

Registration Date:	14 <sup>th</sup> August 2020	Application No:	P/01388/012
Officer:	William Docherty	Ward:	Farnham
Applicant:	Mr Ali	Application Type:	Minor
		8 Week Date:	9 <sup>th</sup> October 2020
Agent:	Mr. Sikandar Ali, SA Associates, 22 Windsor Road, Slough, SL1 2EJ		
Location:	246 Farnham Road, Slough, SL1 4XE		
Proposal:	Variation of condition 2 (Restricted hours operation) of planning permission P/01388/009 dated 11/07/2011 (to enable extended hours of use to 0200 hours each day of the week)		

**Recommendation:** Delegate to Planning Manager to Refuse



## **P/01388/012 – 246, Farnham Road, Slough, SL1 4XE**

### **1.0 SUMMARY OF RECOMMENDATION**

- 1.1 This application is of a type which would normally be determined under powers of officer delegation. However, the ward members have had official and formal discussions on planning issues with the Planning Manager and the issues/concerns remain unresolved.
- 1.2 Having considered the relevant policies set out below, the representations received from all consultees and neighbouring residents, as well as all other relevant material considerations, it is recommended that the application be delegated to the Planning Manager for REFUSAL as set out under paragraph 9.1 below.

### **PART A: BACKGROUND**

#### **2.0 Proposal**

- 2.1 Variation of condition 2 (Restricted hours operation) of planning permission P/01388/009 dated 11/07/2011 to enable extended hours of use to 0200 hours each day of the week. The existing condition states the below:
- 2.2 *2) The use hereby permitted shall not be open to members of the public/customers outside the hours of 0900 hours to 2300 hours on Mondays to Fridays, 0900 hours to 2300 hours on Saturdays, and 0900 hours to 2100 hours on Sundays and Bank/Public Holidays.*

*REASON: To protect the amenity of residents within the vicinity of the site in accordance.*

#### **3.0 Application Site**

- 3.1 The application site is located on the eastern side of Farnham Road, within an existing row of shops and restaurants. The site consists of a restaurant with an element of takeaway at ground floor with flat above.
- 3.2 The site is designated as a secondary shopping frontage located in the Farnham Road district shopping centre as designated in the local plan. The site is not within a conservation area, not near any listed buildings and is located in flood zone 1.

#### **4.0 Relevant Site History**

P/01388/006 - ERECTION OF GROUND FLOOR REAR EXTENSION TO SHOP  
FIRST FLOOR REAR EXTENSION TO ANCILLARY OFFICES - Refused Dec 20

P/01388/007 - CHANGE OF USE OF GROUND FLOOR RETAIL (A1) TO HOT F TAKEAWAY (A5) WITH INSTALLATION OF FLUE - Approved Aug 2010

P/01388/008 - CHANGE OF USE FROM SHOP (A1) TO RESTAURANT (A3). ERECTION OF EXTRACTION FLUE - Approved December 2010

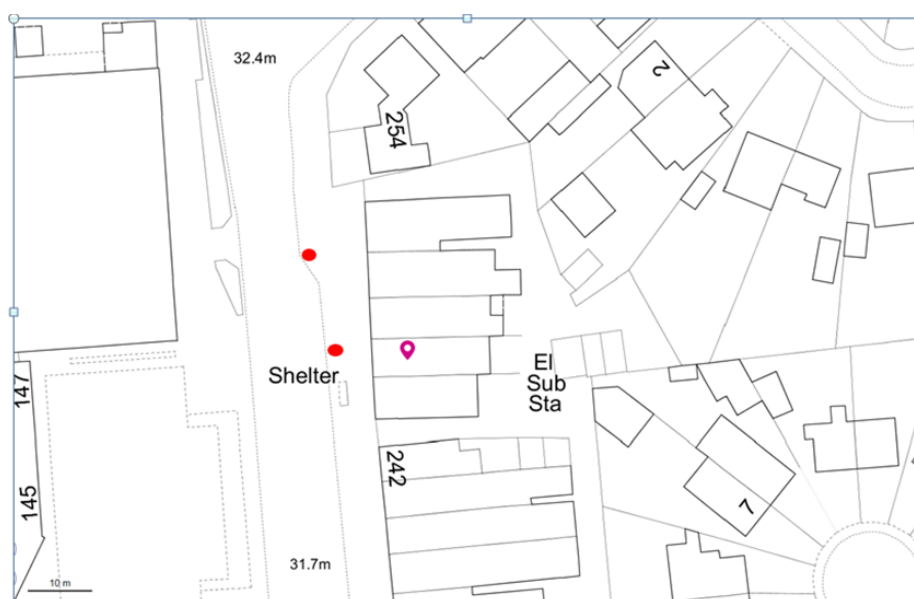
P/01388/009 - CHANGE OF USE FROM SHOP (A1) TO RESTAURANT (A3) RELOCATION OF EXTRACTION FLUE (RETROSPECTIVE) - Approved Jul 201

P/01388/010 - INSTALLATION OF AN INTERNALLY ILLUMINATED FASCIA SIGN AND HANGING SIGN - Approved Dec 2011

P/01388/011 - Construction of a single storey rear extension with flat roof to use as storage area. - Approved 2016

## 5.0 Neighbour Notification

- 5.1 A neighbour consultation took place by way of site notice. The locations of the notice are noted on the map below (Denoted by ●).



