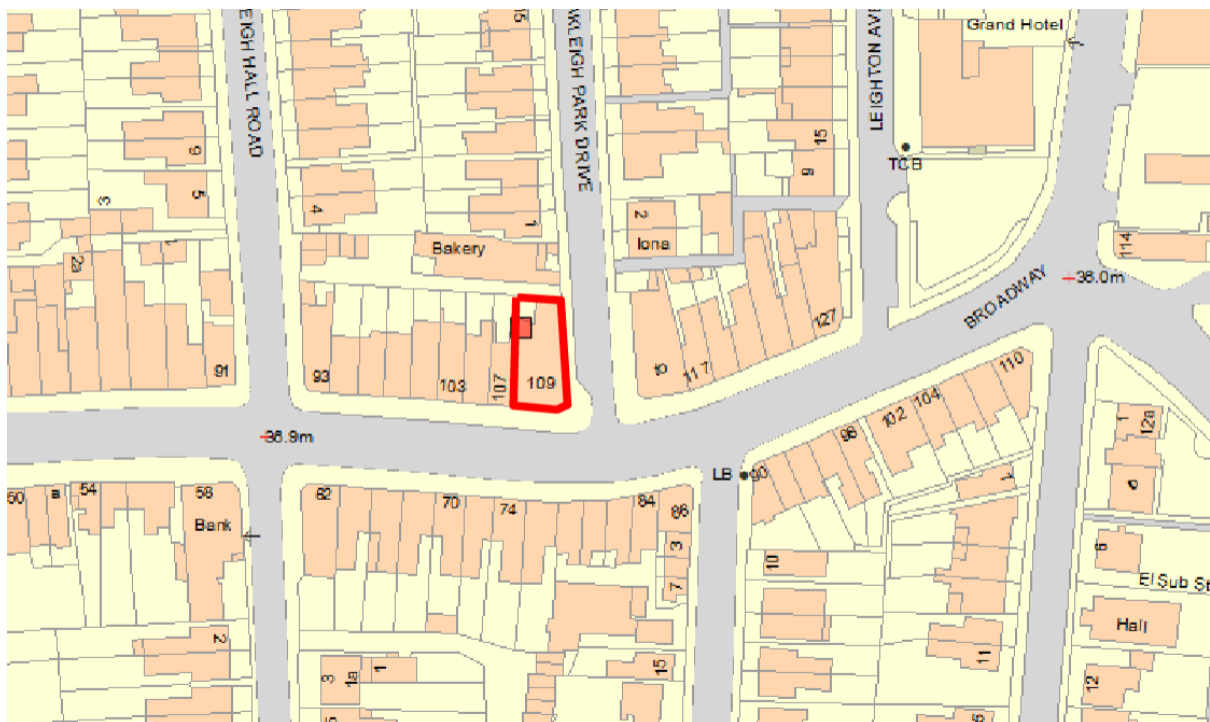


Applicant:	The Roslin Beach Hotel	
Reference:	17/00912/FUL	
Ward:	Leigh	
Proposal:	Change of use of first floor self-contained flat (Class C3) to restaurant (Class A3) to be used with existing ground floor restaurant, external seating area and alter elevations.	
Address:	109 - 111 Broadway, Leigh-On-Sea, Essex, SS9 1PE	
Agent:	APS Design Associates - Mr Paul Seager	
Consultation Expiry:	30 th August 2017	
Expiry Date:	9 th November 2017	
Case Officer:	Julie Ramsey	
Plan Nos:	2565 01, 2565 02, 2565 03 Rev C	
Recommendation	GRANT PLANNING PERMISSION	



1.0 The Proposal

- 1.1 The application proposes a change of use of the existing first floor self-contained flat to that of restaurant use (Class A3) to be used along with the existing restaurant at ground floor and to provide an external seating area fronting Broadway.
- 1.2 Externally the changes would be minimal and include a new window to the side elevation fronting Oakleigh Park Drive, which would replace the current boarded up window and the provision of a non-permanent seating area to the front on Broadway. The ground floor access and lobby would remain and no external alterations are proposed at first floor.
- 1.3 Internally at first floor the existing 2 bed flat to the front is to be removed and the area opened up to form a restaurant seating area, retaining the existing customer toilets. This creates approximately 154 sqm of additional restaurant related area. There are no internal changes to the ground floor proposed.
- 1.4 The proposed opening hours are 10am – 1am Monday to Sundays including Bank Holidays.
- 1.5 A Design and Access Statement has been submitted in support of the application.
- 1.6 Amendments have been made to the scheme during the course of the application to remove formerly proposed bi-fold doors to the front and side, along with a glazed enclosed seating area. The application will be considered on the basis of the amended plans.

