

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 1 December 2005

**Item No:** 13  
**Address:** 3 Andover Road Winchester Hampshire SO23 7BS

**Parish/Ward** Winchester Town

**Proposal Description:** Change of use from A1 retail to A5 hot food take-away; single storey rear extension with new extractor chimney

**Applicants Name** Mr K Kappes

**Case No:** 05/02360/FUL

**W No:** W19766

**Case Officer:** Mrs Julie Pinnock

**Date Valid:** 28 September 2005

**Delegated or Committee:** Committee Decision

**Reason for Committee:** 4 or more representations contrary to the Officer's recommendations have been received

**Site Factors:** Winchester Conservation Area

### Site Description

- The application site is currently used as an antique shop with residential accommodation above
- It is in a terrace of 9 units and Corium House which all front Andover Road
- The rear is accessed from Stockbridge Road, where vehicular access and parking exists for Corium House
- There are a number of hot foot outlets which front Stockbridge Road, which are served to the rear by external extraction system

### Relevant Planning History

- W08670/14 – New Winchester Kebab House, 6-8 Stockbridge Road, Winchester – Variation of condition 02 of planning permission W09670/09 (opening hours) – permission granted 07.01.2005. This allows the premises to open between 1100 to 2400 Sunday to Wednesday and recognised public holidays, 1100 to 0100 Thursday and 1100 to 0200 Friday and Saturday
- W02131/04 – 10 Stockbridge Road, Winchester – Revision of Condition 2 of planning permission W02131/03 (opening hours) 0 permission granted 24.11.2000. This allows the premises to open to the public between 0600 to 2400 Monday to Saturday and 0600 to 1800 Sundays.

### Proposal

- As per Proposal Description
- The proposal seeks the change of use of the ground floor from A1 retail use (antiques shop) to A5 hot food
- Minor modification to the shop front, but amended plans submitted to retain the stallriser to the shop front
- The applicant has verbally indicated he would wish to open between the hours of 11.00 a.m – 11.00 p.m.
- The application also seeks the demolition of a small single storey extension to the rear and its replacement with a larger flat roof extension
- Amended plans have been submitted which show the extraction system catered for by the existing chimney stack, with a flue venting above the roof

### Consultations

#### Conservation:

- Originally raised objection to the proposal on the basis of the removal of the stallriser, and the location of the flue to the rear elevation of the dwelling
- No objection to amended plans

#### Engineers: Highways:

- No highway objection

#### Environmental Health:

- No objection in principle, but has reservations about the potential for odour and noise nuisance – recommends a condition to require a detailed scheme for the extract exhaust ventilation system and a condition restricting opening hours

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 1 December 2005

**Representations:**

City of Winchester Trust:

- While loss of a retail unit is regretted, the proposed change of use seems acceptable
- It is hoped that care will be taken to ensure the large flue at the rear is as unobtrusive as possible and that smells it will emit will not be detrimental to the amenities of local residents
- Also raise concern to the shop front

Letters of representations have been received from 11 Neighbours - all have signed a standard letter (addressed to the licensing department of Winchester City Council) objecting to the proposal for the following reasons:-

- Council should refuse a licence for the premises on the following grounds:
  - a) public nuisance
  - b) grounds of safety
  - c) Effect on crime
  - e) Disorder and anti-social behaviour
  - e) No need for a further takeaway in the immediate vicinity
- If a further licence is granted it would be operating in the evening affecting our quality of life in the late hours of the day relaxing times
- Unoccupied premises more suitable for a take away and hot foot
- Winchester Town Centre is becoming a deserted ghost town
- Nuisance from further noise and air pollution from the new extractor fan and litter
- If this permission granted Council likely to grant a licence for serving/selling alcohol

**Relevant Planning Policy:**

Hampshire County Structure Plan Review:

- UB3, E16

Winchester District Local Plan

- EN.5, HG.7, W.9, FS.1

Winchester District Local Plan Review Deposit and Revised Deposit:

- DP.3, HE.5, SF.1

Supplementary Planning Guidance:

- None

National Planning Policy Guidance/Statements:

- PPS 1 Delivering Sustainable Development
- PPG 6 Town Centres and Retail Developments
- PPG 23 Planning and Pollution Control
- PPG 24 Planning and Noise

