. Rather than agreeing to enter into discussions with LDC Planning and Environmental Health Departments and the Kingston Farm neighbours to seek to agree operating arrangements and hours to address the noise impact on neighbours, the applicant has proposed a reduction in operating hours which in fact would still be longer than those adopted during operations in 2017,
3. KPC also notes that the proposed area for car parking within the farmyard is adjacent to one of the neighbour's walls which in itself will be an additional source of noise nuisance for that neighbour.

4.7 In view of these considerations, KPC remains of the view that any approval of the application should be conditional upon the factors set out in our original submission. In addition, KPC considers that the car parking facility should be sited well away from the neighbour's wall to minimise noise impact and should be positioned in a manner which recognises the historic nature of the location as well as ensuring the safety of pedestrians within the farmyard.

4.8 LE - Design and Conservation Officer - Objection.

4.9 The application is recommended for refusal as the food van is considered to not be in keeping with the surrounding conservation area and to have a negative impact on the setting of the adjacent listed building.

4.9 LE - Environmental Health

4.10 I investigated a complaint about smoke emitting from the mobile unit in 2017 and found the impact of the solid fuel usage upon local residents to be unreasonable. The impacts ceased only when the mobile unit ceased operating in the autumn and I am not aware of any mitigations which improved the effect for the residents.

4.11 During my investigation, other un-neighbourly impacts were reported to me, but these fell outside of my available powers and were therefore not investigated.

4.12 I suggested in 2017 that the commercial activity at Kingston Farm, as I witnessed, does not comply with the criteria set out in ST3(c) of the Lewes District Local Plan: "development [...] should respect the amenities of adjoining properties in terms of noise, privacy, natural daylight, and visual amenities and smell". This was principally because of the use of solid fuel for cooking purposes. The other commercial activities (e.g. the farm shop, sales of drinks and ready-to-eat foods) appeared to be causing little or no disturbance to residents, although a complaint was received following an evening event held in the farmyard.

4.13 For this reason I would recommend that planning permission for the mobile unit is not granted unless a condition can be added prohibiting the use of solid fuel. If it is not possible to do this, I would recommend that the application is refused, due to the unreasonable impact upon local residents.

4.14 I would also recommend that the amenity of the properties overlooking the farmyard is protected by restricting the hours of operation to 19.00 hours from Monday to Saturday and to 18.00 hours on Sundays and Public Holidays.

5.1 Support

5.2 28 representations of support have been received (21 being from within Kingston village), with the following comments indicative of the reasons for support:

- A sensible diversification, handy for 'a lot of life's little necessities' and bread every morning. An asset to the village.
- Since the closure of the village shop there has been no retail outlet in Kingston, the provision of a pizza take-away and a modest amount of general produce is much appreciated.
- Amazing food in a lovely atmosphere, child friendly, bringing people together.
- Adds another meeting place for the local community as well as walkers.
- Adds to the village, great communal and community meeting point, the village is crying out for something like this.
- Enjoyed the shop facility last year, which was popular with residents and walkers, and must have saved numerous car journeys into town.
- Great spot to meet other families, enjoy pizza and/or pickup bits from the farm shop.
- The facility is a way for villages to congregate and walkers to grab refreshments. Regarding a neighbour who dislikes the smell and noise, the operation could be moved a little further away and it would be a shame if those few voices against the proposal to go unheard too.
- Brilliant contribution to village life last year. Wonderful to take the children up to the farm and see so many other members of the community enjoying it.
- Best oasis ever on a hot sunny day.
- Good for business in Kingston and brings more customers to The Juggs.
- No village shop, so an improvement to be able to access hot and cold food last summer. Real community feeling at the pizza van.
- Eating in the courtyard was a wonderful community experience, and the applicant is respectful of the community and made sure noise levels were low and didn't go on too late.
- Valuable place to meet. Contribution to village economy. Asset to the community.
- Last summer became the hub of Kingston.
- Provides focal point for the village and local facility.
- Amazing asset, provides essential items and after school pizza treat, friendly staff, great location.
- Well run, a special place to be on a summer evening, operators went to great lengths to avoid disturbance,
- Asset to the village, very popular, not aware of any negative impacts.
- Peaceful location to enjoy pizza and mix with other locals. Brings villagers together.
- Shop is a great asset.
- Asset to the village, brings community together.
- Came to visit, impressed by food, service, and peaceful atmosphere.
- Asset to the community.
- Asset to the community. Shop allows people to buy basic supplies, and pizza van brings community together.
- Local initiative which should be supported.