2.0 Site and Surroundings

- 2.1 The application site is located on the north side of Broadway, Leigh-on-Sea at the junction with Oakleigh Park Drive. The existing restaurant/bar element of the building is vacant and has been for some time, but was previously in use as a restaurant at ground floor with associated office, storage and toilets on part of the first floor. The first floor flat is currently vacant, however the residential flats on the second and third floors of the building are occupied.
- 2.2 Within the streetscene there is a mix of retail, cafe, restaurant and bar premises, some with residential use above. Broadway is the main thoroughfare in Leigh and is a vibrant and busy high street location. The properties to the rear of the site, onto Oakleigh Park Drive are residential in nature.
- 2.3 The site is located within the Leigh-on-Sea Conservation Area, a primary shopping frontage and the building is locally listed.

3.0 Planning Considerations

- 3.1 The main issues when considering this application are: the intensification of the restaurant (A3 use), loss of the dwelling, design and the impact on the character of the area, traffic and transport issues and the impact on the amenities of neighbouring occupiers.

4.0 Appraisal

Principle of development

National Planning Policy Framework (2012); Core Strategy (2007) Policies: KP1, KP2, CP1, CP2, CP3, CP4 and CP8, Development Management Document (2015) Policies DM1, DM3, DM5, DM13 and DM15 and Design and Townscape Guide (2009)

- 4.1 The site is located on Broadway, within the Primary Shopping Frontage of Leigh-on-Sea. Policy CP1 and KP1 identify the need for the generation of 6,500 new jobs within the area between 2001 and 2021. It is also stated that “*Offices, retailing, leisure and other uses generating large number of people should be focussed in the town centre*”. The policies also emphasise the need to improve the vitality and viability of Town Centres.
- 4.2 Town Centre Primary Shopping Frontages, perform a vital role by managing the shopping function of the town centre to ensure its vitality and viability is not significantly harmed.
- 4.3 The site is currently vacant but has operated as a restaurant and bar for almost 20 years. Therefore there is no objection to the current use within this location. The principle of a commercial use in this part of the Borough is acceptable.
- 4.4 Core Strategy Policy CP8 resists development proposals which involve the loss of existing dwellings, supporting the need to safeguard an adequate stock of single family dwelling houses, and to protect the character of residential areas.
- 4.5 The existing flat is situated above the commercial unit as is commonplace in both Primary and Secondary shopping frontages and although the loss of the flat is regrettable, on balance, the impact of this loss is considered acceptable as it is above a commercial use and would facilitate bringing this ground floor unit back into use in a key location. The limited quality and nature of the existing residential use has also been taken into consideration in reaching this conclusion. The loss of the flat would not have any adverse impact on the character of the area as this is not a primarily residential area.
- 4.6 Therefore it is considered on balance, that the change of use from residential to a restaurant use and the subsequent loss of a residential unit would be acceptable in this location and it would allow the vacant building to be brought back into use in this prominent location within Leigh-on-Sea and add to the vitality of the area. Therefore, subject to the development having an acceptable impact on surrounding occupiers no objection is raised in principle to the proposed use.

