

Planning Committee – Supplementary agenda

A meeting of the Planning Committee will be held on:

Date: 13 August 2014

Time: 6.30pm

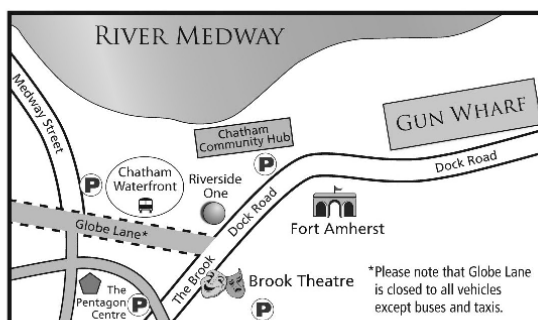
Venue: Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

Items

- 16 Additional Information - Supplementary agenda advice sheet (Pages 3 - 22)**

For further information please contact **Ellen Wright, Democratic Services Officer** on Telephone: 01634 332012 or Email: democratic.services@medway.gov.uk

Date: 15 August 2014



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বাংলা	331780	ગુજરાતી	331782	ਪੰਜਾਬੀ	331784	کوردی	331841	ارو	331785	Русский	332374
中文	331781	हिंदी	331783	Polski	332373	ଏହକ୍‌ଶଫର	331786	فارسی	331840	Lietuviškai	332372

Medway Council

PLANNING COMMITTEE – 13 August 2014**Supplementary Agenda Advice**

**Page 9 Minute 149 Planning Application MC/14/1272 – Land
At Chatham Docks, Pier Road,
Gillingham**

At the last meeting the Committee agreed an additional condition (16) regarding arrangements for disabled access into and within the building subject to the precise wording being agreed by the Head of Planning in liaison with the Chairman and Vice Chairman. The final wording agreed was as follows:

16. Within one month of the commencement of development a report which sets out the measures taken to ensure that there is appropriate access for people with disabilities both to and within the building shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be installed prior to the first use of the building and shall thereafter be retained.

Reason -In the interests of accessibility for people with disability and to accord with Policy BNE7 of the Medway Local Plan 2003

**Page 19 MC/13/0102 Croneens Car Park, Railway Street,
Gillingham, Kent**

Amendment to Condition 17

No development shall take place until details of the parking arrangements for a minimum of 29 off-site parking spaces to serve the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved parking arrangements prior to the first use or occupation of the building.

Proposal Section

The proposal section of the report is set out as originally submitted. However, since the application was previously reported to Planning Committee, further car parking has been included to support the proposal as set out in the Highways section.

Pages 24-25

Highways Section

Parking provision within the application site should state 31 rather than 30 spaces. The Development Car Parking Arrangements Table should therefore read as follows:

Development Car Parking Arrangements

Spaces within application site	Spaces within private car park area adjacent to South Eastern car park	Spaces within South Eastern car park secured via scratchcard scheme	Total for development
31	20	20	71

Representations

6 further letters of representation have been received raising the following concerns:

- Only 2 site notices erected
- Loss of parking – commuter, football fans, dropping off children at St. Mary's Catholic School
- Another mosque in Richmond Road
- Increased noise levels
- Traffic congestion

Use of Car park by Coaches Transporting Fans to Gillingham Football Ground

The use of the existing car park for coaches transporting fans to Gillingham Football Club is an informal arrangement with the Council. This has been taken into account and with replacement parking being provided on the former petrol filling site such an arrangement can continue to operate. However, this arrangement is with the Council and not the applicants.

Updated parking Surveys

Appended to this Supplementary Sheet is an updated parking survey of Croneens Car Park and the South Eastern Station Car Park. The surveys have been undertaken between 26 June and 13 July 2014.

Page 30 MC/13/3301 Restoration House, 17 Crow Lane,
Rochester, ME1 1RF

Recommendation - Defer

The application be deferred to consider further comments from consultees including KCC archaeology. The application will be reported back to the next

meeting. In light of the fact that the site is not visible from public land and reflecting the issues, including the historical importance of the proposals, Members may wish to hold a site meeting within the deferral period.

