

PLANNING APPLICATION REPORT**REF NO:** EP/88/08/**LOCATION:** 27 Sea Road
East Preston**PROPOSAL:** Change of use from Fancy Dress shop (A1) to Indian Tandoori Restaurant (A3)**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Change of use of A1 ground floor commercial premises (Fancy Dress shop) to A3 restaurant (Indian Tandoori)
SITE AREA	Approximately 151 square metres
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Fences and boundary walls
SITE CHARACTERISTICS	Mid-terraced two-storey building with brick walls and flat roof. Commercial premises at ground floor (currently vacant. Fascia sign to timber shopfront reads 'Fancy That'). Vehicular access to front. Parking to rear.
CHARACTER OF LOCALITY	Well established shopping parade. Mix of residential property types surround, including flat developments.

RELEVANT SITE HISTORY**REPRESENTATIONS****Representations received:**

East Preston Parish Council

No objection

Please consider following:

At odds with neighbouring businesses. Maybe forced to close

Already restaurants in vicinity. One more difficult to sustain

Ventilation should not cause nuisance to neighbouring businesses and householders

Page 15 of East Preston Village Design Statement states shopfronts should harmonise with neighbouring styles and colours

Dispute Design and Access Statement parking figures

May attract vermin
 Could contribute to anti-social behaviour

21 letters of objection:

Site notice does not have application reference displayed on it
 Smells from oriental food not conducive to surrounding businesses Question effectiveness of extraction system in windy conditions
 Encourages anti-social behaviour and vermin
 Excessive number of restaurants/cafes in village surplus to demand
 Previous business was Fancy Dress shop, not bank
 Exacerbates existing parking difficulties and litter problems
 Detrimental to air quality
 Adverse noise and disturbance

23 standard letters of objection:

Contaminated air quality. Spice smells not appropriate for village
 Noise disruption in evening
 Unsuitable site next to beauty therapy shop and hairdressers with adverse effect on trade
 Already two Indian restaurants in village
 Invitation for anti-social and criminal activity
 Used as retil outlet, not bank

Comments on Representations received:

Noted. Commercial competition and an oversupply of particular businesses in the locality are not material planning considerations. Waste and litter issues would be resolved through imposing a condition ensuring bin storage be provided. Pest control is a matter controlled under Environmental Health legislation.

The planning system does not exist to control the behaviour of people. It is recognised a late opening would result in activities during the evening in this location, where currently there maybe little or none. However the degree of those activities is not considered to result in demonstrably adverse impact; no outdoor seating or takeaway counter is proposed and a sizeable waiting area is proposed inside the premises, so customers and parties of guests are unlikely to congregate outside on the pavement.

County highways have raised no objection to the proposal in terms of highway safety. Public parking is available immediately to the front of the premises, so the proposal is not considered to adversely impact upon highway safety or capacity.

No physical changes are proposed to the shop front. Adverts are not dealt with under the planning application.

The details of the site notice were complete. Differences of opinion on the content of Design and Access statement is not a material planning consideration.

The application will be refused for the reasons of inadequate evidence and ventilation details being submitted with the application to demonstrate the A1 shop use is no longer viable and that the ventilation would be adequate to avoid adverse impact upon adjoining land uses in terms of odour pollution.

CONSULTATIONS

Head of Highways and Transport
 Environmental Health - John Green

Consultations responses received:

County Highways: No objection.

Area in which site is located is C classified road subject to speed limit of 30 mph. There is access to rear via service road from Beechlands close, which also provides access to on-street parking at front of building. Site located within an area which is parade of shops within residential area. Not a proposal to provide parking within development for customers; there are marked parking bays to front of building. The parking provision is within maximum standards as set out by WSCCC.

District Environmental Health: Objection

Kitchen is undersized for a proposed seating area of up to 44 covers. The dimension of 15 m sq. is wholly inadequate for the preparation of high risk foods and workplace for up to 4 persons. Applicant has not provided a suitable area for the storage of dry food which will be significant for this no. of covers. Layout indicates a shortage of wash facilities, probably due to inadequate space, the storage of pots, pans and necessary refrigeration equipment will place further demands on the limited dimensions of the kitchen area. Discharge of strong spicy odours at first floor level will require a high level of odour control; the application does not provide adequate information on how this will be achieved in order to prevent the potential of nuisance to nearby residents. There is also insufficient information on noise produced by the proposed extract system.