5.3 Objection

5.4 Representations from and on behalf of the two adjacent neighbouring occupiers have been received objecting to the application. The following issues are commonly raised, and are summarised as follows under various headings referred to in the representations:

5.5 (A) Previous history

5.6 The pizza van operated over the whole of summer 2017. Attempts to discuss the impact of the operation with the site owners and operator did not result in any adjustments to the operation to mitigate the impact of the use. The combination of high noise levels (including into

the late evening on weekends due to alfresco dining, encouraged by a 'bring your own bottle' policy, with smoke and fumes from the uncontrolled flue, led to objections being made. Objections to this application are therefore based on the actual experience of living close to the outdoor food operation. The first hand experience of living next to the site gives support to the enforcement notice by the Council.

5.7 (B) The current application

5.8 The applicants are incorrect to claim that opposition to the 2017 application was only on grounds of smell. The problems created for neighbours are much broader, and fall into groups of:

- noise
- smell and smoke
- adverse impact at the heart of the Kingston Conservation Area
- parking and traffic issues
- the Enforcement Notice specifically mentions the above points, together with the adverse affect on the setting of the nearby listed building.

5.9 It is risible to suggest that the adverse impacts of the pizza unit could, at a stroke, be avoided by switching from wood firing to gas. No attempt has been made to address the concerns on the enforcement notice and the application is deficient in terms of a heritage statement, noise and odour assessment and transport statement.

5.10 It would be inappropriate for the Council to consider the application on the relative number of objecting and supporting statements. The Kingston Farm Facebook site has a prominent post from March 2018 inviting positive comments to the Council and there has been active canvassing through WhatsApp. Despite this, the number of supportive comments to date represents a tiny fraction of Kingston residents. In contrast, there is widespread opposition from those living in the vicinity of the operation.

5.11 (C) Smoke, odours and noise

5.12 The use will have a substantial impact on a small number of immediate neighbours affected by smoke, odours and noise due to their close proximity. These problems will be exacerbated by the long opening hours sought. Last year house windows had to be kept shut due to smoke and high noise levels. The ground level of the site is lower than neighbouring properties, meaning the flue of the food trailer is at approximately head height in the neighbouring gardens. The impact prevented neighbours from using their gardens last year and meant that windows had to be closed, an unreasonable interference with the enjoyment of their homes. Even with windows closed, significant noise intrusion occurred well into the evening from the gathering of people at the site, and often the party atmosphere which prevailed.. The disturbance from noise, smoke and smell also prevented working from home.

5.13 On warm summer evenings there has been very considerable noise, as would be expected from an outside restaurant with alcohol being consumed. On occasions, there have been large group events. The current application seeks later opening times than last year (even though noise often continued beyond the stated opening times last year).

5.14 Noise is not only generated by customers but also by the catering unit itself, including the operation of the oven and coffee machine. Voices had to be raised to be heard above the general noise levels. Noise from diners continued long past the closure of the van, and the site was often busy with a party atmosphere.

5.15 The application makes no mention of fume control. A restaurant would typically be required to use a filtration and extraction system venting at eaves height (or higher) to allow the plume to spread before reaching the ground. The commitment by the applicant to 'investigate' a higher flue cannot be relied on to have a successful outcome and, anyway, a higher flue would not make the use acceptable.