**Planning Considerations**

The main considerations in respect of this application are:

- Principle of development
- Residential amenities
- Highways
- Comments on representations
- Historic heritage/conservation area

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 1 December 2005

Principle of development

- The site is situated within the settlement boundary of Winchester, and the Conservation Area
- The site is just within the northern edge of the Commercial Core of Winchester
- There are no specific policies in the adopted plan which deal with the change of use from A1 to A5, although policy FS1 allows for new facilities, which includes shops primarily serving or intended to serve a local function
- Policy SF.1 of the emerging review local plan allows A1, A2, A3, B1, C1, D1 and D2 within town and village centres (this policy will be updated to reflect the recent amendment to the Use Class Order to include A4, and A5 uses)
- The proposal also seeks a replacement of the existing flat roof extension to the rear, with one across the full width, policies of the adopted and emerging local plan allow for extensions providing they are acceptable in design, terms and do not impact the neighbours
- The principle of development is acceptable

Residential amenities

- There are retail units on either side of the premise at ground floor, and residential units above
- It is acknowledged that the change of use of the retail unit to hot food, will extend the opening hours, with the primary trade being evening
- Noise can be overcome by controlling the opening hours to those considered reasonable by both the Council, and the applicants
- The applicants have indicated a willingness to close by 11.00 p.m. each evening, although as outlined in the planning history, Winchester Kebab House at 6-8 Stockbridge Road has opening hours to 12pm Sunday to Wednesday (and public holidays), 1pm Thursday, and 2pm Friday and Saturday, and 10 Stockbridge Road has permitted opening hours until 12pm
- Environmental Health Officer has recommended a condition to require full details for the extract exhaust ventilation system prior to the commencement of development
- He also recommends a condition to restrict opening hours so as to minimise disturbance to residents in the vicinity
- With regard to the rear extension, the proposal is to replace the existing which is 1.3m away from the southern boundary, the replacement will be closer to the boundary, but the extension is single storey and will not affect the amenities of the neighbouring property

Highways

- Comments that whilst the current use may not be a high generator of traffic the property could change hands to another A1 retailer (i.e. newsagent or video hire)
- It is unlikely that the change in use to a hot food takeaway will generate a material increase in traffic to what could otherwise occur within the same use class order without the need for planning permission
- Double yellow lines exist in front of the premises that seek to restrict car parking in the vicinity of the application site and several other neighbouring premises are also used as hot food takeaway

Comment on representations

- Local residents have a number of objections to the proposal, which are not material planning considerations
- The objection letters are addressed to the licensing department of the Council, although they do quote the planning reference number
- The licensing officer has advised that a licence is not required for the use if the business does not trade beyond 11p.m.
- The concerns relate primarily to anti-social behaviour arising from a hot food takeaway open in the evening, with regard to noise, litter, safety and crime
- They also suggest that there is not a need for a further takeaway in this location, however this is not in itself a material planning consideration

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 1 December 2005

Historic heritage/conservation area

- The Conservation Officer initially raised concern over the removal of the stallriser to the shop front, and proposed glass from floor to ceiling, and the provision of an external extraction system to the rear elevation
- Amended plans have been submitted to retain the stallriser to the shop front and provide the extraction system within the existing internal chimney stack, rather than provide it to the rear elevation, this accords with Heritage policies of the adopted and emerging local plan to ensure the development does not detract from the Conservation Area
- The Conservation Officer is satisfied with the amended plans

**Recommendation**

**APPROVE – subject to the following condition(s):**

**Conditions/Reasons**

01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

01 Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

02 The use hereby permitted shall not be open to customers outside the following times 1100 to 2300.

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

03 Details of the means of extraction of fumes from the premises shall be submitted to and approved in writing by the Local Planning Authority and shall be installed before the use hereby permitted is commenced, and thereafter maintained and operated in accordance with the approved details.

03 Reason: In the interests of the amenities of the adjoining properties.

**Informatives**

01. This permission is granted for the following reasons:  
The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

02. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Hampshire County Structure Plan Review: UB3, E16

Winchester District Local Plan Proposals: EN.5, HG.7, W.9, FS.1

Emerging Development Plan- WDLP Review Deposit and Revised Deposit: DP.3, HE.5, SF.1