

Reference:	20/01518/AMDT
Application Type:	Minor Amendment
Ward:	Leigh
Proposal:	Application to vary conditions 02 (approved plans), 04 (details of new doors, new dormer windows and terrace balustrading/railings) and 13 (operate as restaurant only) - amendments to fenestration and to provide takeaway facilities - (Minor Material Amendment to Planning Permission 17/02280/FUL dated 25.01.2019)
Address:	Scout Hall, 52 High Street, Leigh-On-Sea
Applicant:	Mr J Batson
Agent:	Mr Colin Stone of Stone Me Ltd
Consultation Expiry:	8th December 2020
Expiry Date:	8th January 2021
Case Officer:	Abbie Greenwood
Plan Nos:	1920-06a, 1920-03c, 1920-05c Sample Menu
Recommendation:	GRANT PLANNING PERMISSION



1 Site and Surroundings

- 1.1 The existing building dates from the early twentieth century and was originally built as the Fisherman's Chapel. It was more recently owned by Southend West Scouts however it is understood that the building has not been used by the scouts from some time. Planning permission was granted in 2018 for the conversion of the building to a restaurant under application reference 17/02280/FUL. Works have commenced on this project but have since stalled. The building is currently vacant.
- 1.2 The building is sited on a raised concrete plinth which affords it additional presence in the streetscene. It is a simple gabled form, clad with feather edged weather boarding which was originally stained black, but this has since worn off to give a more natural wood finish. The building has tall sash windows to the front which originally extended into the roof. The top sections have since been over clad with weatherboarding. The roof is modern felt which is considered to have a negative impact on the historic character of the building, particularly when viewed from Leigh Conservation Area to the north where it is more prominent. The original wrought iron railings to the raised terrace have also been lost. Nevertheless the building is still very distinctive and makes a positive contribution to the character of the conservation area. There is, however, potential for enhancement through the reinstatement of the lost features and materials.
- 1.3 The site is located at the western end of Leigh Old Town Conservation Area adjacent to the Crooked Billet Public House. The pub is grade II listed and one of the oldest buildings in the conservation area. The Billet marks the entrance to the Old Town from the west. The rest of the conservation area to the east contains some traditional and modern housing of modest scale, three other pubs and a few retail outlets.
- 1.4 To the rear of the site, across the railway, is the southern boundary of Leigh Conservation Area, which comprises the development on the hillside facing the Old Town.
- 1.5 The site is part in flood zone 3, part in flood zone 2 and part in flood zone 1.

2 The Proposal

- 2.1 Planning approval was granted on 25th January 2018 (application ref 17/02280/FUL) to change of use of the building from scout hall/gym (class D2) to restaurant (class A3), install extract flue to rear, refuse area to west side and alter front elevation. A number of conditions of this consent were discharged under application reference 18/01760/AD and works commenced, however, the development has now stopped pending the outcome of this application and another pending application for canopies to the front and side and an enlarge rear storage area (reference 20/01467/FUL).
- 2.2 The current application is seeking to vary conditions 02 (approved plans), 04 (details of new doors, new dormer windows and terrace balustrading/railings) and 13 (operate as restaurant only) of the original permission. The amendments seek to change two of the windows on the front elevation into French doors. The application is also applying to allow the option to provide takeaway facilities as part of the proposed restaurant operation.

The restaurant was previously conditioned to be open to customers between 10am to 12-midnight but the agent has confirmed that the takeaway facility is only proposed to be operational between 10am and 9pm.

2.3 The original conditions were as follows:

02 The development hereby permitted shall be carried out in accordance with the following approved plans 17-Clarendon-01B, 17-Clarendon-02A, 17-Clarendon-03B, 17-Clarendon – 04A

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

04 Prior to the commencement of development, detailed design drawings of the new doors, new dormer windows and terrace balustrades/railings at scales of 1:20, 1:10 or 1:1 as appropriate shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out and in accordance with the approved details before it is brought into use.

Reason: A pre commencement condition is needed to safeguard character and appearance of the historic building and the surrounding Leigh Old Town Conservation Area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advise contained within the Southend Design and Townscape Guide (2009).

