

Registration Date:	06-Aug-2019	Application No:	P/03283/018
Officer:	Michael Scott	Ward:	Farnham
Applicant:	Balal Malik	Application Type:	Minor
		8 Week Date:	13 Nov 2020
Agent:	Kaleem Janjua, M C S Design Architectural Services, 53 Westmead, Windsor, SL4 3NN		
Location:	232, Farnham Road, Slough, SL1 4XE		
Proposal:	Variation of condition 3 (Hours of opening) of planning permission P/03283/014 for 'Change of use from A2 (Office) to A3 (Restaurant) with ancillary A5 (Hot-food takeaway) ' dated 18/12/2018 to allow business hours of 08:00 to 02:00 each day of the week.		

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



## **P/10211/004**

### **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, and comments that have been received 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 under paragraph 9.1 below.

### **PART A: BACKGROUND**

#### **2.0 Proposal**

- 2.1 Variation of condition 3 (Hours of opening) of planning permission P/03283/014 for 'Change of use from A2 (Office) to A3 (Restaurant) with ancillary A5 (Hot-food takeaway) ' dated 18/12/2018 to allow business hours of 08:00 to 02:00 each day of the week.
- 2.2 Condition 3 of P/03283/014 states that "The use hereby permitted shall not be open to members of the public / customers outside the hours of 23.30 hours to 08.00 hours.

The reason for the imposition of this condition was to protect the amenity of residents within the vicinity of the site.

#### **3.0 Application Site**

- 3.1 The application site is located on the east side of Farnham Road between its junctions with Gloucester Avenue to the north and Sheffield Road to the south.
- 3.2 The ground floor is commercial and lies within a designated Retail Parade. The upper floors are residential with access from the rear service road.
- 3.3 For completeness, it should be noted: the site lies within an area

outside of the Town Centre on the Proposals Plan; the site is not in a Conservation Area; there are neither heritage assets nor trees under a Tree Preservation Order in close proximity; and is located in Flood Zone 1, where there is no requirement for a Flood Risk Assessment.

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

- 4.1 P/03283/019 Variation of condition 3 (Hours of opening) of planning permission P/03283/013 for "Change of use from A2 (Office) to A3 (Restaurant) with ancillary A5 (Hot-food takeaway) " dated 13/11/2018 to allow opening hours of Monday to Thursday 11:00 to 01:00, Friday to Sunday 11:00 to 02:00, seasonal variations Eid and Ramadan Only 11:00 to 03:00 - PENDING DETERMINATION
- P/03283/017 Submission of details pursuant to condition 4 (Bins) & 5 (Fats trap) of planning permission P/03283/013 dated 13/11/18 – DISCHARGED 27/11/19
- P/03283/016 Submission of details pursuant to condition 4 (Bins and Recycling) & 5 (Fat Traps) of planning permission P/03283/014 dated 18/10/2018 – DISCHARGED 05/09/19.
- P/03283/015 Change of use from A2 (Office) to A3 (Restaurant) with ancillary A5 and a single storey side extension – APPROVED 14/01/19.
- P/03283/014 Change of use from A2 (Offices) to A3 (restaurant) with ancillary A5 (take-away) service – APPROVED 18/12/18.
- P/03283/013 Change of use from A2 (Offices) to A3 (coffee shop) with ancillary A5 (take-away) service – APPROVED 13/11/18.
- P/03283/012 Advertisement consent to display 2no. fascia signs & 1no hanging sign – EXPRESS CONSENT 13/11/18.
- P/03283/011 Non material amendment to planning permission P/03283/009 to remove existing double doors and install a single glazed door – APPROVED 08/08/18.
- P/03283/010 Advertisement consent for the installation of 1no. internally illuminated ATM surround - APPROVED 15/02/18.
- P/03283/009 Removal of 2no. ATMs and installation of 1no. ATM and

new glazed shopfront with frosted vinyl backing -  
APPROVED 16/02/18.

P/03283/008 Installation of 1no. high internally illuminated ATM  
surround - APPROVED 16/02/18.

