

OFFICER REPORT FOR COMMITTEE

DATE: 16th September 2020

**P/20/0811/CU
MR & MRS A WELLS**

**PORTCHESTER EAST
AGENT: MR ROBERT TUTTON**

TEMPORARY CONSENT FOR A TAKEAWAY COFFEE SHOP

84 MERTON AVENUE, PORTCHESTER, FAREHAM, PO16 9NH

Report By

Jon Snook – Direct Dial 01329 824703

1.0 Introduction

- 1.1 The planning application is being brought before Planning Committee due to the number of third-party representations received.
- 1.2 A separate planning application has been submitted seeking removal of condition 6 of planning permission reference P/09/0797/FP. That application is reported for consideration by Members elsewhere on this Planning Committee agenda.

2.0 Site Description

- 2.1 The site consists of a semi-detached chalet bungalow set on the western side of Merton Avenue. The application site occupies a corner plot with the southern boundary adjoining Alton Grove. The property has a detached double garage which is located at the end of the rear garden. The detached garage is a distance of 1.1 metres from the western boundary which adjoins the neighbouring property of 5 Alton Grove. The detached garage has direct access onto Alton Grove with a partial dropped kerb providing access to the road. The garage does not benefit from a driveway.
- 2.2 The immediate area of Merton Avenue and Alton Grove is a pleasant residential area comprising of a mixture of both bungalows and chalet bungalows. A feature of Alton Grove is the large public open green space which lies to the south of the road and adjoins the Portchester foreshore. The public open space lies opposite 5 to 27 Alton Grove and the entrance to the detached double garage located at the rear of 84 Merton Avenue.
- 2.3 The public open green space in Alton Grove is used for recreational purposes and for access to the Portchester foreshore where there is a public footpath stretching along the coastline.

3.0 Description of Proposal

- 3.1 The planning application has been made for the temporary consent for the use of part of the garage as a takeaway coffee shop which will also include the provision of ice creams.
- 3.2 In support of the application the applicant has informed the Council that the area is well used by joggers, walkers and cyclists. The applicant believes that from informal conversations there is an 'untapped demand for takeaway refreshment'.
- 3.3 The applicants have stated that it would be their intention to open the shop on Saturday, Sundays and Bank Holidays between the hours of 0900-1700 hours.
- 3.4 The garage has a small paved area (measuring 1.67 metres wide) which separates the roller shutter door from the pavement in Alton Grove. The applicant states that this area will be used for queuing customers.
- 3.5 In further support of the application the applicants state that: -
- Any litter problems are a matter for the Police and are not material planning consideration.
 - That the coffee shop would only serve walkers, joggers and cyclists and that the applicants would make it known through social media platforms that anyone arriving by vehicles would not be served.
 - That the earlier application for the removal of the condition (P/20/0656/VC) revealed third party representations which cited fear of traffic and litter problems. The applicant is therefore applying for a temporary 1-year permission in order that the fears can be proved to be unfounded.
 - The applicant provides their own analysis of the representations in support of the previous application (P/20/0656/VC) to add weight to opening the coffee shop.
- 3.6 The applicant has provided additional information in support of this application to clarify deliveries for the takeaway coffee shop. In summary, the applicant has stated that there will be a weekly ice cream delivery, a coffee delivery once a fortnight and a monthly drinks delivery.

4.0 Policies

- 4.1 The following policies apply to this application:

Adopted Fareham Borough Core Strategy

CS5- Transport Strategy and Infrastructure

CS17 – High Quality Design

Adopted Development Sites and Policies

DSP2- Environmental Impact

DSP3 – Impact on Living Conditions

DSP37 – Out-of-Town Shopping

DSP38 – Local Shops

Other Documents:

Fareham Borough Design Guidance: Supplementary Planning Document
(excluding Welborne) December 2015

