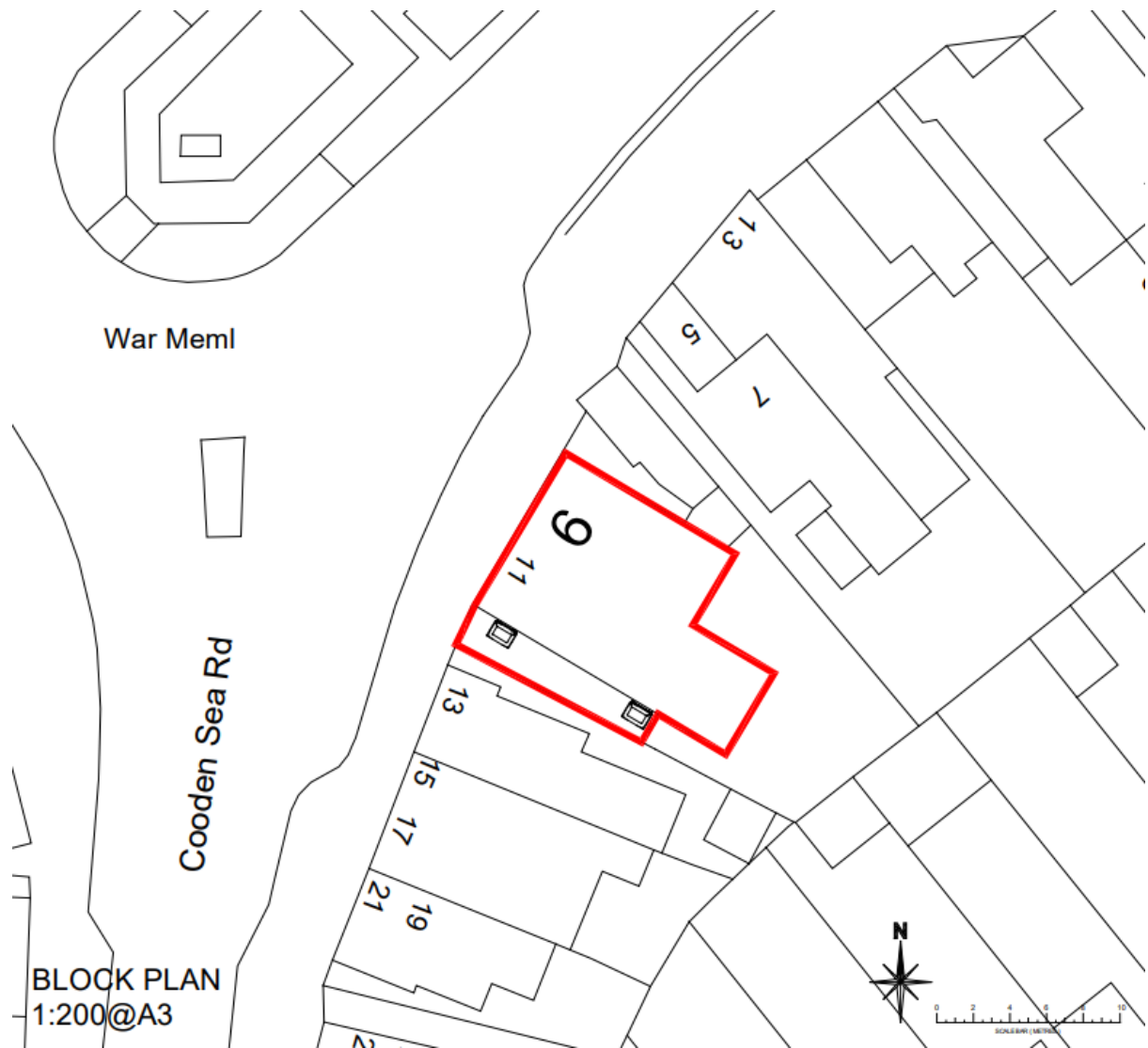


SITE PLAN

RR/2022/164/P

BEXHILL

9 Cooden Sea Road



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Not to Scale

Rother District Council

Report to - Planning Committee
Date - 26 May 2022
Report of the - Director - Place and Climate Change
Subject - RR/2022/164/P
Address - 9 Cooden Sea Road, Bexhill TN39 4SJ
Proposal - Change of use from a Property Advisory Firm (Use Class E) to a Hot Food Takeaway unit (Sui Generis) including associated external alterations

