

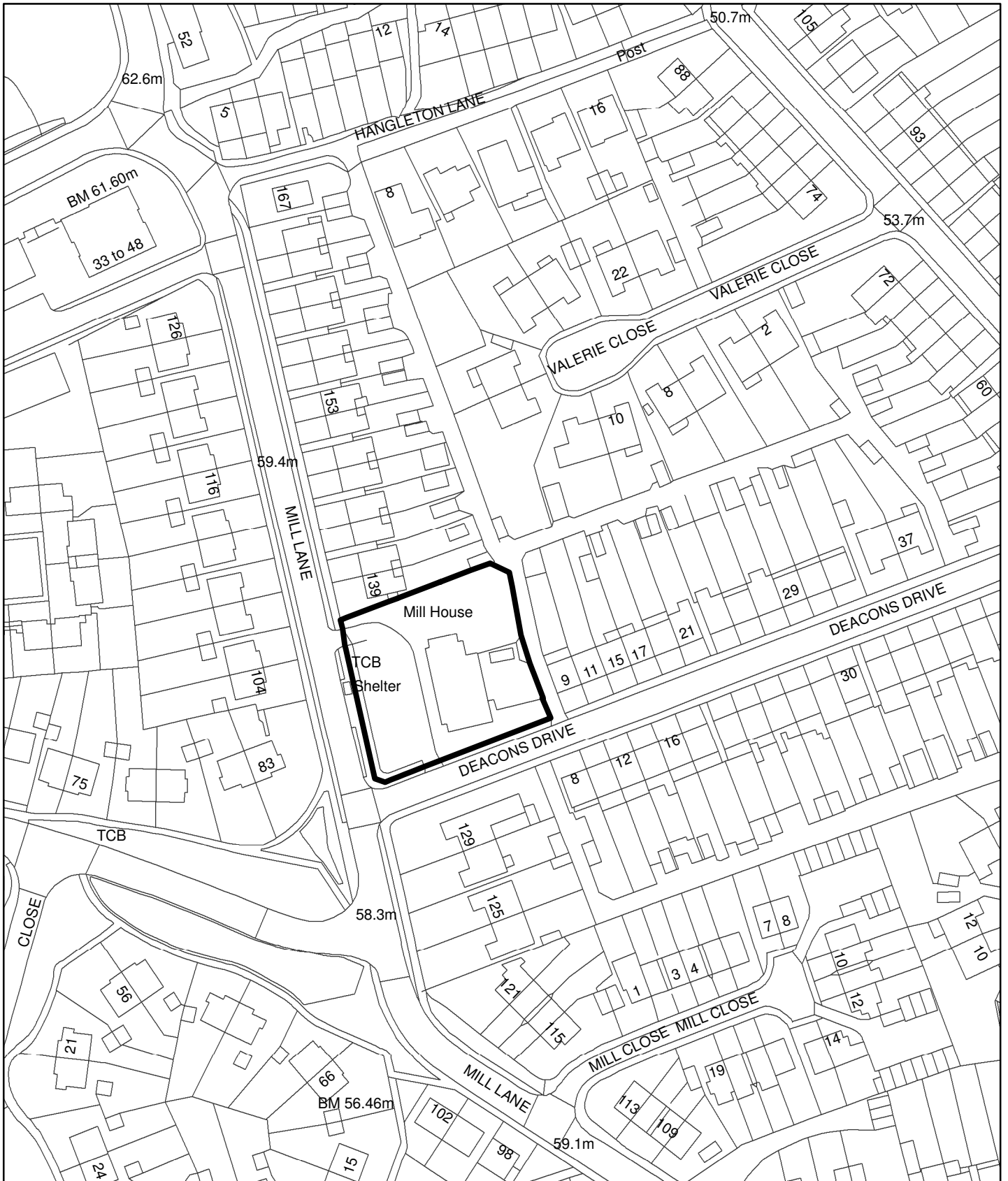
# **ITEM B**

**The Mill House, 131 Mill Lane, Portslade**

**BH2013/03142**  
**Removal or variation of condition**

**02 APRIL 2014**

# BH2013/03142 The Mill House, 131 Mill Lane, Portslade.



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

<b><u>No:</u></b>	<b>BH2013/03142</b>	<b><u>Ward:</u></b>	<b>SOUTH PORTSLADE</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>The Mill House 131 Mill Lane Portslade</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of conditions 3, 4 and 5 of application BH2013/01223 (Erection of single storey rear extension with associated external alterations) to allow the extension to be open between 07.00am to 11.00pm Mondays to Saturdays inclusive and 07.00am to 11.00pm Sundays, Bank or Public Holidays, to allow off sales of alcohol to be made to customers in the new extension and to allow the use of machinery and plant between the hours 7.00am and 11.00pm Mondays to Saturdays inclusive and from 7.00am until 10.00pm on Sundays, Bank or Public Holidays.</b>		
<b><u>Officer:</u></b>	<b>Christopher Wright Tel 292097</b>	<b><u>Valid Date:</u></b>	<b>16 September 2013</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>11 November 2013</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b><u>Agent:</u></b>	<b>Lewis and Co Planning SE Ltd, 2 Port Hall Road, Brighton BN3 5SG</b>		
<b><u>Applicant:</u></b>	<b>TFRE2, C/O Lewis &amp; Co Planning, 2 Port Hall Road, Brighton BN3 5SG</b>		

## 1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **APPROVE** the variation of conditions 3 and 5 and **REFUSE TO VARY** condition 4.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is occupied by a two storey detached building forming a Public House on the ground floor with ancillary residential accommodation over. The building is situated on a corner plot at the junction between Mill Lane and Deacon's Drive. The front of the pub is set back from Mill Lane some 17 metres and there is surface car parking in front of the building. The side elevation of the building lines up with the building line established by the terrace houses in Deacon's Drive. The Public House has side and rear garden areas.
- 2.2 The pub building has a traditional appearance finished using brick and tiles. The roof is dual pitched with hipped ends and incorporates features including dormers and half dormers, and steeply sloping front and rear roof slopes with sprocketed eaves and decorative brick piers and brackets. The building has bay window features with tile hung waists and the fenestration is predominantly of timber

sliding sash windows with a Georgian style glazing configuration featuring 6 over 6 and 8 over 8 pane subdivision.