5.0 Relevant Planning History

5.1 The following planning history is relevant:

P/09/0528/FP	(A) ERECTION OF 1.8 METRE FENCE ALONG SOUTHERN BOUNDARY; AND (B) ERECTION OF DOUBLE GARAGE
PART PERMISSION	13/09/09
P/09/0797/FP	ERECTION OF DETACHED DOUBLE GARAGE
APPROVED	17/11/09
P/10/0035/FP	ERECTION OF TWO STOREY SIDE EXTENSION, SINGLE STOREY REAR EXTENSION AND PROVISION OF FRONT & REAR DORMERS
REFUSED	11/03/10
P/10/0220/FP	ERECTION OF SINGLE STOREY REAR EXTENSION, TWO STOREY SIDE EXTENSION WITH SIDE ROOFLIGHT AND ALTERATIONS TO ROOF INCLUDING FRONT AND REAR DORMERS
APPROVED	05/05/10
P/17/0126/FP	ADDITION OF A BARN-HIPPED ROOF OVER EXISTING GARAGE AND CHANGE OF USE TO A ONE BED DWELLING. PROVISION OF A DROPPED KERB.
WITHDRAWN	17/03/17
P/17/0943/FP	PROPOSED CONSTRUCTION OF A BARN-HIPPED PITCHED ROOF OVER DETACHED BUILDING

REFUSED 11/10/17

P/20/0656/VC REMOVAL OF CONDITION 6: (LIMITING USE OF GARAGE) OF APPROVED PLANNING P/09/0797/FP – ERECTION OF DETACHED DOUBLE GARAGE.

PENDING

6.0 Representations

6.1 There have been 135 representations about this planning application and a summary of the representations are as follows: -

- 111 were in favour of the change of use to a coffee shop
- 24 were not in favour of the change of use to a coffee shop
- 11 representations were made from residents of Alton Grove with 6 residents in favour and 5 against
- 5 residents of Grove Avenue made representations with 3 in support and 2 against
- 6 residents of Merton Avenue made representations with 4 in support and 2 against
- 90 representations were made from individuals living within Portchester
- 23 representations were made from individuals living outside of the immediate area, some as far as Banbury, Portsmouth, Gosport, Havant and Alton. Many of these representations were from dog walkers

The following material planning considerations were raised:

Objections

- Litter
- Traffic
- Parking
- Pollution
- Rodents
- Anti-social behaviour
- Noise and disturbance
- Blocking of footpath from queuing
- Cannot measure who has arrived by car
- There are other coffee shops within surrounding area that are within more appropriate locations
- Inappropriate location
- Alton Grove is a small residential area
- Roads cannot cope with increased traffic and parking
- People with disabilities cannot access pavement when customers are queuing

- Highway safety
- Will set a precedent for similar within surrounding area
- Inappropriate opening hours
- No details where bins will be stored
- Could be converted to external seating area
- Harm to wildlife
- Loss of privacy
- Loss of parking spaces
- Customers will park on surrounding roads
- Out of character
- Will not support existing businesses within Portchester
- Alton Grove is a quiet residential road
- Could be turned into café
- Could be separated from main dwelling and used as a separate business
- Will need permission to be converted back to garage
- Excess rubbish in domestic bins

Support

- Area needs coffee shop
- Will benefit local area
- Will not impact local businesses
- Good location
- Boosts local economy
- Would be welcome to all people using shoreline
- Encourage visitors to shoreline
- Environmentally friendly
- Add variety to area
- Can use their litter picking tools to collect waste and prevent it going into the sea
- Will be well managed and well maintained
- Used by dog walkers and families
- No issues with noise
- Wells family considerate of surrounding area and community
- Ensure that litter is controlled
- Central location
- Supports independent businesses
- Will not disturb locals
- Sustainable
- Run by local people
- Sensitive to area
- Enhance community spirit

- Reduce littering
- Provide employment
- Prevent anti-social behaviour
- In-keeping with surrounding area
- Will be used by lots of people
- No through roads so many people will not come by car
- Will only be used by foot traffic