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **APPROVE FULL PLANNING PERMISSION**

Director: Ben Hook

Applicant: Papa Johns GB Ltd
Agent: Miss K. Gregory Pegasus Group
Case Officer: Mr M. Simmonds
(Email: mark.simmonds@rother.gov.uk)

Parish: Bexhill Kewhurst
Ward Members: Councillors B.J. Drayson and L.M. Langlands

Reason for Committee consideration: Director – Place and Climate Change referral: Councillor Call-In – Councillor Drayson for the following reasons:
Lack of parking

Statutory 8-week date: 18 March 2022
Extension of time agreed to: 30 May 2022

This application is included in the Committee site inspection list.

1.0 SUMMARY

1.1 The proposal is for a change of use from a Property Advisory Firm (Use Class E) to a Hot Food Takeaway unit falling within Use Class Sui Generis of the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposal includes minor external alterations to the building to accommodate the proposed use.

- 1.2 The property lies within the Little Common District Centre, adjacent the A259 trunk road at its junction with Cooden Sea Road and is considered to be a sustainable location.
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2.0 SITE

- 2.1 The application site is located amongst a parade of shops along Cooden Sea Road and falls within the defined District Centre. The unit was formally used for professional services, but now is a vacant unit and forms the ground floor unit of an existing three-storey building. Only the ground floor is subject to this application.
- 2.2 There are a limited number of on-street parking spaces outside the site on the road, including loading facilities, restricted between 8am and 6pm to two hours. The site is located within a sustainable location with access to public transport i.e. bus stops. Two existing takeaways are located to the south of the site.
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3.0 PROPOSAL

- 3.1 The proposal is for the change of use from a Property Advisory Firm (Use Class E) to a Hot Food Takeaway unit falling within Use Class Sui Generis of the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposal includes minor external alterations to the building to accommodate the proposed use.
- 3.2 The application is accompanied by a number of plans which detail the proposed alterations. These include the retention of the north western facing shopfront and on the side (south west) elevation an extract grille, a fresh air intake grille, 2 No. condenser units will be installed in association with the use. On the northwest a boiler flue is also proposed.
- 3.3 The internal alterations include the creation of a customer reception area including seating and sales counter, a kitchen containing oven, freezer, preparation and dispatch area, cold storage, dry storage and a wash up area and WC. There will also be a control hub/office which will be used for the operational management of the store.
- 3.4 The supporting information confirms that the extraction system will remove heat produced during the cooking process and the air supply system would remove oven fumes and ventilate the premises. Air intake and extract grilles will be installed on the side elevation of the premises in association with the operation of the system and these shall discharge at low level.
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4.0 HISTORY

- 4.1 RR/2003/2151/P for the Change of Use to A2 Licensed Betting office. The application was Approved (Conditional) on 11/11/03.
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5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- OSS3: Location of Development
 - OSS4: General Development Considerations
 - EC3: Existing Employment Sites
 - EC7: Retail Development
 - TR3: Access and New Development
 - TR4: Car Parking
- 5.2 The following policies of the [Development and Site Allocations Local Plan \(DaSA\)](#) are relevant to the proposal:
- DCO1: Retention of Sites of Social or Economic Value
 - DEC1: Shopfront, Signage and Advertising
 - DEC3: Existing Employment Sites and Premises
 - DIM2: Development Boundaries
 - BEX17: Little Common and Sidley District Centres
- 5.3 The National Planning Policy Framework and Planning Policy Guidance are also material considerations.
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6.0 CONSULTATIONS

6.1 [Highways England](#) – **NO OBJECTION**

6.2 [Environmental Health](#) – **RECOMMENDS CONDITIONS**

6.3 [Highways Authority](#) – **NO OBJECTIONS** and makes the following comments:
“This planning application is for a change of use from a Property Advisory Firm (Use Class E) to a Hot Food Takeaway unit (Sui Generis) including associated external alterations. I have no major concerns regarding the development proposal and therefore do not wish to object.