**Page 38 MC/13/3305 Restoration House, 17 Crow Lane,
Rochester, ME1 1RF**

Recommendation - Defer

The application be deferred to consider further comments from consultees including KCC archaeology. The application will be reported back to the next meeting. In light of the fact that the site is not visible from public land and reflecting the issues, including the historical importance of the proposals, Members may wish to hold a site meeting within the deferral period.

**Page 46 MC/14/0939 Dickens World Ltd., Chatham Maritime,
Chatham, ME4 4LL**

Representations

Letters have been received from both the agents and objectors with requests that they are circulated to all members of the Planning Committee. These letters are appended to this supplementary report. The Head of Planning will respond to the points raised within his presentation.

**Page 89 MC/14/1407 Flanders Farm, Ratcliffe Highway,
St Mary Hoo, Rochester, ME3 8QD**

Amendment to Condition 1

The development hereby permitted shall remain in accordance with the following approved plans 917/11/01; 917/11/02; 015612-01; and ICA/1300/05G received on 22 May 2014.

**Page 100 MC/14/1484 Corporation Street Car Park, Corporation
Street, Rochester**

Conclusion and Reasons for Approval

This section should include the following:

This application would normally fall to be considered under delegated officers' delegated powers but has been reported for Members at the request of Cllr A Gulvin.

Update and Informative

At the last meeting of the Planning Committee members had concerns regarding dog boarding at the premises, the fact that this was referred to on the applicants web site and that this represented an intensification of the "dog business" at the premises which required planning permission. In response, the applicants have removed reference to the dog boarding from their web site and have indicated that this part of the business has ceased. As such the application is purely for that as described which is for dog grooming. Due to member concerns regarding possible intensification it is recommended that, if approved, an informative be imposed on any decision notice as follows:

The applicant is reminded that this permission relates to the dog grooming business as set out in the application documents and plans only. No dog boarding at the premises has been approved and if this was undertaken in addition to the dog grooming then this would require the benefit of a further planning permission.

MC/13/0102 - Parking Survey of Existing Car Parks

Date		Time	Croneens Car Park Spare Spaces	Gillingham Station Car Park Spare Spaces
Fri	22 July 2011	14.15	58	100
Thurs	04 April 2013	17.00	63	84
Mon	08 April 2013	09.30	55	73
Mon	15 April 2013	14.00	20	75
Tues	16 April 2013	09.50	13	83
Thurs	18 April 2013	09.40	29	72
Thurs	26 June 2014	13.00	53	91
Fri	27 June 2014	12.40	50	109
Sat	28 June 2014	13.00	119	109
Tues	01 July 2014	12.00	53	87
Weds	02 July 2014	12.00	47	62
Thurs	03 July 2014	12.00	41	101
Fri	04 July 2014	12.00	122	96
Sat	05 July 2014	12.00	145	104
Sun	06 July 2014	12.00	175	118
Mon	07 July 2014	12.00	43	83
Tues	08 July 2014	12.00	3	81
Weds	09 July 2014	12.00	37	69
Thurs	10 July 2014	12.00	36	75
Fri	11 July 2014	12.00	48	81
Sat	12 July 2014	12.00	158	112
Sun	13 July 2014	12.00	175	116

Average spare spaces on a Friday = 166

Average spare spaces on all dates = 159



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your ref MC/14/0939
our ref JKB.53581.6
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email
date 18 July 2014

Dear Sirs

Planning application MC/14/0939 for the variation of condition 50 on planning permission MC/2004/2592 to depersonalise the permission by removing reference to Dickens World Leisure Attraction

Introduction

1. We are instructed on behalf of Chatham Quays Commercial Ltd in respect of the above mentioned planning application which seeks to vary condition 50 of planning permission MC/2004/2592 (the Application). In summary, the Application seeks permission to use the Dickens World Leisure Attraction for any use within Class A3 or D2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
2. Our clients own leasehold interests in nearby properties including the site known as Jetty 5 Building, which has planning consent for mixed uses (including unrestricted A3 and D2 uses as well as residential units) (the J5 Unit). Our clients also own the adjacent Jetty 6 site which is entirely residential (the J6 Unit). They therefore have a material interest in the outcome of the Application.
3. As planning officers will be aware, Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that the Application be determined in accordance with the development plan unless material considerations indicate otherwise. Our client strongly objects to the Application on the grounds that:
 - (a) the proposal is clearly not in accordance with the development plan; and
 - (b) there are material considerations that strongly support a refusal of the Application.

