

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/0949	Case Officer:	Deborah Lynn
Application Type:	Full Application		
Proposal:	Proposed change of use from former A3 café to retail use within Class E (formerly A1) with extension of opening hours and installation of 3 no. external cctv cameras.		
Site:	101 South Road, Haywards Heath, West Sussex, RH16 4LR, , , ,		
Validation Date	26 May 2026	Overall Expiry Date:	9 Sep 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	18 Sep 2026
Target Date:	21 Jul 2026	Recommending Officer Signature:	Deborah Lynn

Date Legal Agreement Completed: (if applicable)		No of Representations:	10
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Signed and Agreed By:	Stephen Ashdown	Date:	20 Sep 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/0949

**101 South Road, Haywards Heath, West Sussex, RH16 4LR, , ,
Proposed change of use from former A3 café to retail use within Class E (formerly A1) with
extension of opening hours and installation of 3 no. external cctv cameras.
Mr Akam Hama Hassan**

SUMMARY OF REPRESENTATIONS

10 letters of objection have been received raising the following concerns:

- Do not need another vape shop which does not contribute to local community, Council must consider impact upon dwindling high street;
- Night time economy is not profitable for small units, particularly in a small family town. What are they selling to financially support long hours?
- Already a significant number of vape shops in high street; Council should not be promoting sale of vapes and cigarettes;
- Serving cold drinks does not constitute a community amenity;
- Top Store has been subject of a BBC investigation which exposed this chain of mini-marts to huge criminal networks;
- Contributes to deterioration of High Street;
- Council showing unacceptable lack of due diligence and consideration for what community needs;
- Mini-mart not selling fresh produce and is not required as plenty of alternatives on High Street;
- Object to vapes and bongs on display, on full view to children walking past;
- Do not need a shop open until midnight / 1am, likely to cause disturbance to residents of flats above, with more loitering, noise, vehicle movements, mess and nuisance; detrimental to residential area;
- Late night opening shifts tone of area from a community focused high street to a late night convenience economy; inappropriate in a town with no significant late night economy;
- Object to use of pavement for display shelves, pavement is busy corner, will look shabby and cluttered;
- Pavement should remain clear, safe and accessible for pedestrians and those with mobility issues;
- Proposal would alter pleasant and attractive character of area, having negative impact;
- Proposal undermines rebuilding of Victoria Park playground;
- Shop is an eyesore; design is ugly (sign) and advertises unhealthy products;
- Inappropriate location near park;
- Owner owns barbers shop 2 doors down;
- Shop is not complying with Companies Act 2006 / Companies (Trading Disclosures) Regulations 2008 in respect of displaying their ownership and registration prominently inside the shop.

SUMMARY OF CONSULTEES

WSCC Highways

Display shelf on pavement should be omitted from plans. Provided this is complied with, there are no transport grounds to resist proposal.

MSDC Environmental Protection

No objection subject to condition.

Sussex Police

Pavement display shelf should be bolted down. Concerns regarding impact upon amenity of residents who live in close proximity. A large degree of sensitivity will be required to make sure the surrounding local community is not unduly disturbed, and it will therefore be a matter for the applicant to ensure that this is managed in the most appropriate manner.

HAYWARDS HEATH TOWN COUNCIL OBSERVATIONS

The Town Council notes the changes in this application and appreciates the removal of the pavement display cabinet. However, the Town Council wishes to reiterate its strong objection to the extended opening hours, as per comments submitted on 24/06/2026:

The Town Council OBJECTS to the extended opening hours. There is a possibility that opening later will lead to an increase in antisocial behaviour for nearby residents and in Victoria Park. Opening hours should be in keeping with the rest of the shops on South Road. If this application is refused, the Town Council respectfully requests that Planning Enforcement take immediate action against the store as it is already operating without consent.

INTRODUCTION

This application seeks planning permission for a change of use from an A3 café to retail use within Class E with extension of opening hours and installation of 3 no. external cctv cameras.

RELEVANT PLANNING HISTORY

DM/16/3182 - Change of use class from A1 retail to A3 Specialty Coffee Cafe and associated internal alterations. Prior Approval is Granted 08.09.2016.

DM/16/4340 - Installing two ventilation duct holes and one wall mounted air conditioning condensing unit. Permission granted 17.11.2016.

DM/17/1761 - Change of use of pavement to place tables and chairs with barriers and umbrellas. 8 chairs only and 4 small tables. Permission granted 24.07.2017.

