

HEWEB – Hedge End, West End and Botley Local Area Committee Monday  
27 January 2020.

**Application Number:** X/19/86760  
**Case Officer:** Rosie Rivers  
**Received Date:** Monday 28 October 2019  
**Site Address:** UNIT 3, LANKESTER HOUSE, 1 FREEGROUNDS ROAD,  
HEDGE END, SOUTHAMPTON, SO30 0HG  
**Applicant:** S Ramsey  
**Proposal:** Variation of condition 3 of prior notification J/17/80081 to  
extend opening hours.

**Recommendation:** PERMIT

### CONDITIONS AND REASONS

- 1 The development hereby permitted shall be implemented in accordance with the following plans numbered: BLOC 01, FP 01.

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

- 2 The development hereby permitted shall not be open to customers except between the hours of 10am - 5pm Monday to Wednesday, 10am – 10pm Thursday to Saturday and 10am - 4pm on Sundays or Bank Holidays.

Reason: To protect the amenity of the occupiers of nearby properties.

- 3 No deliveries shall be received or dispatched from the site except between the hours of 10am - 5pm Monday to Saturday and 10am - 4pm Sundays or Bank Holidays.

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

- 4 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 the building shall only be used as a café or tea room and not for any other purpose falling within Class A3: Food and Drink of this order unless a specific grant of planning permission for such a use has first been obtained.

Reason: For the avoidance of doubt. The Local Planning Authority is disposed to grant permission for the proposed use only as in so far as the site will be used as a café or tea room, and the Local Planning Authority wishes to retain control over the use of the site in order that any future proposals may be considered on their merits.

- 5 There shall be no sales of hot food to take away from the premises to which this permission relates unless otherwise agreed in writing by the Local Planning Authority.

Reason: The Local Planning Authority consider that use of the property for hot food take away sales would, by virtue of the general levels of activity, noise and general disturbance associated with such use, harm the amenity of local residents and the character of the area.

Note to Applicant: In accordance with paragraph 38 of the National Planning Policy Framework (February 2019), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

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Report:

This application has been referred to Committee because a member of the committee lives in close proximity to the application site.

### **Description of Application**

1. The application is for the variation of condition 3 of prior notification application J/17/80081 to extend the opening hours of the business. Condition 3 of application J/17/80081 states:

*The development hereby permitted shall not be open to customers and no deliveries shall be received or dispatched from the site except between the hours of 10am-5pm Monday – Saturday and 10am-4pm Sunday. Reason: To protect the amenity of the occupiers of nearby properties.*

2. The application originally applied to extend the opening hours to allow the business to stay open until 10pm Monday to Saturday, with no variation proposed to the Sunday opening hours, but this has now been amended and the application now seeks to vary the opening hours to 10pm on Thursday, Friday and Saturday only.

### **Site Characteristics**

3. The application site forms a ground floor unit used as a tearoom – Kettle & Cake. The area forms part of the secondary shopping area of Hedge End. To the south are residential dwellings, to the east The Catholic Church of the Assumption and residential units, and to the north is the primary shopping area of Hedge End.

### **Relevant Planning History**

4. The relevant planning history is as follows:

J/17/80081 – Prior approval for change of use for A1 (retail) to A3 (restaurants and cafes) – Prior approval not required subject to conditions 11/04/2017

Z/27911/011/00 - Change of use from retail (A1) to hot food take away (A3) – Withdrawn 19/11/2002

Z/27911/003/00 – Formation of vehicular access to car park – Refused 20/02/1986

Z/27911/002/00 - Conversion to offices with external alterations and associated parking – Permit 23/10/1985

Z/27911/001/00 – Change of use to pet shop – Permit 04/02/1985

## **5. Representations Received**

2 letters of comment on the following grounds:

- Parking and impact on highway safety
- Impact on residential amenity
- Future conversion to a hot food takeaway

## **6. Consultation Responses**

Hedge End Town Council – objection on the basis of conflicting information in the supporting documents. The committee were concerned that it is not clear what the usage maybe and this may lead to increase in use/traffic and anti-social behaviour in a residential area. Concerns business will not stay as a tea shop.

Environmental Health – No objection due to the nature of the use as a tea room/café.

## **7. Policy Context: Designation Applicable to Site**

- Within Built-up Area Boundary
- Shopping area – secondary zone
- Flood Zone 2 and 3

### Legislative provisions

8. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a local planning authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise.

### The Development Plan

9. At the current time the Development Plan for the Borough comprises the Saved Policies within the Eastleigh Borough Local Plan Review (2001-2011) and the Hampshire Minerals and Waste Plan (October 2013). The policies contained within the latter are not considered to be applicable to the particular development proposed as part of this application.

### The Eastleigh Borough Local Plan Review 2001-2011

10. The Eastleigh Borough Local Plan Review 2001-2011 (the adopted Local Plan) was adopted in May 2006. In November 2008, the Council submitted a list of proposed Saved Policies to the Secretary of State with a request that they be saved until they could be replaced by a new Local Development Framework. The following policies were saved and are considered to be of relevance to the development proposals: 29.ES, 59.BE, 100.T and 104.T.