Planning History and Site Context

4. The premises that is the subject of the Application is known as Site J4 and is located off Dock Head Road (the Dickens World Premises). In August 2000, outline consent reference 97/0224/GL granted permission for the redevelopment of land and buildings including 3 listed buildings for leisure, business, retail and food and drink uses (the Outline Consent). The

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CMPR2552462.1



Outline Consent envisaged a wholesale redevelopment of the Chatham Maritime area, which included the creation of the Dickens World Leisure attraction as well as restaurants, a retail warehouse unit, gym (located within the J5 Site) and cinema. Currently the wider development at Chatham Maritime hosts occupiers such as Nandos, Subway, Pizza Hut, as well as the 9 screen Odeon Cinema of 37,500 square feet. Our client's properties within the J5 Unit comprise 60,000 square feet of commercial space (A3, D1 and D2 uses) across the ground and first floor together with 120 residential units. The J6 Unit is entirely residential comprising 212 units. The Outline Consent was granted as a regeneration initiative but on the basis that it would complement, and not detract from the primary role of Chatham Town Centre.

5. Reserved matters approval reference MC2004/2592 (the **Reserved Matters Consent**) permitted the construction of the Dickens World Premises subject to Condition 50, which is the subject of the Application, and which in essence required the Dickens World Premises to be used as a leisure/tourist attraction. It was not a condition that sought to make the consent "personal" to Dickens World as is suggested by the Planning Statement to the Application. It was a condition imposed in order to give the Council a high degree of control over the kind of tourist attraction in this sensitive out of town location. Condition 50 in effect protected the leisure/tourist attraction use from other higher value uses in order to protect the viability of nearby town centres which have primacy in the development plan hierarchy. The protection afforded to the Dickens World Premises was deliberate and policy based.

The Development Plan

6. The Medway Local Plan (2003) Saved Policies, together with the London Plan 2011 comprise the development plan for the purposes of Section 38(6) of the Planning & Compulsory Purchase Act 2004. The policies within the Medway Local Plan (2003) Saved Policies that are material to the issues arising from the Application are considered below:

Policy L2 - New Leisure Facilities

7. Policy L2 imposes a strong policy presumption that D2 uses (as is applied for in the Application) should be located within or on the edge of town centres. This strong policy presumption was in place at the time of the Outline Consent, and it remains in place now. The question that the Council must ask itself, is what has changed since then to justify an erosion in the protection of town centres and other land uses in the area.
8. Policy L2 may be departed from where a site allocation policy expressly identifies a location as being suitable for D2 uses (see policy L2(i)). Contrary to what is implied in the Application's Planning Statement, no such site allocation has been made in respect of the Dickens World Premises. Policy S8 expressly refers to tourist facilities being promoted, and



the Dickens World Premises was identified as the unit that was to be protected to serve that policy aim. Therefore the loss of the Dickens World Leisure Attraction would fly in the face of both Policy L2 and S8. Nothing has changed since the grant of the Outline Consent and Reserved Matters Consent in this regard.