5.16 The applicants failed to stick to previous undertakings that the oven would not be wood fired last year. An October review in Viva Lewes describes the 'wood-fire oven' and the Facebook page for the Kingston Farm Shop is still using a picture of the wood-fired oven. There would anyway be temptations to revert to a wood-fired oven, which maintains a high temperature and cooks pizza quicker than a gas fired system, which needs to be fired up for each use.

5.17 Last year the chemical toilet was also extremely smelly when being emptied.

5.18 (D) Conservation area and listed buildings

5.19 The pizza van and associated food storage container are highly incongruous and jeopardise the character of a cluster of Grade II listed buildings central to the conservation area. This concern is mentioned in the Enforcement Notice, but the application has made no acknowledgement of this.

5.20 The development has a negative impact on the conservation area. The proposal is contrary to the intentions of the Kingston Conservation Area Appraisal, which states that "...the survival of the Kingston Farm buildings, around a working farmyard, is important in maintaining the rural qualities of the village....the District Council should seek to keep the agricultural buildings in the Conservation Area in their original use, and should resist further planning application for change".

5.21 (E) Traffic generation

5.22 The use has generated pressure for parking in the congested Street. The application indicates that only two parking spaces are provided 'on-site' with six cycle spaces, which is considered to be inadequate and would put additional pressure on The Street to provide car parking. This would also negatively impact on the conservation area and be contrary to planning policy.

5.23 (F) Planning policy

5.24 The proposal is contrary to adopted LDLP policies, emerging South Downs National Park policies (which should be given significant weight) and policies in the NPPF to protect heritage assets and neighbouring amenity. The policies are set out in detail in the representation. The mobile van and static store are in the farm yard, which forms the curtilage of the listed barn, cattle shed and granary. The setting of these listed buildings is harmed, together with other listed buildings in the vicinity (the grade II* church and Hyde Manor and Hyde Cottage).

5.25 Four other local objections have been received, largely reflecting the objections from adjacent residents. Indicative comments are:

- Noise, including late at night and at weekends, from groups enjoying alfresco dining with BYOB alcohol in the relative silence of the night. This has kept neighbouring children awake and made it difficult to work in the nearby house. Windows have to be kept closed, and even then noise levels are significant.
- No efforts have been made to reduce noise levels, and in fact the application seeks permission to open for longer than before.
- Have heard the loud noise from the pizza operation, from the chatter of diners to the clatter from the van. While some are in favour of a 'hang-out' location in the village other than the pub, equally there is a need to be considerate to those living nearby.
- The operation will draw people from a wider area, causing more traffic in The Street, where there is little room for parking. Noise will destroy the tranquillity of the residents of The Street, and the proposed closing hours are late to allow an outdoor 'party' atmosphere on summer's evenings.
- The Street is a local treasure, with its historic buildings and access to the Downs, and the pizza van is not in keeping with this picture postcard area.

6 Planning Policy Context

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the **Lewes District Council - The Core Strategy (Local Plan Part I) 2014** and the following additional plan(s):

- Lewes District Local Plan (2003)

Other plans considered:

- None

The relevant policies to this application are set out in section 7, below.

National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage,
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well being of the local community in pursuit of these purposes.

7 Planning Policy

Relevant Government Planning Policy and Guidance

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.

National Planning Policy Framework (NPPF)

The following National Planning Policy Framework documents have been considered in the assessment of this application:

The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.