The application site is located amongst a parade of shops along Cooden Sea Road. The unit is located on the ground floor of a three-storey building and has a shop frontage and pedestrian access to Cooden Sea Road. The upper floors are not associated with the unit and do not form part of this application.

The site was previously used as a licensed Betting office; however, most recently it has operated as an independent property real estate advisory business. The proposed development comprises a change of use from a Property Advisory Firm to a Hot Food Takeaway unit.

The submitted information states that three deliveries to the site will be made per week; two food deliveries from the main distribution centre, using fixed-bed ten tonne delivery vehicles; and one by the drinks supply partner, utilising a 7.5 tonne non-articulated delivery vehicle. Food deliveries would be made on regular days to maintain stock levels in the store. Delivery vehicles need only be present at the site for approximately 20 minutes.

I have some concern that on-street parking in the immediate vicinity of the site is limited and so use of the takeaway may encourage customers to park in inappropriate places while collecting their food; however, this would be no different for customers visiting the existing or previous commercial uses of the site or any of the neighbouring businesses along this stretch of road. The site is also in an accessible location with alternative means of travel available to customers.

The submitted information also states that indicative figures derived from the Applicant's other stores indicate that traffic movements generated by the proposed use are typically low and that on average, 75% of orders are made online or by telephone and for delivery from the site.

Parking for delivery vehicles could also potentially be difficult in the immediate vicinity of the site and although it is stated that deliveries could be made to the rear of the store this does not appear possible. Nonetheless, only three deliveries to the store are required per week and whilst the lack of designated loading area is not ideal deliveries to the site could be managed in the same way as those associated with the neighbouring shops, restaurants and takeaways.

Overall, the limited on-street parking and the lack of a designated loading bay available in the immediate vicinity of the site is not ideal; however, I am satisfied that the proposed change of use is unlikely to have a significant impact on any existing on-street parking pressures in the immediate vicinity of the site and therefore a highway objection could not be justified.”

6.4 Planning Notice

6.4.1 11 objectors submitted representations. The concerns raised are summarised as follows:

- The proposed condensing units at the side would generate noise and smells and the opening hours until 11pm and virtually every day would cause a great deal of disturbance as my bedrooms overlook this. We have more than enough food takeaways at Little Common and we already have a problem with rats.
- This is an area of private housing and small shops. The noise overnight and daily as this centre for distribution will be significant. The parking and loading and unloading will be a traffic obstruction and noisy. Little Common is too small to accommodate such an operation.
- This is a difficult access especially when vehicles fill the limited parking bays at this road entrance. The requirement for large trucks to make deliveries several times per week into the rear of the premises, where there is no vehicular access, will necessitate parking for unloading whether the limited number of bays outside the premises are unoccupied or not. There is a serious risk of road blockage and accident under these circumstances and is likely to be exacerbated by delivery vehicles associated with the retail operations proposed.
- There is already enough take away restaurants in the area which causes parking problems for residents as customers seem to think that private parking is a free for all. There is also enough litter in the area along with a fly tipping haven for all.
- Little Common roundabout is already a nightmare to navigate, a take-away/delivery business will create more problems and it's not what a

village centre needs. Give us quality retail outlets on a 9-5pm basis that will benefit the people that live here, a pizza parlour is inappropriate for this site.