9. Even if the Dickens World Premises had been identified as a site suitable for open D2 uses within Policy S8, the proposal would still need to overcome the sequential test set out in Policy L2(iii), which requires that the availability of existing D2 premises be considered and sequential test be applied. This requirement is echoed within Paragraph 24 of the National Planning Policy Framework. The Application has singularly failed to carry out any such sequential assessment of available premises and should be refused accordingly.
10. Policy L2(v) requires that applications should be refused if they would have a detrimental impact on neighbouring land uses. In this context it should be noted that at the current time, with the exception of the Zippers Unit (which comprises a 3,000 square feet of restaurant space on the ground floor), our client's J5 Unit has been entirely vacant since practical completion in 2009. There is therefore 27,000 square feet of vacant ground floor space, and 30,000 square feet of vacant first floor space within the J5 Unit. Whilst much of this can be attributed to the financial downturn, it is clear from our discussions with tenants and agents that there is a hope in the market that units such as the Dickens World Premises will be released to different planning uses. Indeed, Pure Gyms, who propose to take the Dickens World Premises, have previously agreed terms with our clients only to pull out of the transaction when offered the Dickens World Premises. It cannot therefore be said that the J5 site is not suitable for a gym on noise grounds: our client has now agreed a final form of lease with another well-known gym operator who is keen to put this long standing vacant unit to use. However, our client's prospective tenant has indicated that they will not take the lease of the J5 Unit, if the Application is approved. The market cannot absorb two gym operators in this location. In planning terms, the market is telling us that the Application is not a sustainable form of development, and will prevent the beneficial use of an already consented scheme. In addition, letting terms have been agreed on an additional three commercial units, but the prospective tenants are all clearly indicating that their willingness to commit to the scheme is predicated upon the gym opening within the J5 Unit to support footfall and activity at this key terminal location.
11. The Dickens World Premises should not be allowed to reduce in size, with the majority of it being turned into a competing gym. If the Application were to be approved, the opportunity of putting vacant buildings to valuable uses would be lost, thereby threatening the vibrancy of the development as a whole. Indeed, should the Application be approved, it would not just threaten the proposed gym letting of the J5 Unit: it would undermine our client's ability to let the other vacant floor space within the J5 Unit. Clearly this is not satisfactory for those who will live in the residential elements of the J5 Unit and J6 Unit, who would be walking past



hoarded up shop fronts. It is vital that the balance of different uses within a development site are controlled to ensure that the whole of Chatham Maritime is viable and attractive to occupiers and residents.

12. It is clear from any reading of Policy L2 that to approve the Application would be to depart from the development plan, and therefore convincing material considerations would need to be demonstrated in order to overcome the policy objection.

Policy S8 – Chatham Maritime

13. Policy S8 identified Chatham Maritime (within which the Dickens World Unit is situated) as a key mixed use development opportunity. Nothing in that policy lent support to a "free for all" mix of uses. Indeed, careful planning is a core requirement of the policy, which envisaged a "factory outlet centre (retail), Class B1 offices, a hotel, land and water-based leisure uses and housing. Tourist facilities and Class A3 uses of a scale commensurate with their location". Policy S8 also sought to achieve a "high quality and vibrant environment" that would "maximise visitor appeal". The Outline Consent and subsequent Reserved Matters Consent were faithful to the delivery of Policy S8. Together the consents regulated the balance of uses across the wider site in a way that ensured that there were no "white elephants".
14. What is now proposed is to alter the balance of uses within the wider development site in a way that will clearly leave a major part of the site vacant and abandoned. Clearly such vacant units cannot be a positive feature within the wider scheme. The Application would clearly change the character of the wider site from a role that supports and adds to the vibrancy of Chatham Town Centre, to one that becomes a centre in itself. It is easy to see how the wider development site will come under further market pressure to accept Town Centre uses if the Application were to be approved. We therefore urge the Council to re-affirm its commitment to protecting the primacy of town centres and to protect residents from the J5 Unit "ghost town" scenario outlined in this letter.

Material Considerations

15. The Application is clearly contrary to the development plan policies, and one therefore needs to consider whether there are any material considerations that could affect the prima-facie case for refusal of the Application.

The Need to Support a Popular Tourist Attraction

16. The Planning Statement suggests that the Dickens World Tourist Attraction cannot viably operate in the current premises due to "financial pressure". However, the applicant has put forward no evidence to support this assertion. Indeed the facts on the ground speak for

themselves: this is a popular tourist attraction that has survived the financial down-turn, and its popularity as the economy grows will only be in the ascendancy. The submission draft of the Council's Core Strategy 2012 (subsequently withdrawn) notes at paragraph 6.32 that *"Dickens World, which opened in 2007, has secured Chatham Maritime's status as Medway's second major visitor attraction cluster and has complemented the existing Dickensian aspect of Rochester's tourist appeal"*. It is difficult to square this analysis with the applicant's suggestion that Dickens World cannot continue to trade from the current premises.