7.0 Consultations

Hampshire County Council Highways

- 7.1 After reviewing the proposals it would seem that having an attractor (such as a coffee/ice-cream service) would likely bring a greater level of trips to a residential crescent which is not designed to cater for such flows. The beach front of Portchester may be made more popular by the addition of this development and there is concern that on weekends and bank holidays, there may be a significant increase in trips attracted to the area. As the site is located on essentially a cul-de-sac crescent, the road has been designed for residential use only. This would also seem to be an existing concern with on-street parking as indicated by wooden posts installed on the southern side to prevent indiscriminate parking damaging the area. Due to the extremely limited information provided in the application, the Highway Authority would be unable to support this application in its current form.

8.0 Planning Considerations

- 8.1 The following matters represent the key material planning considerations which would need to be assessed to determine the suitability of the development proposal. The key issues comprise:

- a) Character of the Area
- b) Impact upon living conditions of neighbouring residents
- c) Highway Safety
- d) Policies DSP37 & DSP38

a) Character of the Area

- 8.2 Planning permission was originally approved for the development of the detached double garage at 84 Merton Avenue on 17th November 2009. The Planning Decision Notice (P/09/0797/FP) listed a total of six planning conditions which were to be complied with.

- 8.3 Condition 6 of the Planning Decision Notice specified the following condition (which is the subject of a separate application elsewhere on this Planning Committee agenda seeking its removal):

The use of the garage hereby permitted shall be limited to purposes incidental to the enjoyment of the dwelling house and shall not be used for any business, industrial or commercial purposes whatsoever.

REASON: To protect the residential amenities of occupiers of nearby residential properties; in the interests of highway safety; in accordance with Policy DG1 of the Fareham Borough Local Plan Review.

- 8.4 The applicant has fitted out a section of the garage for the intended purposes of operating as a takeaway coffee shop which will also serve ice creams and cakes. The garage has been fitted with a roller shutter door which, when opened, reveals a takeaway counter for the service of customers with refreshments. In addition, signage has been added advertising the business as '84 by the shore'.
- 8.5 The immediate surrounding area of the application site is one used for residential purposes with a distinct style of properties consisting of mainly bungalows and chalet bungalows. It is considered that the area is a sought-after location for homeowners to enjoy the benefits of a peaceful location, whilst sharing the wider recreational facilities with visitors to the green and Portchester shoreline.
- 8.6 The external visual appearance of the structure has not changed in that the roller shutter door still gives the appearance of a garage when it is closed. The application specifies restricted opening hours for the takeaway coffee shop with it being open between 9.00am and 5.00pm on Saturdays, Sundays and Bank Holidays and therefore for the majority of the day and week the building will maintain the appearance of a garage. Upon opening the roller shutter door there is a modest sized service counter for the service of customers with coffee and ice creams. The applicant has installed additional fencing on the boundary with 5 Alton Grove and visibility of the counter is therefore largely restricted to the area of open green space located opposite the application site.
- 8.7 The applicant has placed signage on the gates which are situated immediately adjacent to the detached garage and the service counter (which is visible when the roller shutter door is open) advertising '84 by the shore'. The signage is not considered to be intrusive or unacceptable and does not detract from the appearance of the street.

8.8 In view of the limited opening hours for the takeaway coffee shop, the outlook of the shop onto the green open space and the lack of significant change in the overall visual appearance for the garage, it is not considered that there would be any materially harmful effect on the character of the area.

b) Impact upon living conditions of neighbouring residents

8.9 The detached garage is located on the western boundary of the application site some 27 metres in distance away from the rear wall of 84 Merton Avenue. The garage is 1.1 metre away from the boundary with 5 Alton Grove with this property being separated by a further 2.4 metres from the boundary which is the width of the driveway. Furthermore, the driveway which leads to 5 Alton Grove is immediately adjacent to the Alton Grove access to the detached garage. Therefore, it is considered that the impact of any business activity may have a greater impact upon 5 Alton Grove than the residential property of 84 Merton Avenue.