- Another fast takeaway food outlet does nothing to enhance the "village", causes more traffic / parking issues, increases litter. Causes a nuisance to the immediate neighbours with smells and noise.
- No facilities for either delivery vehicles or customer parking in an already congested area.
- Just going to clog up the roundabout even more especially with delivery companies. Might make sense opposite Tesco Express where co-op was but not the proposed location especially as you are still charging people to use the little common car park (east way) which used to be free and you can park in some parts of central Bexhill for free even. So those free spaces will be full even more than now and will be an extra danger to pedestrians and cars with all the extra activity delivery wise. If it was just an eat in restaurant then I would not be objecting.
- fails to meet even the minimum staff, delivery and user parking requirements of the East Sussex County Council SPD 'Guidance for Parking at Non-Residential Development' and fails to meet the National Planning Policy Framework Para 104 to 113 which clearly states that applications should be refused on planning and transport grounds where "the cumulative impacts of development are 'severe'. At this location there are on 5 regulated parking spaces serving the existing shops, a busy local butcher, both an Indian and a separate Fish restaurants and takeaways plus a Cashpoint Machine, Therefore the cumulative impact will be "severe" and generate double parking and highway safety issues.
- A new takeaway pizza shop next door to an existing takeaway will be detrimental to the business and other businesses around our village. After Covid-19 and a surge in energy, living and business prices rising already causing a struggle, business owners feel it will have a large effect on our income and local loyal trade, and not for the better. The late and loud operational running hours of this new business would be a negative impact as well as a heavy build-up of income traffic which some would say is bad enough already.
- Totally inappropriate area for yet another take-away business. The immediate area is already plagued with parking problems with double parking an increasing issue.

Six letters of support have been received. The reasons are summarised as follows:

- Thank goodness it's not another residential development, but a useful business for the local community to enjoy.
- Support the village businesses and keep local shops alive.
- It will bring loads of new jobs to the area.
- It would bring one of the most biggest/popular UK pizza chains local to the area already showing great success to towns near Eastbourne and Hastings. This would create extra jobs for the community and will bring additional passing trade that gives the potential for other businesses to benefit.
- Given this present economic climate and the pandemic over the last couple of years it is lovely to see something positive being introduced to this village. A takeaway pizza restaurant is far more appealing than looking at yet another derelict building.

- Nice to see an empty shop being filled that will provide numerous job opportunities to local people.

6.3 Town/Parish Council – **NO COMMENTS RECEIVED**

7.0 LOCAL FINANCE CONSIDERATIONS

- 7.1 The proposal is for a type of development that is not Community Infrastructure Levy liable.
- 7.2 There are no other Local Finance Considerations.
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8.0 APPRAISAL

8.1 The main issues are considered to be:

1. Principle of development
2. Impact on the character and appearance of the property and street scene
3. Highways
4. Environmental Health
5. Other Matters

8.2 Principle of Development

8.2.1 Principle of Development OSS3 of the Rother Local Plan Core Strategy stipulates that in assessing the suitability of a particular location for development, when determining planning applications, sites and/or proposals should be considered in the context of the spatial strategy for the particular settlement or area, and its distinct character.

8.2.2 Policy OSS4 states that all development should be compatible with both the existing and planned use of adjacent land and takes full account of previous use of the site. Policy EC3 states that land and premises currently in employment, including tourism, use will be retained in such use unless it is demonstrated that there is no reasonable prospect of its continued use for employment purposes or it would cause serious harm to local amenities. The policy also permits intensification, conversion, redevelopment and/or extension having regard to other policies of the plan.

8.2.3 Policy BEX17 identifies Little Common as a District Centre and the primary focus for retail and other town centre uses and Hot Food Takeaways are generally considered an appropriate use in the town centre. Policy BEX17 also sets out principles which resist the loss of units within Use Class A1, which is now Use Class E, within District Centres. The site history details the Unit as most recently being a Property Advisory Company, having formerly operated as Betting Office (within Use Class A2 when that use was approved). A Property Advisory service would now fall under the new Class E use and the unit has been vacant for a notable period now. The proposed change of use to a hot food takeaway would allow for the reuse of the vacant building for a use which is generally accepted in this type of location among retail units and in addition the most recent use of the property has not been as a retail operation and therefore no retail use would be lost by the proposed change.