DM/18/2083 - Variation of condition 2 of planning permission DM/16/3182 - To change opening hours from 08:00 to 17:30 Monday to Sunday, to 08:00 to 22:30 Tuesday and Friday and 8:00 to 17:30 Monday, Wednesday Thursday, Saturday and Sunday. (Amended description 20th July 2018). Permission granted 20.07.2018.

DM/20/1915 - Replacement of cafe signs with new, and addition of pole mounted hanging sign. Permission granted 04.08.2020.

DM/26/0950 - Advertisement consent application for Installation of new shopfront signage (illuminated fascia and vinyl sign). Refused 11.06.2026.

SITE AND SURROUNDINGS

No. 101 South Road is a commercial unit located on the corner of Haywards Road and South Road in Haywards Heath. The unit is currently occupied by H.H Mini Market, a convenience store selling packaged food and snacks, soft drinks and juices and tobacco and vape products. The unit was previously occupied by Flinders coffee shop. The shop is located at the end of a parade of shops which forms part of the primary shopping frontage on South Road. An opticians adjoins the shop to the southwest whilst Iceland supermarket lies to the south. Lloyds Bank lies on the opposite corner of Haywards Road whilst a mix of retail units and cafes/restaurants lie opposite on South Road. The commercial unit is located within a three storey building, with a flat/maisonette located above the commercial unit.

The shop front has been painted black with signage and images advertising H.H Mini Market in place. The previous illuminated yellow TOP STORE sign has been removed following the refusal of application DM/26/0950.

In terms of planning policy, the site lies within the built up area of Haywards Heath and a primary shopping frontage within Haywards Heath town centre as designated by the Mid Sussex District Plan.

APPLICATION DETAILS

Permission is sought to change the use from the previous class A3 café use to a class E retail use, together with an extension of opening hours to the following times:

Monday to Fridays: 07:00 to 00:00 hours (midnight)
Saturdays: 07:00 to 01:00 hours on Sundays
Sundays / Bank Holidays: 07:00 to 00:00 hours (midnight)

The class E retail use is already in operation with a convenience store (H H Mini Market) operating from the unit. The planning agent for the application has advised that the store is currently closing at 22:00 hours each night.

Permission is also sought for the installation of 3 no. external cctv cameras on the premises; two cameras are sited either side of the entrance door that fronts Haywards Road and one camera is sited on the elevation that faces onto South Road. Photographs have been submitted to show that the cameras are already in situ, located just underneath the awning at the top of the glazed shop front panels. Supporting documentation has been provided stating that a Sansco 3k Ultra HD security system has been installed; the cctv cameras have white enclosures.

The application as originally submitted included a display shelf to be installed on the pavement but this has since been removed at the request of the Local Highways Authority.

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes 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.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Haywards Heath Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP2 town centres
DP17 Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
DP21 transport
DP26 character and design
DP29 noise, air and light pollution

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

Relevant policies:

SA38 air quality

Haywards Heath Neighbourhood Plan

The Neighbourhood Plan was made on the 15th December 2016.

Relevant policies:

E9 design
B2 retail and other town centre uses

Other Material Considerations

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 is currently at Examination with initial hearings held in February/March 2026. The Council is consulting on Main Modifications which are required to ensure the plan is legally compliant and sound. The District Plan remains at Examination until the Inspector has published his report, until that time only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS6 health and wellbeing
DPS6 health and wellbeing
DPN6 pollution
DPN7 noise impacts
DPN9 air quality

DPC6 Ashdown Forest SPA and SAC
DPB1 character and design
DPT1 placemaking and connectivity
DPE4 town and village centre development
DPE5 within town and village centre boundaries

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

National Planning Policy Framework (NPPF) (August 2026)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 17 sets out the three overarching objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective.

Paragraph 18 advises that *'these objectives should be delivered through the preparation and implementation of development plans and the application of the policies in this Framework; they are not criteria against which every development proposal can or should be judged. Development plans and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Policy S3 of the NPPF concerns the presumption in favour of sustainable development and advises:

'1. Decisions on development proposals should apply a presumption in favour of sustainable development. This means:

- a. Policy S4 in this Framework should be applied when considering development proposals within settlements;*
- b. Outside settlements, policy S5 should be applied; and*
- c. In all locations, development proposals that accord with both an up-to-date development plan and the decision-making policies in this Framework should be approved without delay.'*

Policy S4 states at section 1 that *'development proposals within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework.'*

Paragraph 2 of Appendix A advises that *'development plan policies (or parts of those policies) which are materially inconsistent with national decision-making policies in this Framework should be given very limited weight. The only exception to this is where they have been examined and adopted or made against this Framework. Other development plan policies should not be given reduced weight simply because they were adopted prior to the publication of this Framework.'*

ASSESSMENT

The main issues deemed relevant to the consideration of this application are:

- Principle of development;
- Impact on amenity;
- Impact on character of area;
- Highways impact;
- Impact on Ashdown Forest

Principle of development

This application seeks permission to change the use of the premises from an A3 café use to a class E retail use and extend opening hours from those previously approved under planning permission DM/18/2083.