The following policies of the **Lewes District Council - The Core Strategy (Local Plan Part I) 2014** are relevant to this application:

- CPI1 - Built and Historic Environment and Design

The following policies of the **Lewes District Local Plan (2003)** are relevant to this application:

- ST3 - Design, Form and Setting of Development
- H5 - Within / Affecting Conservation Area

- H2 - Listed Buildings

Partnership Management Plan

The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

The following Policies and Outcomes are of particular relevance to this case:

The Draft South Downs National Park Local Plan

The South Downs Local Plan: Pre-Submission Local Plan was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 26th September to 21st November 2017, and the responses considered by the Authority. The Plan was submitted to the Secretary of State for independent examination in April 2018. The Submission version of the Local Plan consists of the Pre-Submission Plan and the Schedule of Proposed Changes. It is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication. Based on the current stage of preparation, and given the relative age of the **saved policies within the Lewes District Council - The Core Strategy (Local Plan Part 1) 2014**, the policies within the **Submission South Downs Local Plan (2018)** are currently afforded **considerable** weight, depending on the level of objection received on individual policies.

8 Planning Assessment

8.1 (A) Use in 2017

8.2 The use operated, on an unauthorised basis, throughout the summer of 2017, ceasing for the season around 31 October 2017.

8.3 The use appeared to be popular with those who used the facility (as witnessed by the representations in support of this application) and this application demonstrates the applicants wish to continue each summer. On the other hand, the use is known to have caused significant noise and disturbance, and an impact from the effect of smoke from the cooking of pizzas in the site, which gave rise to regular objections from those living closest to the site (as witnessed by the representations objecting to the application).

8.4 The question is, is the use in an appropriate location in planning terms? The fact that an enforcement notice was served (by officers under delegated powers) in January 2018 requiring the use to cease, indicates that officers concluded that the proposal was unacceptable. The reasons for service of the notice (which is subject to appeal) are explained in the 'Planning History' section of this report and are self-explanatory.

8.5 The application does not appear to address the reasons for service of the enforcement notice, other than by moving the van further from the boundary with neighbouring properties and the agent indicating that the applicant "will investigate the possibility of extending the flue from the oven (although) this will, however, depend on the final location of the van" - this comment was made before the position of the van was settled. It is considered, as indicated below, that the proposed 'changes' do not alter the substance of the application.

8.6 (B) Differences to the 2017 use and since submission of the application

8.7 Some changes have been made to the proposed use compared to 2017, and since submission of this application in April 2018. The agent has described these changes as "concessions", in response to local objections.

8.8 The changes include reducing the hours of operation (which were longer into the evening when the application was first submitted), although objectors have pointed out that the seven day a week operation is still more extensive than occurred in summer 2017. The proposed hours of operation are set out above, which indicates that the use would be open to the public into mid-evening (20.30hrs and 21.30 hrs) Tuesday to Saturday and open all day Sunday.

8.9 The changes also include moving the position of the van to the side of the yard furthest away from the boundary with the residents. This, however, is not considered to be a move which would make any significant difference to the direction emissions would drift from the van, or on reducing the incidence of noise from the van and from dining and activity in the yard on the nearest properties.

8.10 The submitted plan also shows seating for customer inside the former cattle shed, but that is an open structure (with the opening facing across the yard towards the neighbouring properties) and would not contain noise from customers.

8.11 The Statement with the application indicates that pizzas would be cooked using a gas fired oven instead of wood-fired (as was the case last year). However, this change, if adopted, would not alter the character of the use.

8.12 Overall, it is not considered that the 'changes' alter the substance of the application. The changes would not have averted enforcement action being taken against the use.

8.13 (C) Noise and disturbance

8.14 When operating, the use created significant noise and disturbance, particularly in the evenings. Alfresco dining, and the preparation, cooking and serving of pizzas, generated a level of noise which, from the evidence of those living close to the site, clearly reduced the hours when peace and quiet could have reasonably been expected in a village environment. Sometimes a 'party' atmosphere was prevalent into the evening hours, arising from those gathering to eat at the site.

8.15 As the site is in a quiet village rather than a town, there is not a level of other ambient noise and activity in the vicinity which would subsume noise from the use. Consequently noise and disturbance is all the more evident. It is considered that residents have a reasonable expectation that new uses in the community do not disturb the quiet ambience which normally exists in a village.