Comments on Consultation responses:

Noted. An informative will be attached to the decision notice to advise the applicant of the comments by District Environmental Health.

POLICY CONTEXT

Designation applicable to site:
Within Built Up area Boundary

DEVELOPMENT PLAN POLICIES

West Sussex Structure Plan:	LOC1	Locational Strategy
	NE10	Retail development
	CH1	Character
	ERA1	Making the best use of land
	ERA5	Air, soil and water
	DEV1	High Quality Development
	DEV5	Parking Provision
	DEV26	Criteria for Retail Development
Arun District Local Plan:	GEN2	Built-up Area Boundary
	GEN6	Amount of New Commercial Development
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN32	Noise Pollution
	GEN33	Light Pollution
	GEN34	Air Pollution
	DEV27	Retail Development Outside the Principal Shopping Areas
	DEV26	Criteria for Retail Development
	DEV30	Local and Village Centres

PLANNING POLICY GUIDANCE

PPS1	Delivering Sustainable Development
PPG13	Transport
PPS23	Planning and Pollution Control
PPS6	Planning for Town Centres
PPG24	Planning and Noise
PPG4	Industrial and Commercial Development

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity in the locality and its character, noise and odour pollution, parking provision, highway safety and capacity, and vitality and viability of the local shopping parade.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to conflict with relevant Development Plan policies in that in the absence of supporting evidence outlining that the retail use is no longer viable the proposed change of use would result in harm to the viability and vitality of the local shopping parade, and in the absence of sufficient details of the provisions for the extraction of fumes and cooking odours it has not been satisfied that the mechanical ventilation system proposed would adequately serve the commercial premises to avoid adverse odour pollution.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations, including the East Preston Village Design Statement, to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposal would involve the change of use of the ground floor premises from Use Class A1 shop to A3 restaurant. The premises is positioned outside the principal shopping area, as defined by the Arun District Local Plan 2003.

The proposal is considered to conflict with relevant Development Plan policies in that, due to a lack of evidence submitted with the application, it has not been demonstrated that the current A1 shop use is no longer viable. The application has also not been accompanied by sufficient details of the provisions for the extraction of fumes and cooking odours, which, if not demonstrated to be adequately controlled would adversely impact upon the amenities of the occupiers of adjoining residential accommodation.

The proposal is therefore contrary to DEV30 of the Arun District Local Plan which states that a "change of use from retail will not be permitted for shops which are located outside the defined Principal Shopping Areas. An exception may be made where it can be demonstrated that retailing is no longer a viable use." It is also contrary to DEV26 which states that "applications

for A3 uses will need to be accompanied by details of the provisions for the extraction of fumes and cooking odours and the provision of areas for the collection of waste."

It is therefore recommended that the planning application should be refused subject to the following reasons.

RECOMMENDATION

REFUSE

- 1 In the absence of supporting evidence outlining that the retail use is no longer viable the Local Planning Authority is not satisfied that the existing retail premises would no longer serve the retail needs of the community. The proposal is therefore contrary to policies NE10 of the West Sussex Structure Plan and DEV30 of the Arun District Local Plan in that the proposed change of use would result in harm to the viability and vitality of the local shopping parade.
- 2 In the absence of sufficient details of the provisions for the extraction of fumes and cooking odours the Local Planning Authority is not satisfied that the mechanical ventilation system proposed would adequately serve the commercial premises to avoid adverse odour pollution to safeguard the amenities of occupiers of the adjoining landuses, including residential accommodation. The proposal is therefore contrary to policies ERA5 of the West Sussex Structure Plan and DEV26 of the Arun District Local Plan.
- 3 INFORMATIVE: The applicant is advised of the following comments from District Environment Health:-

"Kitchen is undersized for a proposed seating area of up to 44 covers. The dimension of 15 m sq. is wholly inadequate for the preparation of high risk foods and workplace for up to 4 persons. Applicant has not provided a suitable area for the storage of dry food which will be significant for this no. of covers. Layout indicates a shortage of wash facilities, probably due to inadequate space, the storage of pots, pans and necessary refrigeration equipment will place further demands on the limited dimensions of the kitchen area. Discharge of strong spicy odours at first floor level will require a high level of odour control; the application does not provide adequate information on how this will be achieved in order to prevent the potential of nuisance to nearby residents. There is also insufficient information on noise produced by the proposed extract system."