17. Whatever financial incentives being offered to Dickens World to surrender part of their premises to a higher value tenant cannot be a material planning consideration. The total absence of any evidence on the financial performance of Dickens World indicates that the only "financial pressure" in play comes from competing market forces, and the landlord's desire to secure a higher value land use. In short, the hope value of securing a higher value gym tenant is putting pressure on less valuable land uses such as the Dickens World attraction. That hope value is not something that can be supported in planning terms, and if extended across the site, could result in a harmful erosion of Chatham Town Centre and the creation of a Jetty 5 "Ghost Town".

The Need to encourage utilisation of the remainder of the Chatham Maritime Area

18. As noted above, the wider development site permitted by the Outline Consent has not been fully occupied. The Planning Statement's suggestion that the J5 Unit is not suitable for a gym use is plainly wrong. After a prolonged financial downturn, our clients have agreed detailed terms with a gym operator who sees the exciting potential in bringing the J5 Unit into productive use, in order to serve the residential uses in the vicinity, without drawing from Chatham Town Centre. It is clear that there is not sufficient demand for two gyms in this location, and our client's prospective tenant will not take the J5 Unit on if another gym is permitted within the development site. Therefore if the Application were to be approved, it would beg the question as to what uses the J5 Unit could be viably put to. Inevitably, continued vacancy will put unwelcome pressure on the Council to liberalise the use of the J5 Unit further to avoid the "white elephant" scenario. Clearly this could include pressure to release the J5 Unit to other town centre uses, further undermining the primacy of Chatham Town Centre.

Emerging Policy

19. Although the Council's 2012 Core Strategy (submission draft) has now been withdrawn, there is no indication that the policies relating the Chatham Maritime or tourism were at issue. Therefore significant weight should be given to those parts of the draft Core Strategy dealing with Chatham Maritime. In particular, the submission draft re-affirms Chatham



Maritime as a "cultural hub" for tourists. Furthermore, paragraph 4.128 of the submission draft notes that *"arts and Culture are important contributors to Medway's wider economic growth and its growth as a tourist destination"*. In addition draft Policy CS18 stated that policies would be aimed at *"maintaining and enhancing existing tourist and visitor facilities"*. The Application would serve none of these purposes, and would undermine the clear policy vision of the Council.

Conclusion

20. We urge the Council to stand up for its adopted planning policies, and the policy vision set out in emerging policies. By refusing the Application, the Council will be sending a clear signal to land owners that development will be approved only where it supports the wider policy objectives, and where it adds to the environmental, economic and social wellbeing of the area.
21. If this matter is to be reported to the Council's planning committee, we would be grateful if you could inform us of the date, and we would request the right to address the committee meeting to put forward our objections to the Application.
22. We would be grateful if you could keep us updated with regard to the progress of the planning application and would be happy to respond to any queries you may have in respect of this objection.

Yours faithfully

Trowers & Hamlins LLP



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your ref MC/14/0939
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date 11 August 2014

Dear Sirs

Planning application MC/14/0939 for the variation of condition 50 on planning permission MC/2004/2592 to depersonalise the permission by removing reference to Dickens World Leisure Attraction

1. We write further to our letter of 18 July 2014 whereby we set out in full our clients' strong objections to the above proposal. We have now had sight of the officer report for this matter which recommends approval of the application. It is clear that the officer report is woefully short of any meaningful detail or analysis of the proposal and the planning issues arising from it. We set out below a brief summary of the main issues arising, and we would ask that this letter be placed before committee members so that they can make an informed decision on whether the merits of this application have been robustly analysed. We would also urge members to read in full our letter of 18 July 2014, because based on the officer's report alone, members would be making a planning decision based on wholly inadequate information, and as such any decision arising from the report would be liable to challenge by way of judicial review. This application should be refused on the grounds of insufficient information (namely the absence of a sequential analysis of alternative sites), or at the very least deferred pending such detailed analysis on the likely impact of the proposals on other nearby land uses.
2. The overriding issue arising from the proposal is that it would result in already vacant D2 and A3 space on the J5 Unit remaining vacant for the foreseeable future, which would result in the creation of a "ghost town" for residents living in the adjacent J6 Unit. Our summary points are:
 - The original Outline Consent envisaged a wholesale redevelopment of the Chatham Maritime area, which included the creation of the Dickens World Leisure attraction as a cultural hub. That whole emphasis would be lost if the application were to be approved.
 - The Dickens World Premises was required to be used as a leisure/tourist attraction. It was not a condition that sought to make the consent "personal" to Dickens World as is suggested by the Planning Statement to the Application. It was a condition imposed in order to give the Council a high degree of control over the kind of tourist attraction in this sensitive out of town location.