P/03283/007 Removal of 2no. ATMs and installation of 1no. ATM and  
1no. secure door to create stand alone secure ATM  
area. - APPROVED 03/08/17.

## 5.0 **Neighbour Notification**

5.1 Neighbour letters were sent out on 02/10/2019 to the following  
addresses:

6, Boston Grove, Slough, SL1 3EQ, 4, Boston Grove, Slough, SL1  
3EQ, Second Floor, 236A, Farnham Road, Slough, SL1 4XH, 236,  
Farnham Road, Slough, SL1 4XE, 228, Farnham Road, Slough, SL1  
4XE, 228A, Farnham Road, Slough, SL1 4XE, 232A, Farnham Road,  
Slough, SL1 4XE, 234A, Farnham Road, Slough, SL1 4XE, 230A,  
Farnham Road, Slough, SL1 4XE, Natwest, 230, Farnham Road,  
Slough, SL1 4XE, 236A, Farnham Road, Slough, SL1 4XE, 5, Boston  
Grove, Slough, SL1 3EQ

5.2 OBJECTIONS in writing were received from Nos. 5 and 6 Boston  
Grove citing the following issues: (a) overflowing refuse – which  
becomes an environmental health problem; (b) bins obstruct garage;  
(c) floodlighting causes health concerns; (d) increased traffic and noise  
of machinery including extract fan; and (e) inconsiderate parking.

RESPONSE to each of these objectors' points is set out in Planning  
Considerations below.

## 6.0 **Consultations**

6.1 Crime Prevention Design Advisor for Berkshire |Local Policing| Thames  
Valley Police  
*"I have spoken with Mrs Pearmain (TVP Licensing Officer). An  
application to extend the opening hours to 02:00 would be acceptable,  
with the option for licensing to review this in six months."* [November  
2019]

6.2 SBC Licensing Team

*The premises is located next to Chaiiwala which has a premises licence for the provision of late night refreshment (LNR)  
Monday to Thursday – 23:00 to 1am  
Friday to Sunday – 23:00 to 2am  
During Eid and Ramadan open until 3am*

*Granting an extension to the opening hours of 232 Farnham Road will mean a premises licence is required to sell hot food and drink after 11pm. This could negatively impact the residents living directly above and within the vicinity of the premises and has the potential to increase noise nuisance and anti-social behaviour on the Farnham Road, an area of Slough that already has high levels of ASB. I have also personally witnessed during enforcement on the Farnham Road the parking issues that occur opposite Chaiiwala, with numerous vehicles parking illegally and causing obstructions (this was at 10.30pm).  
[January 2020]*

### 6.3 SBC Housing & Enforcement Team

*232 I believe is Grill Street which is between Chaiiwala and Gelato's. These 3 units used to make up the old Natwest Bank (230-234) which was redeveloped last year.*

*The only thing I would say here is that there has been complaints from this area before where the neighbouring property Chaiiwala extended their hours without permission last year which caused issues with the residents living directly above.*

*There has also been instances where at the rear of Farnham Road the bins have not been adequate to contain all the waste produced by these new shops where [a colleague] has been involved in dealing with the over spilling of waste.*

*Looking at the application its asking*

*Operating hours*

*Currently the takeaway operates Monday – Sunday 8.00 until 23:00 including bank and public holidays. Permission is sought to extend the opening hours from 8.00 until 3:00, Monday – Sunday including bank and public holidays.*

*So are they asking to open until 0300 every day. I'm not sure how this will impact the residents above who previously objected to Chaiiwala next door operating during similar times and reported noise disturbances during that time.*

*Also with extended hours we will likely as a result see an increased amount of waste being produced, and as there has been issues along the rear of these shops previously, how will they manage the additional waste. [January 2020]*

### 6.4 SBC Public Protection Division

*There has already been several co-ordinated operations over the last month or so [as at September 2020], 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 is the cause of concern to local residents.*

## **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 11: Making effective use of land
- Section 12: Achieving well-designed places
- Section 14: Meeting the challenge of climate change, flooding and coastal change