8.10 Concern has been expressed by neighbours that there will be an increase in the noise from the application site. It has been suggested that there will possibly be noise generated from customers and staff at the coffee shop. Whilst this concern is acknowledged, the small size of the shop and the fact that customers would take their purchases away and would not be consuming beverages and food on the premises means that any such noise experienced by neighbours living nearby is unlikely to be significant. In addition, the modest opening times outlined within the application would help to limit any such impact. A planning condition could be imposed to restrict the opening hours and thereby help to limit any disturbance.

8.11 The proposal is for a takeaway coffee shop however many such shops serve food also (the applicant has also expressed a wish to sell ice creams). In order to avoid any potential for cooking odour to become a nuisance to neighbouring properties Officers consider it would be necessary to impose a planning condition on any temporary consent to ensure that no hot food is sold from the shop. This is to ensure that no food is cooked on the site which may otherwise cause odour harming the living conditions of neighbours.

8.12 Neighbours have expressed concern regarding the potential impact from queues of customers outside the detached garage which is immediately visible from the adjacent driveway of 5 Alton Grove. A new fence erected on the boundary with 5 Alton Grove already assists in screening views from the forecourt immediately in front of the garage. Subject to that fencing remaining in place there would be no material adverse impact on the privacy of neighbours living next door.

- 8.13 The applicant has provided additional information in support of this application to clarify deliveries for the takeaway coffee shop. In summary, the applicant has stated that there will be a weekly ice cream delivery, a two weekly coffee delivery and a monthly drinks delivery. The level of deliveries of supplies for the coffee shop does not appear to be unreasonable or that it would result in any detrimental impact to the living conditions of neighbouring properties.
- 8.14 The consultation process raised comments that the opening of the coffee shop will result in an increase in vehicles using the surrounding roads and parking difficulties. The applicants state that it is the plan to focus the business in serving the walkers/joggers and cyclists using the foreshore. At this stage there is nothing to suggest that the coffee shop would attract people travelling to the area by car in any great numbers. If temporary consent was to be granted, any additional traffic movements generated by the coffee shop could be assessed over that 12-month period and then taken into account should a further application be received.
- 8.15 Officers are mindful of the close proximity of the proposed coffee shop to neighbouring properties. The potential impact of the proposed use has been carefully considered in relation to its likely impact on the living conditions of neighbours. Having taken into account the various matters set out above, on balance, Officers consider there to be no reason in terms of the likely impact on neighbours not to grant a temporary period of consent for 12 months over which these impacts can be monitored and assessed further.

c) Highway Safety

- 8.16 The applicant has suggested that the coffee shop would primarily attract walkers, joggers and cyclists and that there would be no customers travelling to the site by car. Having considered this matter Officers agree that the majority of visitors to the shop would likely be on foot however it cannot be ruled out that the shop may attract some additional vehicle movements, for example by people driving to the area to purchase a drink or ice cream before or after a walk along the shoreline.
- 8.17 The potential increase in vehicular movements has been raised by local residents as a concern. In addition, the highway authority have said in their response that the lack of information on this point means they are unable to support the application at this stage. Notwithstanding, Officers believe it would be very difficult to demonstrate that the proposed coffee shop would lead to an increase in vehicle movements that was so significant that it was harmful to highway safety or led to serious problems relating to the availability of on-street parking spaces. On this basis Officers consider that it would be reasonable to expect any such problems or issues to present themselves

during the 12 month temporary period of consent which is sought, after which a further assessment could be made if a further application is then submitted by the applicant to continue the use beyond that period.

d) Policies DSP37 & DSP38

8.18 There are two relevant local plan policies which relate to retail development. However it should be noted that these policies are primarily aimed at covering a broad range of retail development proposals and are not specific to small scale recreational related retail such as that proposed here.