13 The use hereby approved shall operate solely as a restaurant falling within Class A3 of the Town and Country Planning Use Classes Order 1987 (as amended) for the consumption of food on the premises. The use shall not provide take away facilities of any kind for customers.

Reason: In order to protect the amenities of occupiers of surrounding occupiers and highway safety in accordance with policies KP2, CP3 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM15 of the Development Management Document (2015)

2.4 As noted above the proposal is one of two current applications which are pending at this site. The other application reference 20/01467/FUL is seeking to erect canopies to the front and west side and an enlarged extension to the rear. These applications will be considered separately.

3 Relevant Planning History

3.1 20/01467/FUL - Erect single storey rear and side extension, lean to porch to west elevation, install metal canopy to front with corrugated metal roof, metal balustrading to front and side elevations and alter elevations – pending consideration.

3.2 18/01760/AD - Application for approval of details pursuant to condition 03 (Details of Materials), condition 04 (Details of Doors and Balustrades), condition 05 (Details of Waste Storage), condition 06 (Details of Cycle Storage), condition 07 (Details of Chimney) and condition 08 (Details of Extraction and Mitigation) of planning permission 17/02280/FUL dated 4/4/2018 – details agreed

- 3.3 17/02280/FUL - Change of use from scout hall/gym (class D2) to restaurant (class A3), install extract flue to rear, refuse area to west side and alter front elevation – granted

4 Representation Summary

4.1 Public Consultation

39 neighbouring properties were consulted, a site notice posted and a press notice published. A second consultation was undertaken in relation to amended plans. In total 33 letters of representation have been received for the two consultations raising the following summarised issues:

- Impact on neighbour amenity.
- Concern over increased noise due to additional doors in the front elevation, including internal music, and takeaway facility.
- The new owner should accept the previous conditions.
- No takeaway licence has been granted.
- There are already too many restaurants and takeaways in the Old Town.
- Concerns about litter, pollution and impact on the environment, noise from customers, anti-social behaviour and health and safety issues - litter is currently cleared by local residents.
- Lack of parking and traffic congestion.
- Concern over cars waiting outside for takeaway collections.
- Impact on neighbours privacy - terrace overlooking bedrooms.
- These concerns cannot be addressed by a 9pm curfew on takeaway.
- The proposal should include sound insulation.
- The existing parking restrictions in front of the site need to be better enforced.
- Concern that customers will block neighbouring parking areas.
- The proposal is not appropriate for a conservation area.
- The proposal is contributing to the change in character of the Old Town which is losing its character as a quiet fishing village.
- Over development.
- Cost to the public of increased need for rubbish collection.
- The application boundary impacts on others land.

Officer Comment: These concerns are noted and those that represent material planning considerations 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.

Highways Team

- 4.2 There are no highway objections to this proposal.

Environmental Health

- 4.3 No objections subject to conditions relating to opening hours and closing doors to terrace at 2200.

The previous noise conditions and agreed details still apply.

Natural England

- 4.4 No comments on amended proposal.

Committee Call In

- 4.5 This application was called to committee by Cllr Mulronev.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)

National Planning Policy Guidance

National Design Guide (2019)

- 5.2 Core Strategy (2007) Policies KP1(Spatial Strategy), KP2 (Development Principles), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility) CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure)
- 5.3 Development Management Document (2015) policies DM1 (Design Quality), DM2 (Low Carbon and Development and Efficient Use of Resources) DM3 (Efficient and effective use of land), DM5 (Southend-on-Sea's Historic Environment), DM6 (The Seafront) and DM15 (Sustainable Transport Management)
- 5.4 Southend Design & Townscape Guide (2009)
- 5.5 Leigh Old Town Conservation Area Appraisal (2010)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 This application is for the variation of conditions relating to the detailing of the front fenestration and the provision of takeaway facilities only. In all other respects the proposal remains unchanged from that previously approved under reference 17/02280/FUL and subsequent approval of details application 18/01760/AD. The only considerations in relation to this application therefore are the implications of the proposed changes including alterations to the design and the inclusion of a takeaway as part of the main operation as a restaurant. These changes will need to be assessed in relation to the impact on design of the building and the wider conservation area, impact on neighbour amenity and traffic and transportation. It is noted that the principle of an A3 restaurant use, flood risk and impact on traffic and highways and neighbours in relation to the restaurant use including extraction, the use of the terrace for customer seating and noise implications from restaurant customers, were previously considered and found to be acceptable in the original application.
- 6.2 It is noted that The National Planning Policy Framework has been revised since the approval of the initial application in 2018, however, the national and local policy framework has not changed in any material respects as regards this proposal.