#### **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 9 – Natural, built and historic environment
- Core Policy 12 – Community Safety

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

- Policy S1 (Retail Hierarchy)
- Policy S8 (Primary and Secondary Frontages)
- Policy S12 (Change of Use A1 to A3)
- Policy S17 (New Shop Fronts)
- Policy EN1 (Standards of Design)
- Policy EN5 (Design and Crime Prevention)

- Policy T2 (Parking Restraint)

### 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 The implications of the proposed variation of the previously approved hours of opening have been considered with the appropriate consultees. The original submission was put forward with a proposed closure of 03:00 and was subsequently formally revised to 02:00.
- 8.2 The consultees have reviewed the local circumstances pertaining to the issue of other licensed premises and the incidence and likelihood of anti-social behaviour, as a context for the proposals. Whilst one consultee concluded in November 2019 that a six-month “trial” period would enable the issues related to their areas of involvement to be assessed, prior to any consideration of the appropriate opening hours in the longer term; there have been a series of consultees responses during that six month period – when the determination was held in abeyance - setting out that the local circumstances since and recently suggest the proposal should be refused.
- 8.3 The matters of concern raised by the objectors relate to the impacts of the use and whether there would be harm to residential amenities arising from the additional time of opening for the business.
- 8.4 There is residential accommodation above the parade and to the rear of 1

parade, which has rear access from the service road behind.

- 8.5 The Farnham Road retail area includes a large and vibrant food and beverage offering – takeaways, restaurants and bars/cafes. Set in the heart of a diverse community, it serves both the immediate local population and increasingly customers from across Slough, neighbouring towns and beyond.
- 8.6 Some of these food and beverage businesses operate throughout the day and evening into the late night / early morning. There are a variety of different opening times due to historic and legislative programs operating under licensing and planning regimes.
- 8.7 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.
- 8.8 The proposals would entail an extension of time for the application premises, which lies in the heart of the area where the incidence of anti-social behaviour has led to a serious concern due to noise and disturbance.
- 8.9 It is therefore considered that the proposals would be likely to exacerbate the situation that has been found to occur in the locality, when other establishments have opened beyond the approved hours at these premises, and, as such, would be unacceptable in terms of the impact on residential amenity.
- 8.10 The applicant's agent has drawn attention to a case where the hours of operation were extended at 248 Farnham Road in 2018 – SBC ref: P/01454/008 – as follows:  
*The use hereby permitted shall not be open to members of the public as a restaurant, nor for the preparation/collection/delivery of any takeaway meals in person or by any other means outside the hours of 1000 hours to 0200 hours on Mondays to Fridays, 1000 hours to 0200 hours on Saturdays, and 1100 hours to 0200 hours on Sundays and Bank/Public Holidays.*  
Thus enabling that business to open until 2am
- 8.11 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.



- 8.12 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.
- 8.13 The concentration of these late night uses has intensified since that time, as the former bank premises at 230-234 Farnham Road has been split into three individual businesses, each with a use that adds to the overall attraction of the locality for leisure and recreation based on cafes and restaurant businesses.
- 8.14 Indeed, this application relates to one of those new incoming activities.
- 8.15 As such, it is considered that the weight of the case has demonstrably changed and it is appropriate 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. As such this application is considered to trade at hours which is not complementary to its location and results in adverse environmental effects.
- 8.16 It has been noted that there are also objections raised by neighbours regarding refuse and lighting at the rear. However, it is considered that these represent issues which could have been covered by conditions to achieve reasonable remedies through changes in operation and practice were the substantive matter to have been acceptable
- 8.17 As this application is considered to be unacceptable per se, the applicant has not been asked to resolve those issues through negotiation of this application.

## 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); Core Policy 12 of Slough Core Strategy (2006-2026); and, Policy S12 of The Adopted Local Plan for Slough 2004.

INFORMATIVE(S):

1. 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 contrary to the National Planning Policy Framework.

2. PLANS

The proposal hereby refused was submitted with the following drawings:

(a) Planning Statement by MCS Design, Dated 6<sup>th</sup> August 2019, Recd On 06/08/2019