8.19 The relevant part of Policy DSP37 of the Local Plan Part 2 reads as follows:

Proposals for main town centre uses outside of the Borough's centres or parades will only be permitted where:

- i. a full sequential test has been carried out demonstrating that there are no more centrally located sites that are available, suitable or viable;*
- ii. appropriate levels of parking are provided;*
- iii. the site is not located outside the defined urban settlement boundaries and is accessible, particularly by public transport;*
- iv. the scale and design of the buildings are appropriate to their surroundings; and*
- v. the proposal would not have any unacceptable environmental, amenity or traffic implications.*

8.20 This application is for a small-scale recreational-led retail proposal specific to this location by the harbour shoreline. The site forms part of the applicant's home in Merton Avenue. It is not considered that the application of a sequential test is appropriate in this instance.

8.21 As stated earlier in this report, Officers consider that the majority of customers to the shop will not travel to the site by car. Officers do not consider that the scale and nature of the proposal warrants the provision of off-street parking. The site is located in the urban area and reuses an existing single storey building (the garage). There are no environmental, amenity or traffic implications which have been identified that would justify refusal of this application for temporary consent. The application proposal complies with points ii – v of Policy DSP37.

8.22 Policy DSP38 states:

The provision of new local shops within the urban area, and in areas of new development to meet the day-to-day shopping needs of the immediate locality, will be permitted provided that they are of appropriate scale.

- 8.22 The proposed takeaway coffee shop is of an appropriate scale to its location but does not provide a service which local residents would rely on to meet their day-to-day shopping needs.

Conclusion

- 8.23 This application has been assessed with regard to the likely effects of the proposed coffee shop on the character of the area, the living conditions of neighbours and highway safety. The concerns of local residents are noted and have been taken into account, notwithstanding Officers consider there to be no sufficient reasons to resist the proposal for a temporary period of consent over the next 12 months. The concerns raised by residents over the likely impacts, principally in terms of noise, disturbance and additional vehicle movements, could be monitored during this time and the Council would retain full control over the use at the end of that period. If the applicant wished to continue the use, then a further application would be required at which stage the impact of the use over that 12-month period could be taken into account and considered by the Council.
- 8.24 The application is recommended favourably to Members subject to a number of planning conditions being imposed.

9.0 Recommendation

9.1 GRANT PLANNING PERMISSION, subject to the following Conditions:

1. The development hereby permitted shall be carried out strictly in accordance with the following drawings:
 - a) Location plan (drawing 1 issue A).REASON: To avoid any doubt over what has been permitted.
2. The use hereby permitted is granted for a limited period only expiring on 18th September 2021. On or before this date, the use shall cease and the land restored to its former condition.

REASON: To retain planning control over the development/use hereby permitted and to enable the circumstances leading to the grant of permission to be reviewed

3. The use hereby permitted shall be carried out only by the applicants Mr & Mrs Wells and no other persons shall be employed at the premises at any time.

Should this person cease to undertake the permitted use then the property shall revert back to its former use.

REASON: This permission is granted exceptionally and only in view of the personal circumstances of the applicant.

4. No hot food shall be sold from the premises at any time.

REASON: To retain control over the means of cooking of hot food in order to prevent odour nuisance harmful to the living conditions of neighbours.

5. The premises shall not be open for customers outside the following hours: - 0900 – 1700 Saturdays, Sundays & Bank Holidays.

No deliveries shall be taken at the site outside of the hours of 0900 – 1700 Monday to Friday.

REASON: To protect the occupiers of the nearby residential properties from possible disturbance from the permitted use.

6. The existing close boarded fence erected along the boundary between 84 Merton Avenue and 5 Alton Grove shall be retained at its current full height at all times.

REASON: To protect the privacy of the occupants of 5 Alton Grove.

7. The part of the existing building edged in red on the approved location plan (drawing 1 issue A) shall be used as a takeaway coffee shop and for no other purpose including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.

