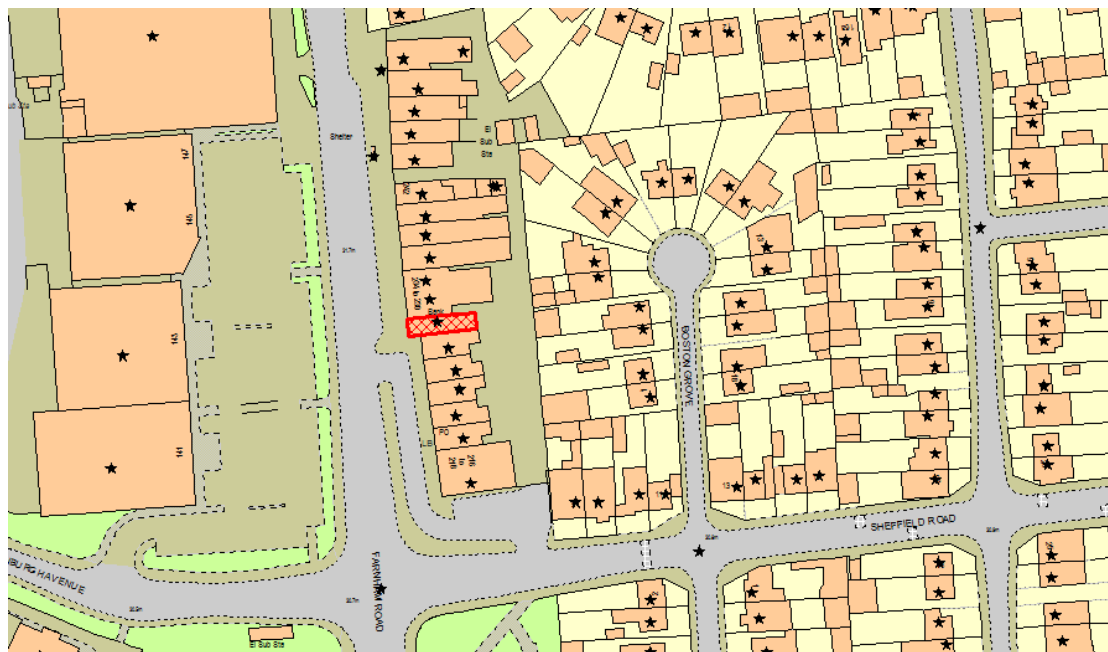


Registration Date:	01-Sep-2020	Application No:	P/03283/019
Officer:	Komal Patel	Ward:	Farnham
Applicant:	Chaiiwala Slough	Application Type:	Minor
		8 Week Date:	27October 2020
Agent:	Haris Kasuji, RR Planning Ltd Otley Road, Headingley, Headingley, Leeds, LS6 4BA		
Location:	230, Farnham Road, Slough, SL1 4XE		
Proposal:	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		

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



**P/03283/019 – 230, 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 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/03283/013 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. The existing condition states the below:

*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.*

*REASON 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 eastern side of Farnham Road, within an existing row of shops and restaurants with residential accommodation above... The site consists of a restaurant with an element of takeaway at ground floor with a residential use above (the residential unit is currently unoccupied).
- 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, or near any listed buildings and is located in flood zone 1.

**4.0 Relevant Site History**

P/03283/013 - Change of use from A2 (Offices) to A3 (coffee shop) with ancillary (take-away) service. – Approved 13 Nov 2018

P/03283/012 - Advertisement consent to display 2no. fascia signs & 1no hanging - Approved 27 Nov 2019

P/03283/017 - Submission of details pursuant to condition 4 (Bins) & 5 (Fats trap) planning permission P/03283/013 dated 13/11/18 – Approved 27 Nov 2019

P/03283/018 - 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 (Hot-food takeaway) ' dated 18/12/2018 to allow business hours of 08:00 to 02:00 day of the week at 232 Farnham Road – pending consideration.

## **5.0 Neighbour Notification**

5.1 A neighbour consultation took place by way of a site notice.

5.2 No neighbour responses were received.

## **6.0 Consultations**

### **6.1 Licensing**

The premises license for Chaiiwala was granted in 2019-2020 with the following opening hours:

Monday to Thursday: 11:00pm 1:00am

Friday to Sunday: 11:00pm 2:00am

Seasonal Variations: Eid & Ramadan Only 11:00pm 3:00am

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 coordinated 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 is 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 storey, 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. In respect of the application site, this led to the serving of a Temporary Stop Notice and a Breach of Condition Notice during the summer of this year to try and secure an end to the breach of planning control with the premises operating outside of their permitted hours. Cumulatively 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, to visit and work in partnership with business in Farnham Road 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 cover letter 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 permission 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 subject of this application.
- 8.6 248 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.

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.

- 8.7 The concentration of these late night uses has intensified since the issuance of this permission also, 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. 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.
- 8.8 No supporting information has been submitted by the applicant to demonstrate how the use of this site would not adversely impact on the amenities of neighbouring residential occupiers. A cover letter submitted by the applicant refers to the installation of sound-proofing by way of acoustic ceiling and self-closing doors, but this in itself does not demonstrate how this would reduce any potential adverse impacts from within the premises nor does it address the issue of noise externally.
- 8.9 An extension of the hours of for these premises and the noise associated with the comings and goings by customers and the take-away function, would occur at a time when people could reasonably expect some peace and quiet in their homes. The adverse impact on residential amenity would not be addressed by the mitigation measures referenced in the cover letter.
- 8.10 When considering the reason for imposing condition 3 of P/03283/013, being 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:

- Cover Letter (ref: hk/O/Slgh/VOC/11.09.20), prepared by 'RR Planning Ltd', Dated 11 Sept 2020, Rec'd 21 Sept 2020

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.