- 2.3 The public house is currently closed and the windows have been boarded up with security panels.
- 2.4 The local area is predominantly residential.

### 3 RELEVANT HISTORY

**BH2013/01223** – Erection of single storey rear extension with associated external alterations. Approved 19 July 2013.

**BH2013/00103** – Erection of single storey rear extension with associated external alterations. Refused 11 March 2013 for the following reason:-

*The proposed development would, by reason of the scale, footprint, siting and design detailing, relate poorly and unsympathetically with the design and appearance of the recipient building, and would appear unduly dominant and prominent within the street scene, breaching the established building line in Deacon's Drive, having a detrimental impact on the character and setting of the recipient building, the street scene and the visual amenities of the locality. As such the proposal is contrary to policies QD2 and QD14 of the Brighton & Hove Local Plan 2005.*

**BH2012/03129** – Erection of single storey rear extension with associated external alterations. Refused on 6 December 2012. The two reasons for refusal were:-

*1. The proposed development would, by reason of the scale, footprint, form, siting and design, relate poorly and unsympathetically to the design and detailing of the recipient building, and would appear unduly dominant and incongruous within the site context, having a detrimental impact on the character and setting of the recipient building, the street scene and the visual amenities of the locality. As such the proposal is contrary to policies QD2 and QD14 of the Brighton & Hove Local Plan 2005.*

*2. The proposed extension would increase the capacity and intensify the use of the land as a public house, likely to result in nuisance and increased disturbance to nearby residents, contrary to the requirements and objectives of policies QD27 and SR12 of the Brighton & Hove Local Plan 2005.*

**BH2007/01695** – Proposed fixed umbrella and barbecue stand. Approved 9 July 2007.

### 4 THE APPLICATION

4.1 Planning permission is sought for the variation of conditions 3, 4 and 5 of application BH2013/01223. The conditions stated:-

4.2 Condition 3:

The extension hereby permitted shall not be open to customers except between the hours of 9.00am and 11.00pm from Mondays to Saturdays inclusive and from 10.00am until 10.00pm on Sundays, Bank or Public Holidays.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

4.3 Condition 4:

No alcohol shall be sold or supplied to persons accommodated within the extension hereby permitted unless those persons are taking meals on the premises and area seated at tables.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10, SR12 and QD27 of the Brighton & Hove Local Plan.