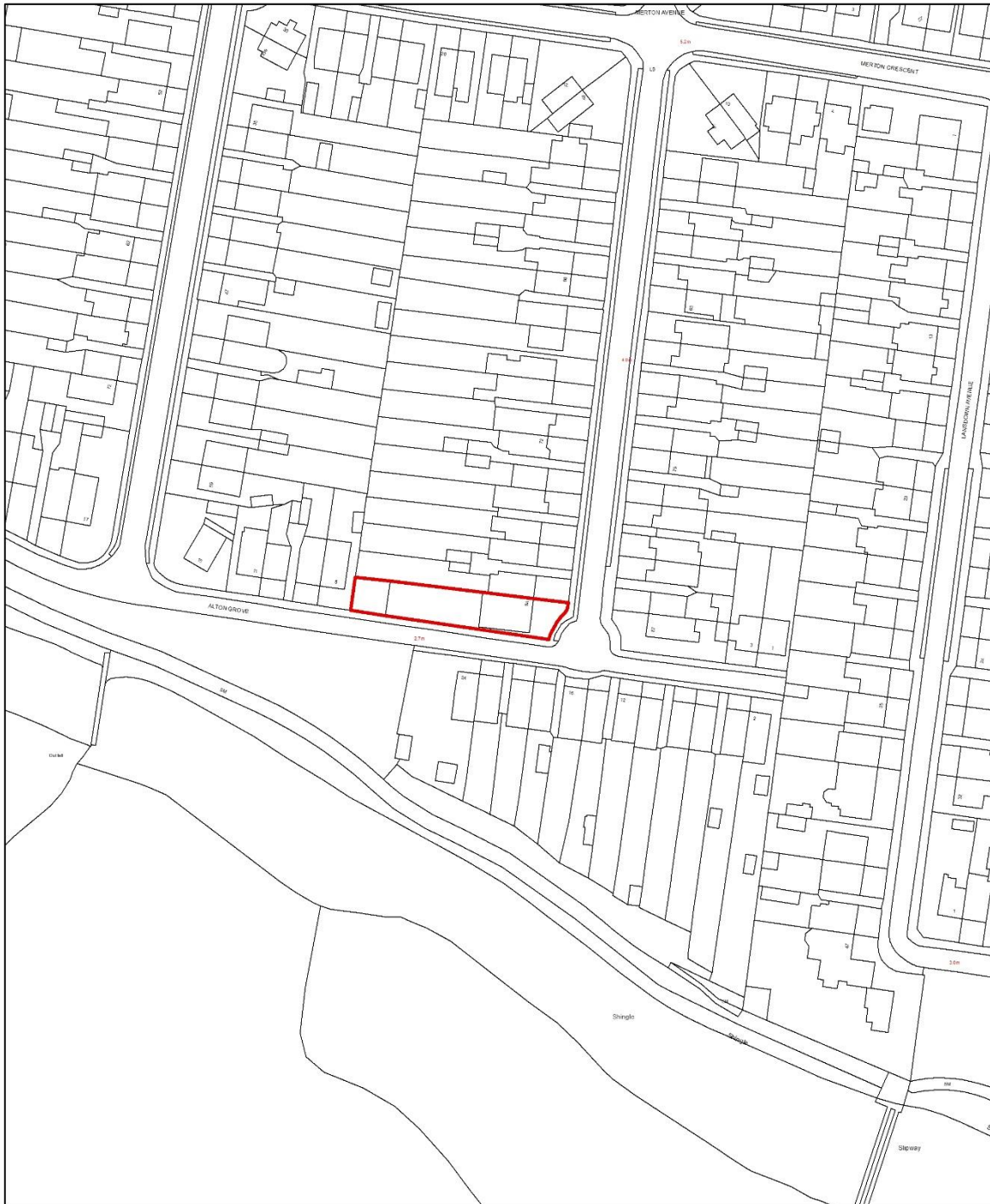
REASON: To protect the occupiers of the nearby residential properties from possible disturbance from permitted uses other than that specifically granted through this permission.

10.0 Background Papers

P/20/0811/CU

FAREHAM

BOROUGH COUNCIL



84 Merton Avenue
Scale 1:1,250

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