7 Appraisal

Principle of Development

- 7.1 The principle of a change of use from D2 (leisure) to A3 was previously found acceptable under application reference 17/02280/FUL including in relation to flood risk implications. This therefore remains acceptable under the current proposal. This amendment application is seeking to vary the initial approval to allow the proposed restaurant to offer a takeaway service as a secondary ancillary element of the proposed restaurant business which was prevented by condition in the initial approval. The application is not seeking a full or part change of use of the building. The application is also looking to make changes to the fenestration on the front elevation. It is considered that these changes fall within the scope of a Section 73 application as the description of development remains unchanged and there are no extensions to the building envelope. The principle of the proposal therefore remains acceptable subject to the detailed considerations below.

Design and Impact on the Character of the Area

- 7.2 Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990 defines conservation areas as *'areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'*. In determining this application the Council has a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that special attention should be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas.
- 7.3 Paragraph 124 of the NPPF states *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations and how these will be tested, is essential for achieving this.'*
- 7.4 Policy KP2 of the Core Strategy advocates the need for all new development to respect the character of the existing neighbourhood where appropriate and secure urban improvements through quality design. Policy CP4 of the Core Strategy states that development proposals will be expected to contribute to the creation of a high quality, sustainable, urban environment which enhances and complements the natural and built assets of Southend by maintaining and enhancing the amenities and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.
- 7.5 Policy DM1 of the Development Management Document advocates the need for the Council to support proposals that add to the overall quality of an area, respect the character of the site, its local context and surroundings giving appropriate weight to the protection of heritage assets.
- 7.6 Policy DM5 of the Development Management Document seeks to protect the special character of the Boroughs Conservation Areas. In relation to this the pre ample to Policy DM5 of the Development Management Document states that:

'To conserve and enhance the character and quality of the Conservation Areas, development proposals, both traditional and modern, will have to be carefully considered and demonstrate a high quality design that not only integrates with the surroundings but also conserves and enhances its intrinsic character and distinctiveness.'

- 7.7 Policy DM6 of the Development Management Document also seeks to protect the unique character of the seafront including Leigh Old Town.
- 7.8 The problems and pressures facing the conservation area are identified in the Leigh Old Town Conservation Area Appraisal which states that:

'6.1.1 The primary pressure on the Conservation Area is the need for the businesses to operate in a modern and profitable manner. This is resulting in loss of character owing to increasingly inappropriate advertising and signage, cheap and ugly additions to buildings and inappropriate boundary treatments among other problems.'

6.6.6 The number of tourists visiting in fine weather puts pressure on the town in the same way as it does in most resorts. This has an impact on car parking and traffic levels as well as pubs and cafes which must stretch to accommodate these.'

- 7.9 The policies above therefore support improvements to the leisure offer in the Old Town provided these are not at the expense of its heritage assets including the special character of historic buildings in the conservation area.
- 7.10 The proposal seeks to change two of the windows on the front elevation into French doors. These will open onto the adjacent terrace which is proposed to be used for outside dining. The new doors have been designed to reference the main entrance in their proportion and detailing but have full height small pane glazing rather than half height glazing. Full details of the proposed doors have been submitted with the application. This confirms that they will be timber and the glazing detail will be consistent with the remaining windows on the frontage. The reinstatement of the dormer glazing at high level remains part of the proposal.
- 7.11 The existing building was originally a chapel. It has simple elevations which are domestic in appearance. The building makes a positive contribution to the character of the conservation area. The principle of new fenestration has previously been accepted under application reference 17/02280/FUL. The proposed change from windows to doors will alter the look of the building from the street, however, the changes are modest and the new doors have been designed to match in with the existing arrangement in terms of proportion and detailing. This will ensure that they do not look out of place on the building or in the wider context. Overall, it is considered that the proposed changes to the frontage will have an acceptable impact on the character of the existing building and the wider conservation area.
- 7.12 In all other respects the proposal remains the same as previously approved under application 17/02280/FUL and associated approval of details application reference 18/01760/AD. It is noted that a metal cowl has been installed in the rear roof slope which is considered to have a detrimental impact on the character of the building and wider conservation areas. This has not been agreed and will need to be removed and replaced with the approved false chimney details previously agreed for the flue.