8.2.4 The proposal creates opportunities for local employment and on this basis and as detailed above, the principle of the proposal in this location is acceptable subject to any other material planning considerations.

8.3. Character and Appearance

8.3.1 Policy OSS4 of the Rother Local Plan Core Strategy states that all development should respect and not detract from the character and appearance of the locality. This is reiterated by Policy DEN1 of the DaSA.

8.3.2 The ground floor unit was formerly Property Advisory Company and the neighbouring unit to the south is also a takeaway. The unit to the north side is currently empty. The proposed change of use will result in very limited external changes with the most notable additions being with grilles on the side elevation and an extractor unit, but these are to the side elevation screened from view within the street scene. The frontage and existing entrance will be kept the same, with amended signage along the frontage. The changes proposed would be very similar in design to the other eateries and takeaways in the near vicinity as well as several other units within the Little Common district centre. Given the above it is not considered that the proposed changes would have a significant impact on the character and appearance of the locality and the existing building.

8.4 Highways

8.4.1 Policy CO6 states a safe physical environment will be facilitated by: (ii) ensuring that all development avoids prejudice to road and/or pedestrian safety. Policy TR4 states proposed developments should meet the residual needs of the development for off-street parking having taken into consideration localised circumstances and having full regard to the potential for access by means other than the car, and to any safety, congestion or amenity impacts of a reliance on parking of site whether on-street or off-street.

8.4.2 A number of the objections detail concerns with the parking arrangements near the site and difficulties with customers parking and the impact of deliveries on residents. The application details the deliveries and explains that the Applicant has a centrally controlled logistics operation to deliver the fresh dough and other products necessary to meet the business needs of each store. The delivery model is company-wide and based on three deliveries per week; two food deliveries from the main distribution centre, using fixed-bed ten tonne delivery vehicles; and one by the drinks supply partner, utilising a 7.5 tonne non-articulated delivery vehicle. Food deliveries would be made on regular days to maintain stock levels in the store. Delivery vehicles are expressed as only needing to be present at the site for approximately 20 minutes per delivery.

8.4.3 The Highways Authority have been appraised of the proposal and in their consultation response, acknowledge that there are concerns with on-street parking in the immediate vicinity of the site as spaces are limited. It is entirely possible that the use of the takeaway may encourage customers to park in inappropriate places while collecting their food; however, County Highways confirm that this could be said of customers of the existing or any commercial use of the site and also any number of the neighbouring businesses along this stretch of road.

8.4.4 The parking for delivery vehicles could also potentially be difficult in the immediate vicinity of the site, but again County Highways confirm that this would be the case with any commercial use of this and the neighbouring buildings. Therefore, on balance County Highways do not object as the proposed change of use is unlikely to have a significant impact on any existing on-street parking pressures in the immediate vicinity of the site. On this basis a highway objection could not be justified in this instance. It is also noted that National Highways (formerly Highways England) also have no objection on highway grounds to the proposal.

8.4.5 The location is considered to be highly sustainable in terms of access by way of public transport and on foot and on the basis of the Highway Authorities comments, the proposal is considered acceptable in highway terms and in accordance with Local and National Planning Policy highway principles.

8.5 Environmental Health

8.5.1 The unit is located on the ground floor with the floors above accommodating residential units. Environmental Health has been consulted especially with regard to the Applicants detailed Acoustic Impact Assessment. Environmental Health do not object to the proposal subject to conditions which enhance the insulation standards with regard to the residential unit above. In addition to this, odour protection measures were detailed in the application and again the Environmental Health team has conditioned these details to mitigate any odour impacts on nearby residents and businesses.

8.6 Other Matters

8.6.1 Waste: Local residents raised concerns with regard to fly tipping. Littering and accumulation of vermin. The Applicant's submission details that in order to prevent pests the refuse bins would be BIFFA lockable wheelie bins. The Applicant has a standard contract with a pest control agency to control and manage the presence of vermin around the premises. The premises would also be sealed to prevent pests gaining access via the windows or under the doors. On this basis the proposal is not considered to cause any harm in this respect, over and above any other potential or lawful use of the premises.