4.4 Condition 5:

No machinery or plant (e.g. extraction and odour control equipment, air conditioning) shall be used in association with the use of the extension hereby permitted except between the hours of 9.00am and 11.00pm from Mondays to Saturdays inclusive, and from 10.00am until 10.00pm on Sundays, Bank or Public Holidays.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

## 5 PUBLICITY & CONSULTATIONS

### External

5.1 **Neighbours: Twelve (12) letters or representation have been received from 8, 9, 14, 17 Deacon's Drive; 104, 108, 139, 141 Mill Lane (x2), 149 Mill Lane; and 22 Fairfield Gardens (x2), objecting to the application on the following grounds:-**

- Increased noise and disturbance.
- 7am during the week is too early for noise and smells generated.
- No need for breakfast service in this area.
- More traffic.
- Harmful to existing local shops.
- Back door way of getting approval for 'Off Licence' alcohol sales.
- Public order impact of off-sales.
- Variation of the conditions could be making way for a supermarket.

5.2 **Councillor Hamilton** provided comments on the application. A copy of the email is attached.

5.3 **Sussex Police:** No objection.

5.4 **Brighton & Hove Archaeological Society:** No objection.

The proposed development may possibly reveal some vestige of the Saxon or medieval period.

5.5 **County Archaeologist:** No objection.

Although this application is situated within an Archaeological Notification Area it is not believed that any significant archaeological remains are likely to be affected by these proposals.

### Internal:

5.6 **Sustainable Transport:** No objection.

The proposals to increase the opening hours could result in additional trips in the morning but this would not be of a level to warrant a refusal of planning permission on highway grounds.

5.7 **Environmental Health:** No objection.

With regards to any additional noise, odour or other environmental impact upon the area, whilst the site is in close proximity to residential properties, there will be no detrimental impact upon the locality as a result of the proposed changes to the existing planning conditions.

**6 MATERIAL CONSIDERATIONS**

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

6.2 The development plan is:

- Brighton & Hove Local Plan 2005 (saved policies post 2007);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
- East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.

6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.

6.6 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

**7 RELEVANT POLICIES & GUIDANCE**

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan 2005:

SU10 Noise nuisance

SR12 Large Use Class A3 (food and drink) venues and Use Class A4 (pubs and clubs)

QD27 Protection of amenity

Brighton & Hove City Plan Part One (submission document)

SS1 Presumption in Favour of Sustainable Development

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the acceptability of varying conditions 3, 4 and 5 of application BH2013/01223.

### **8.2 Conditions 3 and 5:**

The applicant proposes to open the extension to the public house 2 hours earlier than permitted, from 7.00am. This would enable breakfast, tea and coffee to be served in the early mornings.

8.3 The applicant wishes the timings of machinery and plant use to start from 7.00am to be considered with the desired variation of condition 3, above.

8.4 The application site is situated in a predominantly residential area and the approved extension would be situated close to residential dwellings in Deacon's Drive.

8.5 Activities arising from the pub opening at 7.00am, along with the associated use of machinery and plant at such an early hour in the morning would not materially intensify the use of the land or disrupt the quiet, suburban character of the neighbourhood to the detriment of residential amenity. There is no objection from Environmental Health to the proposals.

8.6 The proposed variation of these conditions would be compliant with policies SU10 or QD27 of the Local Plan.

### **8.7 Condition 4:**

The applicant's case for re-wording the condition to allow for off-sales of alcohol is not considered acceptable.

8.8 In accordance with policy SR12 of the Local Plan, the condition was imposed originally because, due to the resulting floor area, the development would otherwise constitute a large drinking establishment and the proposed extension would be contrary to the requirements of paragraphs c. and d. of policy SR12.

8.9 The proposed variation of condition 4 is contrary to the requirements of policy SR12 of the Local Plan and would increase the potential for noise, disturbance and public disorder that would be detrimental to neighbour amenity and the character of the locality, contrary to policies SU10, QD27 and SR12 of the Brighton & Hove Local Plan.

8.10 Off-sales of alcohol may continue to be made from the original part of the pub building, which is not covered by condition 4.

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8.11 In view of the above it is recommended condition 4 is not varied and that it is restated on the new decision notice.

### 8.12 Other matters:

The comments from Councillor Hamilton are noted. Ownership of the site has been correctly identified in the application. The proposals to extend the hours of opening of the premises are not considered to be material should the owner exercise their permitted rights change use from pub to retail. The conditions relate to the extension of the pub. Should the pub become a retail use the conditions would no longer be applicable.