The agent has been informed that if this is not forthcoming then it is likely to result in enforcement action. An informative will be added to this decision in relation to this issue. Overall, it is considered that the proposal would have an acceptable impact on the character, appearance and setting of the existing building and the conservation areas and is policy compliant in this regard.

Impact on Residential Amenity

- 7.13 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities “*having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.*”

Impact on the amenities of neighbours form the proposed ancillary takeaway service

- 7.14 The proposal seeks planning permission to allow the restaurant to also offer takeaways as part of the main restaurant operation. The agent has confirmed that the takeaway facility will only operate until 9pm each day and that it will only be open when the restaurant is open except in the event of another pandemic lockdown situation. A sample menu has also been provided which gives a flavour of the intended business although it is noted that the type of food served is outside of planning controls.
- 7.15 The plans show that one of the new doors on the front elevation will be used by takeaway customers. A small lobby will be created with a waiting area and screen divide to the main eating area. This will provide an internal waiting space for customers and prevent noise egress from the dining area. It is likely that the ancillary takeaway facility will result in a small increase in customers accessing the premises, however, this function is ancillary to the main business and will cease at 9pm each day. Overall, given that the Old Town is generally a lively place until this time, it is considered that the takeaway function would not have a materially harmful impact on the amenities of neighbours subject to a condition requiring it to finish at 9pm.
- 7.16 Concerns have also been raised in relation to litter and anti-social behaviour arising from the ancillary takeaway function, however, it is considered that these concerns would not be at a scale or level of impact that would warrant a refusal of the application. Other bodies, such as the police and environmental health may also have powers to control these matters.
- 7.17 The Council’s Environmental Health Officer has reviewed the proposal and has not raised any objections to the proposed ancillary takeaway function subject to a condition relating to operating hours. It is therefore considered that the impact of an ancillary takeaway offer as part of the proposed restaurant would not have an unacceptable impact on the amenities of neighbours in any regard.

Impact on the amenities of neighbours form the fenestration amendments

- 7.18 The proposal also includes the change of two windows on the front elevation to French doors which lead onto the terrace. Concerns have been raised that this could increase customer noise escaping from the restaurant. The previously approved application reference 17/02280/FUL included a condition which required that the terrace was closed to customers from 2200 to close of business (2400) each day.

It is recommended that the terrace hours of use condition from the 2017 consent be applied but that it is amended to also include a requirement to ensure that the terrace doors were also closed after this time to prevent noise escaping from the main dining area in the later hours. Subject to this condition, it is considered that the proposed alteration of the front elevation to include French doors would not have an unacceptable impact on the amenities of neighbours.

- 7.19 In all other respects the proposal remains the same as previously approved under application 17/02280/FUL. The agent has confirmed that the same extraction equipment and false chimney flue, which were previously found to be acceptable in terms of neighbour impact and agreed under application reference 18/01760/AD, will be installed.
- 7.20 The previous application was considered to have an acceptable impact on neighbour amenity subject to conditions relating to plant and extraction noise and odour control, internal customer and music noise levels, hours of use of the terrace, delivery hours, opening hours for the restaurant, no tables or chairs to the front of the building at ground level and construction hours and these conditions remain relevant to the current proposal.
- 7.21 Therefore, subject to the conditions noted above, the amended proposal is considered to be acceptable and policy compliant in its impact on neighbour amenity.