Design and impact on the character of the area

National Planning Policy Framework (2012); Core Strategy (2007) Policies: KP2, CP4 and CP8, Development Management Document (2015) Policies DM1, DM3 and DM5, and Design and Townscape Guide (2009)

- 4.7 The key element within all relevant policies is that good design should be a fundamental requirement of new development in order to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide (2009) also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 4.8 Paragraph 56 of the NPPF states that *“good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”*
- 4.9 According to Policy KP2 of the Core Strategy (CS) new development should *“respect the character and scale of the existing neighbourhood where appropriate”*. Policy CP4 of the Core Strategy requires that development proposals should *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 4.10 Policy DM1 of the Development Management DPD states that all development should *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features”*.
- 4.11 Paragraph 396 of The Design and Townscape Guide (2009) states that, *“in conservation areas, development proposals for shopfronts will be carefully controlled in order to preserve and enhance the traditional character and appearance of these areas. The design should be compatible with the individual style of the building and with the local vernacular. It must seek to sympathetically incorporate or reinstate any original features such as fascia scrolls, and use traditional colours and materials.”*
- 4.12 This is also further supported by paragraphs 294 and 295 which consider the importance of locally listed buildings and state *“The purpose of the Local List is to identify buildings, structures and monuments of local architectural or historic importance and to take action as far as possible to preserve them.”* In addition to the guidance elsewhere in this document (Design and Townscape Guide (2009), *“development proposals affecting a locally listed building, including its setting, should respect its local interest and seek to preserve or reinstate architectural features and materials contributing to its interest.”*
- 4.13 Policy DM5 of the Local Plan sets out the protection to be given to Locally Listed Buildings.

Proposals should pay special regard to;

- Preserving or restoring features which contribute to their character.
- Maintaining their scale and proportions.
- Preserving their setting.
- Using appropriate materials.

- 4.14 Paragraph 399 of the Design and Townscape Guide (2009) states that “*external seating for cafes, restaurants and bars brings vitality to the streetscene and will be encouraged where it does not cause obstruction or impede the flow of pedestrians. A minimum of 2 metre width of unobstructed pavement should be maintained although more may be appropriate in certain cases for example in the High Street and other pedestrianised areas.*”
- 4.15 Following consultation with the Councils’ design and regeneration officer, the proposal has been amended to retain the existing shop front in its entirety, with minor alterations only to the external elevations to replace the boarded up window to the side elevation to match the existing window and to provide a non-permanent outside seating area. Therefore in design terms the proposal is considered acceptable.
- 4.16 Bin stores for the development are to be as existing and are situated at the rear of the building and would therefore have very limited visual impact.
- 4.17 Therefore it is concluded, the impact of the development on the character and appearance of the Locally Listed Building, Leigh Conservation Area and the surrounding area in general is acceptable in accordance with policies KP2 and CP4 of the Core Strategy, DM1, DM3 and DM5 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

Traffic and Transport issues

National Planning Policy Framework (2012); Core Strategy (2007) Policies: KP2 and CP3, Development Management Document (2015) Policies DM15 and Design and Townscape Guide (2009)

Parking

- 4.18 No parking provision has been included within the site or is available at the site.
- 4.19 The Council’s Parking Standards maximum parking requirements for an A3 use are:
- Vehicle parking - 1 space per 5sqm.
 - Cycle parking – 1 space per 100sqm for staff and 1 space per 100sqm for customers.
 - Disabled parking – 3 bays or 6% of total capacity.

This would equate to a net increased requirement for the additional first floor restaurant area (154 sqm) of up to 30 spaces.

- 4.20 The site is considered to be accessible location within a main high street position. It is located within reasonable walking distance of Leigh station and is close to cycle routes and bus routes. The site is within the town centre and its associated amenities and is also close to the A13 and A127, Southend to London arterial roads. In these circumstances, there are no highways or parking objection raised to the proposal.

Servicing

- 4.21 Currently servicing and refuse collection for the site takes place on street, within Oakleigh Park Drive and there is formal bin storage to the rear of the premises. Given the layout of the site, the arrangements are considered to be acceptable. The application includes adequate space for waste storage within the accommodation at ground floor with access at the rear.
- 4.22 Therefore the proposed development is considered to meet with Policies CP3 of the Core Strategy and Development Management Document Policy DM15 with regard to parking and servicing.

Impact on residential amenity of both existing occupiers and neighbouring properties.