8.16 The application proposes seven days a week opening throughout each summer, into the evening at various closing times. The use therefore has potential for noise and disturbance on a daily basis, which was apparently evident for sequences of days last summer.

8.17 In context, food and drink uses which already generate some noise, such as at The Juggs pub, The Street, which has outside tables, are long established and an accepted part of the village. The proposed use at Kingston Farm is new, and the nearest residents can reasonably expect a degree of protection from a new use which exhibits un-neighbourly characteristics.

8.18 The applicant's agent has commented that "noise and smells are an integral part of what could be an active agricultural use". However, it is considered that there is no reasonable comparison between noise and smells from an authorised agricultural noise and the food and drink use on the site. The noise and smells from an agricultural use would be part and parcel of the authorised use of the farm yard, and would not be unexpected in a rural village where there is a farm yard. Furthermore, agricultural noise (whether intermittently from, say, the movement of vehicles or from livestock) would tend to be of a very different character to the noise generated by an outdoor food and drink use operating each day and into most evenings.

8.19 Officers conclude that the proposed use is the source of an unacceptable level of noise and disturbance, which is highly audible from nearby houses and gardens and significantly intrusive. The proposed use is in an inappropriate location for that reason, and is unacceptable.

8.20 (D) Cooking smells

8.20 Last summer the cooking process on site resulted in smoke from the flue drifting to the neighbouring properties. This meant that neighbours were not inclined to use their gardens and felt they had to keep windows and doors closed. The Council's Environmental Health Officer visited the locality and witnessed the smoke. Discussions with the operator to take action to reduce the incidence of smoke (for example by using gas fired cooking instead of wood burning) were unsuccessful.

8.21 It is considered that the incidence of smoke and smell from cooking on the site is un-neighbourly to a significant extent. Positioning the van further from the boundary with neighbours would, it is considered, result in no material improvement in the situation given that the yard is generally restricted in size and largely enclosed.

8.22 The application is considered to be unacceptable because of the effect of cooking fumes and smells on neighbouring occupiers.

8.23 (E) Effect on conservation area and listed building

8.24 The site is in the heart of the historic conservation area, just off The Street. The Council has a duty to preserve or enhance the character or appearance of the conservation area, which largely comprises attractive flint buildings such as the listed barn and former cattle shed within the farm yard. The quality of the buildings is one measure of what makes Kingston such an attractive village to live in.

8.25 The food and drink van, together with the mobile toilet unit, are positioned out of sight in linear views along The Street, and therefore are not visually intrusive along the road. They can be glimpsed, however, from outside the site entrance and when the farm yard gate is open. The van and toilet are, of course, clearly seen within the yard itself and from over the boundary wall from nearby residential properties.

8.26 The van and toilet cannot in any way be considered to be in keeping with the historic character of the conservation area, or to conserve or enhance the area. They are wholly out of keeping with the character and appearance of this part of the conservation area. Looking across the farmyard, the van and toilet unit are in the forefront of views of the listed barn and former cattle shed, and therefore detract from the setting of those buildings.

8.27 The Council's Specialist (Conservation) has considered the application and objects to it on conservation grounds.

8.28 The application is considered to be unacceptable, with the inappropriate van and toilet building, in the heart of the conservation area and harming the setting of the listed buildings.

8.29 (F) Traffic generation/parking

8.30 Two on-site parking spaces are shown on the layout plan, within the yard area and adjacent to the boundary wall with the neighbouring properties. It is considered that these spaces would not be particularly attractive to use (the access off The Street may be partially obstructed and if the spaces are already occupied, a tight turning movement would be needed to exit the yard in forward gear). However, most customers would probably tend to arrive on foot from the village, and if not, on-road parking is available on The Street. Traffic generation was not a reason for service of the enforcement notice, and it is not considered to constitute a reason for refusal of the application.

8.30 (G) Farm shop

8.31 For clarification, the farm shop at the site is not part of the application. This operates from a container within the yard and sells normal farm produce. A shop like this is a typical feature within a farm, does not need planning permission and is not subject to the objections summarised in this report.