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CN/PR.2576766.2

- Policy L2(iii) requires that the availability of existing D2 premises be considered and a sequential test be applied to see if there are any existing and better placed premises available. The Application has singularly failed to carry out any such sequential assessment of available premises and therefore the application should be refused due to insufficient information.
- There is 27,000 square feet of vacant ground floor space, and 30,000 square feet of vacant first floor space within the J5 Unit owned by our clients. Pure Gyms, who propose to take the Dickens World Premises, have previously agreed terms with our clients only to pull out of the transaction when offered the Dickens World Premises. Our client has now agreed a final form of lease with another well-known gym operator. However, our client's prospective tenant has indicated that they will not take the lease of the J5 Unit, if the Application is approved. In planning terms, the market is telling us that the Application is not a sustainable form of development, and will prevent the beneficial use of an already consented scheme. In addition, letting terms have been agreed on an additional three commercial units, but again the prospective tenants are all clearly indicating that their willingness to commit to the scheme is predicated upon the gym opening within the J5 Unit to support footfall. Approving the application will not introduce "healthy competition" as suggested by the planning officer report: it will result in vacant space within the J5 Unit, and a "ghost town" for nearby residents.
- The Planning Statement suggests that the Dickens World Tourist Attraction cannot viably operate in the current premises due to "financial pressure". However, the applicant has put forward no evidence to support this assertion. Indeed the facts on the ground speak for themselves: this is a popular tourist attraction that has survived the financial downturn, and its popularity as the economy grows will only be in the ascendancy. The submission draft of the Council's Core Strategy 2012 (subsequently withdrawn) notes at paragraph 6.32 that *"Dickens World, which opened in 2007, has secured Chatham Maritime's status as Medway's second major visitor attraction cluster and has complemented the existing Dickensian aspect of Rochester's tourist appeal"*. It is difficult to square this analysis with the applicant's suggestion that Dickens World cannot continue to trade from the current premises.

We respectfully ask that members refuse this application in order to secure the long term regeneration and use of the wider development site, and to protect the existing tourist offering that Dickens World provides.

Yours faithfully



trowers & hamlin

page 3
date 11 August 2014

Trowers & Hamlin LLP

Encl. Letter of 18 July 2014

PD8901/WE/AR-S
email

12 August 2014

Madeline Mead
Planning Officer
The Planning Service
Medway Council
Gun Wharf
Dock Road
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ME4 4TR

Dear Madeline

**PLANNING APPLICATION MC/14/0939
REBUTTAL AGAINST CONSULTATION RESPONSES**

I write to you in response to the consultation letters received during the formal statutory consultation for application reference MC/14/0939 which seeks permission for the variation of condition 50 of application reference MC/2004/2592. Reserved Matters application reference MC/2004/2592 was granted permission on the 28 January 2005 for:

"Reserved Matters application pursuant to outline planning application GL97/0224 for construction of building for use as leisure (Class D2) and restaurants (Class A3) and associated parking".

Condition 50, which is attached to the Reserved Matters permission, states:

"The premises shall be used for the purpose of Dickens World Leisure Attraction, Restaurants and Cinema and for no other purpose, including any other purpose in Class D2 or A3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification"

The proposed application seeks to vary the condition to allow PureGym to occupy part of the premises. As set out in detail within the planning statement PureGym offers a low cost gym product which does not have restricting membership contracts or high fees which is opposite to the traditional private health clubs. PureGym is an affordable, high quality gym which allows people, who wish, to be fit and active without the expensive price tag of a normal private operator.