National Planning Policy Framework (2012); Core Strategy (2007) Policies: KP2, and CP4 Development Management Document (2015) Policies DM1, and DM3 and Design and Townscape Guide (2009)

- 4.23 The building has been operating as a bar/restaurant since 1999, and at the same time the first, second and third floors of the building were converted to 4 flats. In this case the intensification of the use of the A3 use in the building to include the first floor should not have a detrimental impact on the amenity of residents of the remaining flats.
- 4.24 It is considered on balance that, by the implementation of relevant conditions some of which have been recommended by Environmental Health, it is possible to mitigate against any increase in the noise and disturbance experienced by the occupiers of the remaining flats by appropriate soundproofing and limiting the use of the first floor and ground floor to that of restaurant only. Controls can also be implemented on the proposed opening hours of the restaurant. Therefore the proposal is considered to be acceptable and would not have a detrimental effect on the neighbouring resident's amenity.
- 4.25 The application site is located within a busy, relatively noisy, town centre location, an area that is part of the night time economy and as already stated has been in use as a restaurant for many years. There are commercial uses surrounding the development, including restaurant and pub uses. It is therefore not considered that the use of the first floor as a restaurant would significantly increase the impact on the residential neighbours, including those above the restaurant. However conditions can be added to any grant of planning permission to mitigate these as much as possible such as the installation of an acoustic lobby and limiting the hours that deliveries and collections can be undertaken.
- 4.26 The applicant proposes opening hours of 10am – 1am Monday to Sunday, including Bank Holidays, however this is considered to be excessive for this area, therefore a condition can be imposed to restrict the opening hours on these days.

Community Infrastructure Levy (CIL)

Charging Schedule 2015.

- 4.27 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The proposed development includes a gross internal area of 154 sqm, which may equate to a CIL charge of approximately £1694 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the "in-use building" test, as set out in CIL Regulation 40, may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

5.0 Conclusion

- 5.1 There is no objection in principle to the loss of the vacant residential unit and the expanded use of the premises as a restaurant. The design of the external alterations is acceptable and will not cause material harm to the Locally Listed Building or the conservation area. The proposal would not cause any detrimental impact on the character of the area, amenities of neighbouring residents, parking conditions in the area or highway safety.
- 5.2 Therefore having taken all material planning considerations into account, it is found, on balance, that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. This application is therefore recommended for approval subject to conditions.

6.0 Planning Policy Summary

- 6.1 National Planning Policy Framework (2012)
- 6.2 Core Strategy (2007) Policies: KP1: (Spatial Strategy); KP2: (Development Principles); CP1: (Employment Generating Development); CP2: (Town Centre and Retail Development); CP3: (Transport and Accessibility); CP4: (The Environment and Urban Renaissance) and CP8 (Dwelling Provision).
- 6.3 Development Management Document (2015) Policies: DM1: (Design Quality); DM3: (Efficient and Effective Use of Land); DM5: (Southend-on-Sea's Historic Environment); DM13: (Shopping Frontage Management outside the Town Centre) DM15: (Sustainable Transport Management).
- 6.4 Design & Townscape Guide 2009.

7.0 Representation Summary

7.1 Design and Regeneration

Objections have been overcome by the retention of the original shop front both front and side and the replacement of the boarded up window is welcomed. The proposed fixed glazed balustrade has also been removed and there is no objection to the outside seating in principle subject to maintaining sufficient footway. Any changes to the windows and signage would be required to be approved separately.

7.2 Highways

No Objection

7.3 Leigh Town Council

No Objection

7.4 Environmental Health

It appears that the applicant proposes to retain all of the windows at 109-111 Broadway, Leigh-on-Sea. I also note a boarded up window to the flank wall to rear addition will be reinstated. There is no indication that the existing fixed glazed windows are acoustic windows. Controls must be in place to prevent noise escapes from the activities within the premises through these existing fixed glazed windows.

I noted the ground floor front entrance lobby will be retained. However, there is no detail on whether the lobby will be an acoustic lobbied entrance.

According to Section 1.3 of APS Design Associates Ltd.'s Design and Access Statement, there are stairs going up to a second residential unit on the second floor. There is no detail on the installation of acoustic ceiling between the proposed Class A3 first floor area and the second floor residential property nor on the acoustic treatment to the party wall where the stairs going up to the second floor residential unit.