8.7. Amenity

8.7.1 The area surrounding the site comprises a mix of retail and professional services some of which includes a Laundrette, a Butchers, Tesco Express, Nationwide bank, Cafes, a Fish and Chip shop and other fast-food outlets. There are also a number of residential units in the vicinity, including the upper floor conversions to residential of these particular units. The area represents a vibrant mix of facilities, expected and encouraged in the Little Common District Centre where sustainability is a key consideration. With the existing mix of facilities and the current and historic use of this commercial unit, the addition of an additional Pizza takeaway is not expected to negatively affect the amenity of nearby residents especially with the imposition of the conditions recommended by the Council's Environmental Health team.

9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 The proposed change of use for this proposal is similar in visual design to other buildings in the near vicinity and the impacts comparable with a takeaway being generally accepted in this defined District Centre. The impacts on the highway are noted, however do not appear to go over and above any other potential or existing use of this commercial unit in this location and with no objection from the relevant statutory bodies, the proposal is considered acceptable in highway terms.
- 9.2 Given the location and the previous use of the unit, it is not considered that the proposed changes would have a significant impact on the character and appearance of the locality and the existing building, nor the amenity of residents. The imposition of conditions recommended by Environmental Health mitigate any potential harm to amenity, therefore on this basis the proposal, on balance, is considered to comply with both Local and National policy requirements.

RECOMMENDATION: APPROVE (FULL PLANNING)

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: In accordance with section 91 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and details:
Site/ Location Plan, 21007-01, received 24.01.22
21007-10 Rev F Proposed Ground Floor, received 30.03.22
21007-02 Rev A Existing Ground Floor, received 24.01.22
21007-03 Existing Elevations, received 24.01.22
21007-11 B proposed elevations amended, received 30.03.22
Reason: For the avoidance of doubt and in the interests of proper planning.
3. Before the kitchen extraction system and outdoor condenser units are used on the premises, they shall be acoustically attenuated as specified in the 'Acoustic Impact Assessment' report by Enviroconsult (Report Reference: 288/PapaJohn (Bexhill), 9 March 2022) and the 'Supporting Information on the Proposed Extraction System and Plant' submitted with the application. They shall be mounted in a way which will minimise transmission of structure-borne sound and vibration. Additionally, the extraction system shall be provided with all grease baffle filters and activated carbon filters specified in the latter document, the whole system to be maintained as described in section 9.0 of that document. The noise mitigation scheme shall be maintained for the life of the approved development and shall not be altered without the prior written approval of the Local Planning Authority.
Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy.

4. Before the unit is occupied for the approved use, change of use is begun the airborne sound insulation performance of the separating floor/ceiling between the commercial property and the residential premises above shall be determined and, if necessary, insulated against airborne and impact sound to achieve a minimum airborne sound insulation performance of 5 dB better than the standard for 'Residential purposes formed by material change of use' detailed in the Building Regulations Approved Document E (i.e. $D_{nT,w} + C_{tr} 43 + 5$ dB). Written details of the scheme, including calculations showing that this performance standard can be achieved, shall be submitted to and be approved in writing by the Local Planning Authority before the occupation of the unit of the development commences. The Applicant shall certify to the Local Planning Authority that noise mitigation measures agreed have been installed and shall be permanently maintained thereafter.
Reason: To protect the residential amenities of the occupiers in the above flats, in accordance with Policy OSS4 (ii) and (iv) of the Rother Local Plan Core Strategy.
5. The hot food takeaway and pizza delivery shall only operate between the hours of 11:00hrs to 23:00hrs from Sundays to Thursdays and; 11:00hrs to 24:00hrs on Fridays and Saturdays. Deliveries shall be restricted to take place only between the hours of 07:00hrs and 19:00hrs.
Reason: To protect the residential amenities of the locality, in accordance with Policy OSS4 (ii) and (iv) of the Rother Local Plan Core Strategy.

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the National Planning Policy Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, 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.