Traffic and Transportation Issues

Impact on traffic and transportation form the proposed ancillary takeaway service

- 7.22 It is likely that the takeaway facility will result in a small increase in customers accessing the premises however this function is ancillary to the main restaurant use and will cease at 9pm each day. It is considered that the takeaway function would most likely serve existing visitors to the Old Town as part of linked trips and the number of new trips accessing the takeaway only is likely to be limited. In addition, as noted on the previous application, there is a public car park at Belton Bridge a short walk from the site and other cars parks within the Old Town to the east. The Councils Highways Officer has not raised any concerns to the application including in relation to parking or traffic congestion. The amended proposal is therefore acceptable and policy complaint in this regard.
- 7.23 In all other respects, including the absence of off street parking for the restaurant use, provision of waste and recycling and staff cycle storage, the proposal remains the same as previously approved under application 17/02280/FUL and the subsequent approvals of details application 18/01760/AD. This application was considered to have an acceptable impact on traffic and highways subject to conditions relating to the provision and retention of waste storage and staff cycle storage facilities and these conditions remain relevant to the current proposal.
- 7.24 The amended proposal is therefore acceptable and policy complaint in regard to traffic and transportation issues subject to the conditions noted above.

Community Infrastructure Levy (CIL)

- 7.25 The proposed development is for a commercial to commercial change of use with no increase in floorspace. The proposal is therefore not CIL liable as it benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that the amended fenestration arrangements and operation of an ancillary takeaway facility until 9pm each day falls within the remit of a Section 73 application and the changes are found to be acceptable in terms of design and impact on the conservation area, impact on neighbours and traffic and transportation. Conditions 02, 04 and 13 of application reference 17/02280/FUL can therefore be varied to this effect.
- 8.2 In all other respects including the principle of the change of use to a restaurant and flood risk, design and impact on the conservation area, impact on neighbours, highways impact, the proposal is the same as application reference 17/02280/FUL which was found to be acceptable and compliant with the objectives of the relevant development plan policies and guidance subject to conditions. There have been no material changes in policy since this time. This application is therefore recommended for approval subject to conditions.

9 Recommendation

- 9.1 **MEMBERS ARE RECOMMENDED TO GRANT PLANNING PERMISSION** subject to the following conditions:

01 The development hereby permitted shall begin not later than 4th April 2021.

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 1920-06a, 1920-03c, 1920-05c

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

03 The materials for the development hereby approved shall only be matt black stained timber featheredged weatherboarding for the walls and dormer cheeks, black painted acoya timber with 6mm laminated safety glass to BS6206 for the windows and doors, black painted wrought iron for the terrace balustrade, black quarry tiles for the terrace flooring, red stock brick slips, lead capping and traditional clay pots for the flue chimney, no change to the existing roof covering or guttering, black painted timber gates to waste storage area and cycle storage areas.

Reason: To safeguard character and appearance of the historic building and the surrounding Leigh Old Town Conservation Area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advise contained within the Southend Design and Townscape Guide (2009).

04 Prior to the first occupation of the building for A3 purposes, the windows and doors shall be installed in full accordance with the details set out on plan reference 1920-05C and the terrace balustrading shall be black painted 16mm bars with finial style F (W Farthing & Sons) and flat top posts as previously submitted to and approved in writing by the local planning authority under the approval of details application reference 18/01760/AD (condition 04) or alternative refuse and recycling details that have previously been submitted to the local planning authority and approved in writing under the terms of this condition. The development shall be implemented in accordance with the approved details from first occupation for the proposed use and be maintained as such in perpetuity.

Reason: A condition is needed to safeguard character and appearance of the historic building and the surrounding Leigh Old Town Conservation Area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advise contained within the Southend Design and Townscape Guide (2009).

05 Prior to the first occupation of the building for A3 purposes, the refuse and recycling arrangements shall be implemented in full accordance with the details previously submitted to and approved in writing by the local planning authority under the approval of details application reference 18/01760/AD (condition 05) or alternative refuse and recycling details that have previously been submitted to the local planning authority and approved in writing under the terms of this condition. The development shall be implemented in accordance with the approved details from first occupation for the proposed use and be maintained as such in perpetuity.

Reason: To ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding conservation area, in accordance with Policies KP2, CP3 and CP4 of the Core Strategy (2007) and Policies DM1, DM5 and DM15 of the Development Management Document (2015).

06 Prior to the first occupation of the building for A3 purposes the staff cycle parking arrangements shall be implemented in full accordance with the details previously submitted to and approved in writing by the local planning authority under the approval of details application reference 18/01760/AD (condition 06) or alternative staff cycling storage details that have previously been submitted to the local planning authority and approved in writing under the terms of this condition. The development shall be implemented in accordance with the approved details from first occupation for the proposed use and be maintained as such in perpetuity.