The planning application indicated that the opening hours for the premises are Monday to Sunday (including Bank Holidays) 10am to 1am. Licensing conditions now exempt the need for a license specifically for live music 08:00-23:00hrs. This presents a concern that activities of this nature at the premises will no longer be controllable using the Licensing Act. I therefore have proposed a condition in respect of inaudibility of music from the premises to other noise sensitive premises.

The application of standard conditions regarding plant and music noise from the premises is proposed together with a restriction on structural borne noise.

Recommend the following conditions:

- The rating level of noise for all activities (including amplified and unamplified music and human voices) should be at least 10dB(A) below the background noise (with no tonal elements) to ensure inaudibility in noise sensitive premises. If noise modelling software is used to calculate the likely levels or impact of the noise then any actual measurement taken such as LA90 must be taken in accordance with BS7445. The assessment should be carried out by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics.
- Create an acoustic lobbied entrance to ground floor main entrance of an adequate size and to ensure that the outer door can be closed before the inner door is opened. Except for ingress and egress, both outer and inner doors to the front entrance lobby shall remain closed between 21:00 and 10:00 hours the following day whilst customers remain on the premises.
- All deliveries and collections to be between: 07:00-19:00 hours Monday to Friday and 08:00-13:00 hours Saturday; with no deliveries on Sundays or Bank Holidays.
- During the refurbishment of the premises, construction hours restricted to 08.00 and 18.00hrs Monday to Friday, 08.00 and 13.00hrs Saturday and not at all on Sundays or Bank Holidays.
- Activities at the site shall not give rise to structure borne noise to any noise sensitive premises.

Recommend informatives relating to: Compliance with other regulatory frameworks; need to comply with Food Safety Hygiene Regulations; and guidance relating to extract ducts.

7.5 The application has been referred to Development Control Committee by Councillor Arscott - Member for Leigh Ward.

7.6 **Public Consultation** – 31 properties have been consulted, a site notice displayed at the site and a press advert was published.

3 letters of objection have been received on the following grounds:

- Noise extended hours during the day
- Public Order Problems
- Concern regarding the proposal (Unspecified)
- Problems experienced with previous uses, including noise, activity, anti-social behaviour, litter and obstruction of the highway.
- Noise and disturbance impacts will increase
- Parking and highway impacts will increase

These concerns are noted and they have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

8.0 Relevant Planning History

8.1 **98/0513** - Convert first second and third floor offices into four self-contained flats – Refused and allowed on Appeal

8.2 **98/0450** - Use vacant bank (Class A2) as licensed cafe/bar (Class A3) – Refused and allowed on Appeal.

9.0 RECOMMENDATION

Members are recommended to:

GRANT PLANNING PERMISSION subject to the following conditions:

01 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

02 The development hereby permitted shall be carried out in accordance with the following approved plans: 2565 01, 2565 02, 2565 03 Rev C

Reason: To ensure that the development is carried out in accordance with provisions of the Development Plan.

03 Prior to the commencement of the development hereby approved, details of any external materials to be used in the conversion of the building and the provision of the outside seating area must be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority and maintained thereafter.

Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area and to preserve the character of the Locally Listed Building and Leigh Conservation Area. This is as set out in the National Planning Policy Framework (2012), Core Strategy (2007) Policy KP2 and CP4, Development Management Document (2015) Policy DM1 and DM5 and Design and Townscape Guide (2009).

04 The premises shall not be open for customers outside the following hours:

10am to 11pm Sundays to Thursdays (inclusive), including Public and Bank Holidays

10am to 1am Fridays and Saturdays.

Reason: To protect residential amenity and general environmental quality in accordance with, Core Strategy (2007) Policy KP2 and Development Management Document Policy DM1 and DM3 and Design and Townscape Guide (2009).

- 05 The proposed outside seating area to the front of the premises fronting Broadway and contained within the site boundary, hereby approved shall be removed between 22:00 and 10:00 hours on all days.**

Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document Policy DM1 and Design and Townscape Guide (2009).