- 5.2 No neighbour responses were received.

## 6.0 Consultations

### 6.1 Licensing

The premises licence for Peri Peri Chicken Original was granted in 2011 with the opening hours of 10.00am to 02.00am, to cover the provision of late night refreshment between the hours of 23.00 and 02.00.

Although the licensable hours as granted exceed the permitted hours of operation as a planning condition on the premises, it is the operators

responsibility to ensure that they comply with any and all planning conditions on the premises.

With regards to the area of Farnham Road where these premises are situated the following information may assist.

There has already been several co-ordinated operations over the last month or so, involving planning, parking enforcement, Licensing, Food and Safety and Thames Valley Police, in the Farnham Road to visit and work in partnership with business to ensure that they comply with planning conditions and COVID measures and try and restrict the number of people gathering in the area.

These operations have proved successful with ensuring premises working in line with planning conditions, and limiting patrons after 11.00pm.

It is clear however that the area is extremely popular with sometimes large gatherings of people visiting all the different premises into the late evening. The accumulation of these groups at 11.00pm and later are the cause of concern to local residents.

## 6.2 **Environmental Health**

No comments received. Any comments received will be reported into the amendment sheet.

## **PART B: PLANNING APPRAISAL**

### 7.0 **Policy Background**

#### 7.1 **National Planning Policy Framework**

Section 2: Achieving sustainable development  
Section 6: Building a strong, competitive economy  
Section 7: Ensuring the vitality of town centres  
Section 8: Promoting healthy communities  
Section 9: Promoting sustainable transport  
Section 12: Achieving well-designed places

**Slough Local Development Framework Core Strategy 2006-2026 Development Plan Document policies:**

Core Policy 1 – Spatial Strategy  
Core Policy 6 – Retail, leisure and community facilities  
Core Policy 7 – Transport  
Core Policy 8 – Sustainability and the Environment  
Core Policy 12 – Community Safety

**Local Plan for Slough March 2004 policies:**

Policy S1 (Retail Hierarchy)  
Policy S8 (Primary and Secondary Frontages)  
Policy S11 (Late night uses in Slough Town Centre)

Policy S12 ( Change of Use A1 to A3)  
Policy EN1 (Standards of Design)  
Policy EN5 (Design and Crime Prevention)  
Policy T2 (Parking Restraints)

### Slough Local Development Plan and the NPPF

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Annex 1 to the National Planning Policy Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The revised version of the National Planning Policy Framework (NPPF) was published on 19th June 2019.

The National Planning Policy Framework 2019 states that decision-makers at every level should seek to approve applications for sustainable development where possible and planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Planning Officers have considered the revised National Planning Policy Framework 2019 which has been used together with other material planning considerations to assess this planning application.

## **8.0 Assessment**

- 8.1 Paragraph 127 of the NPPF states that planning decisions should ensure that developments function well and add to the overall quality of the area for the lifetime of the development and that promote health and well-being with a high standard of amenity for existing and future users.
- 8.2 Core policy 8 of the core strategy states that development should respect its location and surroundings. Policy S12 of the Local Plan states that proposals for change of use into A3 uses must seek to trade at hours complementary to a retail location; it further states that proposals must not result in any adverse environmental effects.
- 8.3 The site is located within the Farnham Road District Shopping Centre with the parade containing a number of uses; however, there is a large concentration of restaurants and takeaways in the area which serve both the immediate local population and increasingly customers from across Slough and neighbouring towns. Some of these food and beverage businesses operate throughout the day and evening into the late night / early morning. All of the shops along this parade have residential accommodation at first floor level, with parts of the parade being 3 storeys, including 230 – 242 Farnham Road, having residential accommodation at second floor also.
- 8.4 The volume of customers arriving at and/or congregating outside some of these premises in the evenings and early hours of the morning has been observed as bringing unacceptable levels of noise and disturbance , which are harmful to

residential amenity. The late night uses in this part of Farnham Road has resulted in coordinated efforts involving parking enforcement, Licensing, Food and Safety and Thames Valley Police, in the Farnham Road to visit and work in partnership with business to ensure that they comply with planning conditions and COVID measures and try and restrict the number of people gathering in the area, which as noted has been cause for concern for local residents.