As the site lies within the primary shopping frontage of Haywards Heath town centre, consideration should be given to policies DP2 of the District Plan and B2 of the Neighbourhood Plan which seek to enhance shopping facilities and encourage a diverse range of uses in the town centre, whilst creating vitality and viability and avoiding harm to existing business and residential properties.

Both policies can be attributed full weight, as they reflect the stance of policy TC2 of the NPPF which concerns development in town centres and states that substantial weight should be given to the benefits of supporting the overall vitality and viability of the centre, including where this can be achieved through the diversification of uses, plus improving or retaining access to local shops and other facilities which provide day-to-day services for the local community.

Notwithstanding the above, whilst these policies are noted, it is not considered that planning permission would be required to change the use of the premises.

The ground floor unit at 101 South Road was previously occupied by Flinders coffee shop which benefitted from an A3 café use, having been granted planning permission under application DM/16/3182. Whilst the planning permission restricted the opening hours of the A3 use, no conditions were imposed restricting the use of the unit. Following an amendment to the Use Classes Order in 2020, the former café use would now be considered to benefit from a class E planning use which covers a range of uses including retail, financial and professional services, food and drink and office use. As such, it is not considered that planning permission is required to change the use to operate a convenience store from the unit, as the store would also be considered to benefit from a class E planning use.

Therefore, whilst objections from local residents are noted in respect of the nature of the shop and the proliferation of similar 'vape shops' along South Road and impact upon the character of the area, in this instance it is not considered that there are any planning grounds to object to the proposed use. In addition, the local planning authority cannot be prescriptive as to the nature of goods that are sold or where they are displayed within the retail unit; such matters would be considered to fall outside the remit of planning.

The main issues for consideration therefore concern the proposed extension of opening hours and the installation of CCTV cameras.

Impact on amenity

This application seeks permission to extend the opening hours of the premises to the following hours:

Monday to Fridays: 07:00 to 00:00 hours (midnight)
Saturdays: 07:00 to 01:00 hours on Sundays
Sundays / Bank Holidays: 07:00 to 00:00 hours (midnight)

The premises currently has planning permission (granted under application DM/18/2083) to operate daily from 08:00 to 17:30 hours although temporary permission was granted to operate until 22:30 hours on Tuesdays and Fridays for one year.

Policy DP26 of the District Plan refers to amenity and states that development proposals should '*not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution*'.

Policy DP29 concerns noise, air and light pollution and states in part that the quality of people's life will be protected from unacceptable levels of noise, light and air pollution.

Both policies are considered to carry very limited weight, as they are materially inconsistent with the NPPF, in particular policy P3 which states in part that development proposals should not give rise to or contribute to unacceptable levels of air, noise, artificial light, water, soil or other forms of pollution on or beyond the site and should mitigate and reduce to a minimum potential adverse impacts resulting from noise. More weight will therefore be given to NPPF policy P3.

Policy E9 of the Neighbourhood Plan follows this stance, stating that proposals should not cause unacceptable levels of light, noise, air or water pollution.

The proposed opening hours would represent a significant increase to existing opening hours with the premises proposed to open at 7am and close at midnight on a daily basis, except for Saturday night when they would be open until 1am on Sunday morning.

A flat / maisonette is located above the unit at 101A South Road, with similar residential properties located above many of the commercial premises along South Road. Residential properties also line Haywards Road further to the south.

Concerns have been raised by local residents that the proposal would create additional noise and disturbance late at night as well as anti-social behaviour.

Sussex Police have been consulted on the proposal. They have raised concerns regarding the extension of opening hours and the amenity of residents who live in close proximity, advising that a large degree of sensitivity will be required to make sure the surrounding local community is not unduly disturbed, and it will therefore be a matter for the applicant to ensure that this is managed in the most appropriate manner.

The Council's Environmental Protection Team have also been consulted and have queried whether the air conditioning unit serving the premises would be used after 18:00 hours, as an acoustic report would be required if is the case, considering that a planning condition imposed under application DM/16/4340 currently restricts the use of the unit from between 07:00 to 18:00 hours each day. The applicant has confirmed that the unit would not be used outside of these hours.