- 06 Prior to the first operation of the restaurant, an assessment shall be carried out by a suitably qualified and experienced acoustic consultant (who would normally be a member of the Institute of Acoustics) and submitted to the Local Planning Authority and approved in writing. The assessment shall demonstrate how the rating level of noise for all activities taking place at the premises shall be managed and mitigated so that they are at least 10dB(A) below the background noise (with no tonal elements) level when measured at neighbouring noise sensitive properties. If noise modelling software is used to calculate the likely levels or impact of the noise then any actual measurement taken such as LA90 must be taken in accordance with BS7445. The management and mitigation identified in the approved document shall be fully in place from first occupation of the first floor as a restaurant and the site shall be managed and maintained in accordance with the approved measure in perpetuity thereafter.**

Reason: To ensure inaudibility in noise sensitive premises and to protect the environment of people in neighbouring properties and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document Policy DM1 and Design and Townscape Guide (2009).

- 07 Activities at the site shall be carried out so as to not give rise to structure borne noise to any noise sensitive premises including those within the building to which this application relates.**

Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document Policy DM1 and Design and Townscape Guide (2009).

- 08 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, before the first floor restaurant area hereby approved, is first brought into use, an acoustic lobbied entrance to the ground floor main entrance of an adequate size shall be provided, in order to ensure that the outer door can be closed before the inner door is opened, in accordance with details that have previously been**

submitted to and agreed in writing by the Local Planning Authority. Except for ingress and egress, both outer and inner doors to the front entrance lobby shall remain closed between 21:00 and 10:00 hours the following day whilst customers remain on the premises on all days.

Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document Policy DM1 and Design and Townscape Guide (2009).

- 09 No deliveries and/or collections to the premises shall be undertaken except between: 07:00 to 19:00 hours Monday to Friday and 08:00 to 13:00 hours Saturdays, with no deliveries or collections at all on Sundays, Public or Bank Holidays.

Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document Policy DM1 and Design and Townscape Guide (2009).

- 10 The construction works associate with this permission shall be restricted to between 08:00 and 18:00hrs Monday to Friday, 08:00 and 13:00hrs on Saturdays and not at all on Sundays, Public or Bank Holidays.

Reason: To protect the environment of people in neighbouring properties and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document Policy DM1 and Design and Townscape Guide (2009).

- 11 The development hereby approved shall be used for no purposes other than a restaurant (Use Class A3). The site shall be used for no other purposes falling within Use Class A3 as defined by the Town and Country Planning (Use Classes) Order 1987 as amended or any other use permitted under the Town and Country planning (General Permitted Development) Order 2015 (as amended) or any revocation, amendment or re-enactment of these orders.

Reason: To enable future control to be retained in relation to the use of the building and to reflect the specific circumstances that has provided justification for the proposed use at the application site.

Informatives

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

- 01 Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy Regulations 2010 (as amended). A Community Infrastructure Levy (CIL) Liability Notice will be issued as soon as practicable following this decision notice. This contains details including the chargeable amount, when this is payable and when and how exemption or relief on the charge can be sought. You are advised that a CIL Commencement Notice (CIL Form 6) must be received by the Council at least one day before commencement of development. Receipt of this notice will be acknowledged by the Council. Please ensure that you have received both a CIL Liability Notice and acknowledgement of your CIL Commencement Notice before development is commenced. Most claims for CIL relief or exemption must be sought from and approved by the Council prior to commencement of the development. Charges and surcharges may apply, and exemption or relief could be withdrawn if you fail to meet statutory requirements relating to CIL. Further details on CIL matters can be found on the Council's website at www.southend.gov.uk/cil**
- 02 You will need to get separate planning permission for any alterations to the existing windows and may need advertisement consent if you wish to put up any signage at the property.**
- 03 Compliance with this decision notice does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and also to the relevant sections of the Control of Pollution Act 1974. Contact 01702 215005 for more information**
- 04 The applicant is reminded that this permission does not bestow compliance with the Food Safety and Hygiene (England) Regulations 2013 or any other provision so enacted, such as those located within the Food Safety Act 1990. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services Department, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ZG**

- 05 For further guidance on the control of odour and noise from ventilation systems you are advised to have regard to – Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems published by DEFRA. This can be downloaded free from www.DEFRA.Gov.UK**