Reason: To ensure the provision of adequate cycle parking in accordance with policies DM8 and DM15 of The Development Management Document (2015).

07 Prior to the first occupation of the building for A3 purposes the chimney extraction flue shall be installed in full accordance with the details which have been previously submitted to and approved in writing by the local planning authority under the approval of details application reference 18/01760/AD (condition 07) or alternative chimney and extraction flue details that have previously been submitted to the local planning authority and approved in writing under the terms of this condition. The development shall only be implemented in accordance with the approved details from first occupation for the proposed use and be maintained as such in perpetuity.

Reason: A condition is needed in order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character and visual amenities of the conservation area in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document 2015.

08 Prior to the first occupation of the building for A3 purposes, extraction and odour control equipment, and associated noise mitigation measures, shall be installed in full accordance with the details which have been previously submitted to and approved in writing by the local planning authority under the approval of details application reference 18/01760/AD (condition 08) or alternative extraction and odour control details and associated noise mitigation that have previously been submitted to the local planning authority and approved in writing under the terms of this condition. The installation of extraction equipment shall be carried out in full accordance with the approved details and any noise and odour mitigation measures undertaken in association with the agreed details before the use hereby approved is commenced. With reference to BS4142 the noise rating level arising from all plant and extraction/ventilation equipment shall be at least 5dB(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character. The rating level of noise for all activities (including amplified and unamplified music and human voices) shall be at least 10dB(A) below the background noise to ensure inaudibility in noise sensitive premises.

Reason: In order to protect the amenities of the surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

09 The class A3 (restaurant) use hereby permitted shall not be open to customers outside the following times: 09:00 until 24:00 hours on Monday to Sundays including Bank Holidays from May through to and including September and 12:00 until 24:00 hours Mondays to Sundays including bank holidays from October through to and including April. The ancillary takeaway element of this operation shall not be available to customers outside the following times: 09:00 and 21:00 Mondays to Sundays including bank Holidays.

Reason: In order to protect the amenities of occupiers of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

10 The entire raised terrace area shall not be used by customers for the consumption of food or drink or for smoking from 22:00 hours until the close of business on all days. Additionally all doors accessing the terrace shall be closed, except temporarily for access and egress, from 22:00 to 09:00 on all days.

Reason: In order to protect the amenities of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

11 No deliveries or refuse collection shall be taken at or despatched from the A3 use hereby permitted other than between the hours of 07:00 to 18:00hours Mondays to Fridays and 08:00 to 13:00hours on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

12 Construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time Sundays or Bank Holidays.

Reason: In order to protect the amenities surrounding occupiers and to protect the character the area in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

13 No tables, chairs, other furniture or permanent or temporary means of enclosure shall at any time be placed on the area at ground floor (public footway) level to the front of the premises.

Reason: In order to protect amenity and for the safe and efficient use of the adjacent public highway including the safe and convenient movement of pedestrians in accordance with policies KP2 and CP3 of the Core Strategy (2007) and Policies DM1 and DM15 of the Development Management Document (2015).

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission 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.

Informatives

01 You are advised that as the proposed development equates to less than 100 sqm of additional floorspace so the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

02 The applicant is advised that the galvanised metal cowl and galvanised metal grille that have been installed on the rear roofslope do not accord with the previously approved details or the current application and are therefore unauthorised. The cowl needs to be removed and the grille needs to be painted black. Failure to do this within a timely manner is likely to result in enforcement action.

03 The applicant is advised that according to this Department's record, asbestos containing materials may be present within the structure of walls at 52 High Street, Leigh-on-Sea, Essex. An asbestos survey at this address should therefore be carried out by a suitably qualified person before any structural work being carried out at the premises. Any asbestos containing material (ACM) must be removed and disposed off site to a facility licenced by the Environment Agency. A waste transfer certificate should be made available for inspection by authorised officer from this Authority on request.

04 The applicant is advised that 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.

05 The applicant is reminded that this permission does not bestow compliance with the Food Safety and Hygiene (England) Regulations 2014 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 The applicant is advised that any waste food collection must be undertaken by a licenced operator

06 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the Borough.