- 8.5 It has been noted by the applicant in their supporting statement that many of the other properties in the surrounding area hold “licenses” which allow the properties to remain open later than the conditional planning permissions allow.. Planning permissions for similar uses in the area, with the exception of 248 Farnham Road, stipulate similar hours of operation to that specified in the existing condition, the subject of this application.
- 8.6 As noted by the applicant in their submission, the neighbouring property, 248 Farnham Road (German Doner Kebab), extended their hours of operation in 2018 under planning reference P/01454/008. In this application the hours of operation were extended till 2am. In considering that case it is noted that much weight was attached to the background noise of Farnham Road, in mitigation against any increased level of noise and disturbance which may arise from granting the extension of opening hours in that case. Furthermore, in part the case was held to be acceptable as many of the local premises were already opening beyond their permitted hours. Notwithstanding, there does not appear to be any certificates of lawfulness confirming this at any of the properties.
- 8.7 Furthermore, in the intervening period since that decision in May 2018, there have been issues raised about the level and intensity of the noise and disturbances arising in this local area. As such, it is considered to be appropriate to consider the weight that ought to be put on the previous arguments, in particular, the “background noise” associated with this part of Farnham Road.
- 8.8 The concentration of these late night uses has intensified since the issuance of this permission in 2018. The former bank premises at 230-234 Farnham Road has been split into three individual businesses, each with use that adds to the overall attraction of the locality for leisure and recreation based on cafes and restaurant businesses. As such, it is considered that there has been a significant material change in circumstances to when planning permission was granted to extend the opening hours at 248 Farnham Road. It is reasonable to conclude that the consequences of allowing this operation to extend its hours would be likely to add to the level of noise and disturbance to the detriment of the residential amenities of those occupying the accommodation above in particular and the local area more generally.
- 8.9 A noise and an odour report has been submitted by the applicant concluding that extending the hours would not cause any significant additional harm to amenity from noise and odour.
- 8.10 The noise report concludes that *‘the noise impact on the nearby receptors’ is not considered significant’*; however, the noise report appears to focus on the equipment operating to the rear of the premises, and does not take into account the additional coming and goings later into the evening and the associated take-away use. An extension of the use to 2am for these premises would be an increase of 3 hours into the early hours of the morning, a time

when people could reasonably expect some peace and quiet in their homes,

- 8.11 The proposal to extend the opening hours would also be in clear contradiction to the criterion as stated within Policy S12 of the Local Plan. Criterion d) and f) of the policy are as follows:

d) the proposal seeks to trade at hours complementary to a retail location;

f) proposals must not result in any adverse environmental effects.

It is not considered the proposed hours would be complementary to a retail location for the reasons noted above, being a late night use. In relation to criterion f), it is likely that the change of hours would result in adverse environmental effects, also as noted above.

- 8.12 Contact was made with the applicants to discuss the case, where revised hours to the proposed were suggested; however, it is considered that the hours granted consent in the initial permission are latest that the business could operate without having a detrimental impact on the residential amenity of nearby occupiers. As such, when considering the reason for imposing condition 2 of P/01388/009, "to protect the amenity of residents within the vicinity of the site", it is considered that this is still very much relevant and that extending the hours of use to the proposed hours would have a detrimental impact on the amenities of local residents.

## **9.0 PART C: RECOMMENDATION**

- 9.1 Having considered the relevant policies set out below, and comments from consultees and neighbouring occupiers, and all other relevant material considerations, it is recommended the application be delegated to the Planning Manager for REFUSAL, as set out below:

1. The proposed extension of the operational hours of the premises is likely to result in a harmful impact on the amenities of residents and occupiers of the local area through an increased level of noise and disturbance at anti-social hours contrary to the provisions of The National Planning Policy Framework (2019); Policy 8 of Slough Core Strategy (2006-2026); and Policy S12 of The Adopted Local Plan for Slough 2004.

2. INFORMATIVE:

The development hereby refused was submitted with the following information:

- Application form - Received 14.08.20
- Site Location Plan - Received 14.08.20
- Covering letter dated 14.08.20 - Received 14.08.20
- Copy of Premises Licence - Received 14.08.20
- Noise Impact Assessment (AVAL) - Received 16.09.20
- Odour Assessment (AVAL) - Received 16.09.20

3. INFORMATIVE:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner notifying of concerns with the application. It is the view of the Local Planning Authority that the proposed development does not improve the economic, social and environmental conditions of the area for the reasons given in this notice and it is not in accordance with the National Planning Policy Framework.