Having considered the proposal, subject to the proposed opening hours being conditioned, no objection has been raised from the Council's Environmental Protection Team.

Whilst the proposal would result in late night opening hours, it is not considered that the proposed retail use would be likely to generate significant levels of noise or disturbance. In addition, it is noted that the opening hours of the restaurant Francisco Lounge, located opposite the site on South Road, are 07:00 to 01:00 hours each day.

In view of the above, the proposal is deemed acceptable in that it should not cause unacceptable harm to neighbouring amenities in terms of creating noise and disturbance. Any anti-social behaviour would be a matter for the police, however the presence of cctv cameras on the premises should help deter such behaviour or crime.

The proposal therefore accords with policies DP26 and DP26 of the District Plan, policy E9 of the Neighbourhood Plan and policy P3 of the NPPF.

Impact on character of area

Policy DP26 of the District Plan relates to character and design and requires all proposals to be well designed. Policy E9 of the Neighbourhood Plan concerns design and requires proposal to protect and reinforce the local character within the locality of the site. However, these are considered to have very limited weight as they are materially inconsistent with the NPPF; greater weight should be given to NPPF policy DP3.

Policy DP3 of the NPPF sets out the key principles for well-designed places. This sets out in part that proposals should respond to their context, so that they integrate with and enhance their surroundings;

such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets.

It is noted that some of the local representations received refer to the unit as being an eyesore and of an ugly design, although it is assumed that such comments refer to the large, illuminated TOP STORE sign that had been previously erected. This has since been removed following the refusal of advertisement consent application DM/26/0950 and has been replaced with a sign that is less visually intrusive within the street scene.

No external alterations are proposed to the retail unit other than the installation of 3 no. external cctv cameras which have been installed on the premises.

Photographs submitted with the application show that the cameras have been discreetly sited at the top of the glazed shop front panels, underneath existing awning. The cameras are modest in size and consequently are considered to have limited visual impact within the locality.

As such, the proposed development is not considered to detract from the character and appearance of the area, thereby complying with aforementioned policies.

Highways impact

Policy DP21 of the District Plan relates to Transport and requires development proposals to be sustainably located and that schemes protect the safety of road users and pedestrians, amongst other criteria. However, the policy is considered to have very limited weight as it is materially inconsistent with the NPPF, with greater weight given to NPPF policy TR3. TR3 requires proposals that generate a significant amount of movement to be situated in sustainable locations and states that any significant adverse impacts from the development on the transport network or on highway safety should be mitigated to an acceptable degree.

The application as originally proposed included a display shelf to be located on the pavement, adjacent to the entrance to the retail unit.

The Local Highways Authority at West Sussex County Council has been consulted on the proposal and advised that the WSCC Highway Area Team would not be likely to support the proposal due to the size and location of the display shelf. The application has subsequently been amended to remove the display shelf from the proposal.

They also advise that whilst there is no vehicular parking associated with the unit, it is not considered that the proposed use would give rise to a significant material intensification of use of the site and given its sustainable location, no concerns would be raised in this regard.

As such, the proposal is not considered to have a significant adverse impact upon the transport network such that there are no transport grounds to resist the proposal. The proposal therefore complies with policy DP21 of the District Plan and NPPF policy TR3.

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development in this planning application.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

This planning application does not result in a net increase in dwellings within the 7km zone of influence and so **mitigation is not required**.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in additional atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The potential effects of the proposed development are incorporated into the overall results of the transport model prepared for the Mid Sussex Transport Study, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Other matters

Several local representations have been received regarding the proposal. Whilst these concerns are noted, a number are considered to fall outside the remit of planning; for instance, the nature of goods sold or the potential links of such shops to criminal networks. Comments have also been made that the shop is not complying with the Companies Act 2006 / Companies (Trading Disclosures) Regulations 2008 in respect of displaying their ownership and registration; this matter is not considered relevant to planning.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposed Class E retail use is considered to fall within the same use class as the previous café use following an amendment to the Use Classes Order in 2020. It is not considered that the proposed extension of opening hours would cause unacceptable harm to surrounding residential amenities in terms of creating noise and disturbance; nor should the proposal detract from the character and appearance of the area. The proposal should not affect highway safety or have a likely significant impact upon the Ashdown Forest. The proposed development therefore accords with policies DP2, DP17, DP21, DP26 and DP29 of the Mid Sussex District Plan, policy SA38 of the Mid Sussex Site Allocations DPD, policies E9 and B2 of the Haywards Heath Neighbourhood Plan and relevant policies of the NPPF.

Decision: Permission

Case Officer: Deborah Lynn