8.32 (H) Public representations

8.33 The applicant's agent has pointed out that around 30 letters of support have been received. However, as summarised in the 'Representations' section, those supporting the use highlight its benefits, in that the use is described as a great place to meet and enjoy an 'alfresco' meal, or to buy pizza to take-away and eat at home, unlike any other facility in the village. Clearly the use is popular amongst those who have used it, who understandably wish to see the use continue. There is no comparable facility in the village.

8.34 The near neighbouring residents, however, have highlighted in their representations, in some detail, how the use affected their living conditions over the summer of 2017. While being prepared to give the use the opportunity to succeed in a neighbourly manner, the significance of the impact in terms of noise and disturbance and cooking smells became evident throughout the summer months. In short, those living close to the site do not wish for a repeat of the events of last summer when the use operated.

8.35 In the planning officer's view, the objections are founded in material planning concerns, which are covered in this report. Officers served an enforcement notice in response to the significant impact the use had in the locality. While support for the use is noted and the benefits the use can offer, the use is simply in the wrong place and is unacceptable in this location.

8.36 The application is contrary to prevailing planning policy which aims to protect conservation areas and listed buildings, and the reasonable living conditions of residents, from inappropriate development.

9 Conclusion

9.1 The proposed use has local support from those who used the facility when it operated, without planning permission, over the summer of 2017. However, the use generated levels of noise, disturbance and cooking smoke and smells which significantly detracted from the day to day living conditions of those adjacent to the site, including in the evenings. In addition, the trailer van and toilet are incongruous features which are out of keeping with the historic character of this part of the conservation area and the setting of the listed buildings within the farm yard. It is considered that the application does not address the reasons for service of the enforcement notice against the use.

9.2 The application is therefore recommended for refusal.

10 Reason for Recommendation and Conditions

It is recommended that the application be Refused for the reasons set out below.

1. The application as been assessed and determined on the basis of the plans noted below.

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

2. The presence of the food trailer van and toilet unit is uncharacteristic and unsympathetic to the character of the area, which in this location is within the Kingston Conservation Area and the South Downs National Park. The food trailer van and toilet unit by its incongruous appearance also adversely affects the setting of nearby listed buildings. The trailer van and toilet unit is therefore contrary to policies ST3 (a) and H2 and H5 of the Lewes District Local Plan, CPII of the Joint Core Strategy and the National Planning Policy Framework 2012.

3. The use of the land for the operation of a hot food trailer unit in this location has impacts upon neighbouring amenity by causing noise and disturbance and cooking odours and fumes, adversely affecting the living conditions of local residents, including during evening hours.

The use is thereby contrary to policies ST3 (c) of the Lewes District Local Plan and the National Planning Policy Framework 2012.

11. Crime and Disorder Implications

- 11.1 It is considered that the proposal does not raise any crime and disorder implications.

12. Human Rights Implications

- 12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

13. Equality Act 2010

- 13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

14. Proactive Working

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, thereby allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied as part of a revised scheme. The Local Planning Authority is willing to provide pre-application advice and advise on the best course of action in respect of any future application for a revised development.

Tim Slaney
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South Downs National Park Authority

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Appendices Appendix 1 - Site Location Map
Appendix 2 – Plans Referred to in Consideration of this Application

SDNPA Consultees

Background Documents

Appendix I

Site Location Map



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Appendix 2 – Plans Referred to in Consideration of this Application

The application has been assessed and recommendation is made on the basis of the following plans and documents submitted:

Plan Type	Reference	Version	Date on Plan	Status
Application Documents -			11.06.2018	Approved
Plans -	1:500		12.06.2018	Approved
Plans - Location plan	1:1250		23.04.2018	Approved
Site Photographs -	Van photo		23.04.2018	Approved
Application Documents -	supporting statement		23.04.2018	Approved

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