### **Emerging Local Plan Policies**

#### Submitted Eastleigh Borough Local Plan 2011-2029, July 2014

11. The Eastleigh Borough Local Plan 2011-2029 was submitted for examination in July 2014, but the Inspector concluded that insufficient housing was being provided for in the Plan and that it was unsound. While this plan has not been withdrawn and remains a material consideration, it can therefore be considered to have extremely limited weight in the determination of this application.

#### The Submitted Eastleigh Borough Local Plan 2016-2036, October 2018

12. The Local Plan was submitted to the Secretary of State on 31<sup>st</sup> October 2018 with examination hearings taking place in November 2019 and early 2020. Given the status of the submitted plan it is considered that moderate weight can be attributed to it, and it is a material planning consideration.
13. The relevant policies of both the 2011-2029 and 2016-2036 plans essentially echo the requirements of those of the adopted local plan as listed above and are not therefore considered to affect the recommendation put forward.

### **Supplementary Planning Documents**

14. There are no Supplementary Planning Documents relevant to the determination of this application.

### **National Planning Policy**

15. At a national level, The National Planning Policy Framework 2019 (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The Planning Practice Guidance provides additional guidance in support of the Framework and should be afforded weight in the consideration of planning applications.

### **Assessment of Proposal**

#### **Principle**

16. The site is located within the urban edge where the principle of development is considered to be acceptable subject to the design and impact of the proposal

being in accordance with the relevant Local Plan policies and Supplementary Planning Documents. The change of use of the unit to a café has been established under application J/17/80081 and therefore this application will only consider the acceptability of extending the opening hours of the unit.

### **Planning history**

17. In 2017 a prior approval application, J/17/80081, was submitted to change the use of the site to from an A1 (retail) use to A3 (restaurants and café) use. The application concluded that full planning permission was not required, subject to compliance with conditions, and the use was changed to an A3 café and tearoom use. Condition 3 restricted the hours of opening and deliveries to 10am to 5pm Monday to Saturday and 10am to 4pm on Sunday. In addition, conditions were attached to restrict the use to a café or tea room and for no other use within Class A3 and a further condition restricting the sale of hot food to takeaway.

### **Variation of condition**

18. This application originally applied to extend the opening hours to allow the business to stay open until 10pm Monday to Saturday, with no variation proposed to the Sunday opening hours. Following concerns raised by officers the current application has been amended to change the variation of the opening hours to 10pm on Thursday, Friday and Saturday only. No variation is now proposed to the opening hours on the other days of the week.
19. The supporting statement explains that since opening, the business has become successful, however, it needs to attract more income and one way to do this is to stay open longer to compete with other outlets which draw on custom in the area in the evening.

### **Parking and highway matters**

20. The prior approval application considered that the A3 use would result in less trip generation than the previous A1 use that was on the site and therefore raised no objection to the proposal.
21. It is noted that the existing use does not have any allocated parking for the site. Following the officer's site visit it is noted that there is informal parking to the front of the site. It is considered that a number of users of the site could have linked trips to other business within Hedge End Town Centre, and it is also noted that there are existing car parks and bus stops in close proximity to the site. It is therefore considered that due to the site's location within Hedge End Town Centre it is well served by public transport and existing parking with the town centre. It is considered that the extension of the opening hours would not impact on the existing parking situation such as to warrant a reason for refusal in this case.

### **Impact on residential amenity**

22. There are residential properties located opposite the site to the south west. There are also residential properties located along Freegrounds Road, which provides the vehicular access to the site.
23. It is noted that the extended hours could result in more activity in this area later in the evening than the existing uses on the site, however, due to the nature of the use as a café/tea room, the proposal is not considered to result in noise disturbance that would materially impact on the amenities of these neighbouring properties. The existing conditions on the original application controlling hours of delivery, use and sale of hot food takeaways would be re-attached to maintain those controls.
24. Concerns have been raised by the neighbouring properties and the Town Council regarding potential changes to the unit that could result in noise disturbance and anti-social behaviour. It is noted from the site visit that the existing unit has approximately 7 to 8 tables for customers with limited spaces to extend the number of tables further and therefore the proposal is not considered to result in a more intensive use of the site. The use is also conditioned to be a tea room/café and therefore planning permission would be required to change the unit into restaurant use within this use class.
25. Concerns have also been raised regarding the use of the site as a hot food takeaway. Separate planning permission would be required to change the use of the site to an A5 take away use. There is also a condition on the prior approval application restricting the sale of hot food takeaway from the site.

### **Conclusion**

26. The proposed variation of condition to extend the opening hours of the existing café/tea room on Thursday to Saturday is considered to be acceptable. The proposal is not considered to result in a significantly detrimental impact on the amenities of the neighbouring properties or existing parking with the surrounding area. The proposal is therefore considered to comply with policies 29.ES, 59.BE, 100.T and 104.T of the Local Plan.

X/19/86760



Address: Unit 3, Lankester House  
1 Freegrounds Road, Hedge End

Date: 16/01/2020 Scale: 1:1250