## 9 CONCLUSION

9.1 The proposed variation of conditions 3 and 5 is considered acceptable and would allow the pub to open two hours earlier in the mornings.

9.2 The proposed variation of condition 4 is contrary to the requirements of policy SR12 of the Local Plan and would increase the potential for noise, disturbance and public disorder that would be detrimental to neighbour amenity and the character of the locality.

9.3 Accordingly approval is recommended for variation of conditions 3 and 5 and refusal is recommended for variation of condition 4.

## 10 EQUALITIES

Not applicable.

## 11 APPROVE VARIATION OF CONDITIONS 3 AND 5 / CONDITIONS / REASONS / INFORMATIVES

### 11.1 Regulatory Conditions

1. The development hereby permitted shall be commenced on or before 19 July 2016.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Existing Survey	1639/01		16 Apr 2013
Existing Survey	1639/02		16 Apr 2013
Proposed Site Layout	12-1870-130	P2	16 Apr 2013
Proposed Ground Floor Layout	12-1870-131	P2	16 Apr 2013
Proposed First Floor Layout	12-1870-132	P2	16 Apr 2013



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Proposed Elevations	12-1870-133	P2	16 Apr 2013
Proposed Elevations	12-1870-134	P2	16 Apr 2013
Location and Block Plan	12-1870-135	P1	16 Apr 2013

- 3) The extension hereby permitted shall not be open to customers except between the hours of 7.00am and 11.00pm from Mondays to Saturdays inclusive, and from 7.00am until 11.00pm on Sundays, Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 4) No alcohol shall be sold or supplied to persons accommodated within the extension hereby permitted unless those persons are taking meals on the premises and are seated at tables.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10, SR12 and QD27 of the Brighton & Hove Local Plan.
- 5) No machinery or plant (e.g. extraction and odour control equipment, air conditioning) shall be used in association with the use of the extension hereby permitted except between the hours of 7.00am and 11.00pm from Mondays to Saturday inclusive, and from 7.00am until 10.00pm on Sundays, Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11.2 Pre-Commencement Conditions

- 6) No development shall commence until full details of existing and proposed ground levels within the site and on land adjoining the site to OS Datum, by means of spot heights and cross-sections have been submitted to and approved by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved level details.  
**Reason:** To ensure a satisfactory appearance to the development and to protect the amenity of surrounding neighbours in accordance with policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan.
- 7) No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to the extension being brought into use and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 8) No development shall commence until details of secure cycle parking facilities for the customers, staff and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

- 9) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials samples.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD14 of the Brighton & Hove Local Plan.

11.3 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. This decision to grant Planning Permission has been taken:

(i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:

(Please see section 7 of the report for the full list); and

(ii) for the following reasons:-

The increased hours of opening and use of machinery and plant would not materially intensify the use of the land or disrupt the character of the neighbourhood to the detriment of residential amenity.

**REFUSE VARIATION OF CONDITION 4**

Reason for refusal:

- 11.4 The off sales of alcohol from the extension would increase the potential for noise, disturbance and public disorder detrimental to the residential amenity of the locality, contrary to policies SU10, SR12 and QD27 of the Brighton & Hove Local Plan.

**From:** Leslie Hamilton  
**Sent:** 02 October 2013 14:20  
**To:** Christopher Wright  
**Subject:** The Mill House pub BH2013/03142

Chris, I write with regard to the recent planning application, detail above. I am not commenting on the application with regard to support or opposition, but to give you some background information.

The Council gave consent for a rear extension on July 19<sup>th</sup>. On July 21<sup>st</sup> the owners gave the landlord notice. On July 31 the pub closed. Gaming machines were removed. At the end of August the owners, who specialise in housing and retail but not catering, allegedly sold the store to the Co-op, to become a food store. I realise that this does not require planning permission.

These proposed condition changes are in my view designed for the store and not a pub/restaurant. The 7am start is so that the store can open at 7am and be able to sell alcohol at 7am. The hours requested are the hours that the proposed store no doubt wishes to open. All that about opening at 7 to provide breakfast is just a camouflage of the real intention, as is the need to have the machinery hours extended to the same times as the opening hours. The owners are preparing the ground for the pub to become a retail food and alcohol outlet without being honest about their intentions.

Les

Cllr Les Hamilton  
Labour & Co-operative Councillor  
South Portslade