

Subject: Enforcement appeal decision relating to 129 Albert Road,
Southsea

Report by: Claire Upton-Brown, City Development Manager

Ward affected: St Jude

Key decision (over £250k): No

1. Purpose of report

To advise the Committee of the outcome of the appeal.

2. Recommendations

That the report is noted.

3. Background

Planning permission was refused in January 2012 for a change of use from shop (Class A1) to hot food takeaway cafe (Class A5) and in April 2013 for a mixed use a restaurant (Class A3) and hot food takeaway cafe (Class A5). The first refusal was the subject of an appeal which was dismissed. Following the refusal of the second application and as that application was retrospective an enforcement notice was served in May 2013. The reason for refusal of the applications and the issue of the notice related to the use of the premises for purposes within Class A5 exceeding the threshold for such uses within the Albert Road and Elm Grove District Centre.

The grounds of appeal related to whether planning permission should be granted for the use of the premises for a mixed use as a restaurant (Class A3) and hot food takeaway (Class A5). In considering the appeal the Inspector was supportive of the approach taken by Policy PCS8 and the Councils monitoring and use of data in assessing the planning merits of such applications. The Inspector commented that "Policy PCS8 ... appears to be achieving the aim of safeguarding the present level of retail outlets while retaining a balance between the number of A3/A4/A5 businesses and the wider range of activities within the centre as a whole and more particularly along the length with a greater such concentration, between Victoria Road South and Waverly Road/Laurence Road". The Inspector also noted the vibrancy of the centre and the mix of uses giving a distinct character to Albert Road.

The Inspector concluded that "having considered this appeal afresh, on its own merits, I have found little or nothing to disagree with in the decision of the Inspector who dismissed the earlier appeal referred to above with respect to these same premises".

The appeal was dismissed and the Notice upheld.

4. Reasons for recommendations

For information to the Planning Committee

5. Equality impact assessment (EIA)

None.

6. Head of legal services' comments

The report is for information only.

7. Head of finance's comments

The report is for information only.

.....
Signed by:

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Enforcement file 13/00001/ENF	Planning Services
Inspector's decision notice APP/Z1775/C/13/2199303	Planning Services