Four letters of objection have been received throughout the formal consultation period. All four letters are from related parties to the Jetty 5, Finger Dock Development. The following four letters have been received and are attached at Appendix 1 for ease of reference.

- Trowers and Hamlins Objection Letter – Dated 18 July 2014
- truGym Objection Letter – Dated 18 July
- Byrne Estates, Chatham Objection Letter – Dated 24 July 2014
- Latham High Objection Letter – Dated 25 July 2014

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All four letters primary objection to application ref MC/14/0939 are based on commercial rather than planning arguments.

The Trowers and Hamlins letter states that:

"our client has now agreed a final form of lease with another well known gym operator who is keen to put this long standing vacant unit to use. However, our clients, prospective tenant has indicated that they will not take the lease of the Jetty 5 unit, if the application is permitted".

It is unclear from the letters if truGym have or have not signed a lease with the landlord of Jetty 5, or if they are still in negotiation of terms. As discussed within the planning statement, PureGym were previously in longstanding negotiations with Jetty 5 with reference to locating in the unit. However due to acoustic and vibration issues, which could not be resolved, there was too much commercial risk in PureGym locating in the building.

We understand that fit out works have not commenced on site, and therefore it is not reasonable to assume that the gym will open by September as stated within the letter from truGym. Furthermore, due to the acoustic issues identified by PureGym within the building, there has to be significant doubt as to the deliverability of a gym at the finger 5, dock location.

As set out within the Planning Statement it has become increasingly difficult to maintain Dickens World as a viable operation. A reduction in the Dickens World floor area should improve their ability to trade profitably, as confirmed by the letter from Kevin Christie, dated 02 April 2014 (Appendix 2).

The original condition was put in place so to regulate and control any subsequent use of the premises in the interest of amenity. However, due to the changing circumstances of the unit the proposed restrictive condition does not allow enough flexibility to maintain such a viable use. The National Planning Policy Framework (NPPF) paragraph 205 states:

"where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planning development being stalled".

The Trowers and Hamlins objection letter also refers to Policy L2 of the Medway Local Plan (adopted 2003) which looks to direct new leisure facilities falling within use classes D1 and D2 towards town centre or edge of centre locations. As set out within the submitted Planning Statement, the Chatham Maritime area has become an established mixed use destination in its own right, including retail and leisure uses. Although withdrawn the draft Core Strategy stated that Chatham Maritime will be safeguarded as a local centre. It is the acknowledged aspiration of the Local Authority for the area to become a centre in its own right. As the site is well connected to Chatham town centre and is likely to form part of or be adjacent to a new neighbourhood centre, we, with the agreement of the Local Authority, are of the opinion that this is a preferable location for leisure and therefore a sequential assessment is not required.

It is also contested that Policy L2(V) requires that the application should be refused if they have a detrimental impact on neighbouring land uses. The letter stipulates that the unit at Jetty 5 has been vacant since practical completion in 2009. However, as already mentioned, one of the reasons PureGym did not occupy the unit was due to the acoustic and the vibration transfer to the restaurant uses on the ground floor as identified by PureGym.

The Trowers and Hamlins letter also refers to Local Plan policy S8 which establishes the land use planning context for the Chatham Maritime Area. The policy encourages mixed use redevelopment of the area. The proposed gym use will ensure that the unit continues to operate and enable Dickens World to trade viably. The letter attached at Appendix 2, from Kevin Christie at Dickens World, outlines that over recent times it has proven increasingly difficult to maintain the attraction as a viable operation. Pragmatic discussions have been undertaken by Dickens World and the landlord to provide a solution to enable the Dickens World attraction to increase their viability. The current Dickens World operation is not efficiently or effectively using their current

floor space and therefore by increasing the efficiency of the Dickens World attraction will enable the operation to trade more viably.

If you wish to discuss any points raised above in more detail please do not hesitate to contact either Will Edmonds () or Anna Russell-Smith ()

Yours faithfully

Montagu Evans LLP

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