

MC/13/2232

Date Received: 6 September, 2013

Location: 199/199c Gillingham Road, Gillingham, ME7 4EP

Proposal: Variation of condition 03 of planning permission MC/13/1368 (Change of use from part residential at ground floor into commercial use Class A1 (retail), change of use of covered storage area to Class A1 floor space with works including re-roofing of storage area and infilling of garage door together with installation of roller shutters and ramp.) to allow the retail use to operate 06.00 to 23.00 on Mondays to Saturdays (inclusive) and 06.00 to 22.00 on Sundays and National Holidays.

Applicant: Ms Poobalasingham

Agent: T Telles J & L Planning Services First Floor, 1 Hythe Street
DARTFORD Kent DA1 1BE

Ward Gillingham South

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 8 January, 2014.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: photographs demonstrating 'Brick hole type roller shutters' received on 28 June 2013; KD/PP/49/13/G-71.1, KD/PP/49/13/G-71.2 and KD/PP/49/13/G-71.3 received on 16 July 2013 and email confirming colour of powder coat for shutters, received on 29 July 2013.

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

- 3 The Class A1 retail use hereby permitted shall only operate between the hours of 06.00 to 23.00 Mondays to Saturdays inclusive and 06.00 to 22.00 on Sundays and National Holidays.

Reason: To ensure that the development does not prejudice conditions of amenity in accordance with policy BNE2 of the Medway Local Plan 2003.

- 4 No deliveries or collections in relation to the Class A1 retail use hereby approved, including waste/recycling collection, shall take place between the hours of 21.00 and 07.00 on Mondays to Saturdays, between the hours of 20.00 and 08.00 on Sundays and Public Holidays or at any time in the 2 hours preceding or 2 hours following and during any Gillingham Football Club home fixture.

Reason: To ensure that the development does not prejudice conditions of amenity in accordance with policy BNE2 of the Medway Local Plan 2003.

- 5 At no times shall waste/recycling be stored on the forecourt other than on the morning of the collection day.

Reason: To ensure that the development does not prejudice conditions of amenity in accordance with policies BNE2 and BNE1 of the Medway Local Plan 2003.

- 6 Prior to any installation, the shutters hereby approved (shown on drawing KD/PP/49/13/G-71.3 rev R1) shall be powder coated with an RAL 1013 (oyster white) finish and shall thereafter be maintained.

Reason: In the interests of visual amenity and safety and security in accordance with Policies BNE1 and BNE8 of the Medway Local Plan 2003.

- 7 When the shutters are in a closed position the interior of the premises shall be lit by a backlight within the premises.

Reason In the interests of safety and security and to comply with Policy BNE8 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This proposal is to vary condition 03 (hours of opening) of planning permission MC/13/1368.

MC/13/1368 was for "Change of use from part residential at ground floor into commercial use Class A1 (retail), change of use of covered storage area to Class A1 floor space with works including re-roofing of storage area and infilling of garage door together with installation of roller shutters and ramp."

Condition 03 of MC/13/1368 reads :

"The Class A1 retail use hereby permitted shall only operate between the hours of 06.00 to 20.00 every day of the week.

Reason: To ensure that the development does not prejudice conditions of amenity in accordance with policy BNE2 of the Medway Local Plan 2003.

This application is to extend the opening hours so that they can operate 06.00 to 23.00 Mondays to Saturdays and 06.00 to 22.00 on Sundays and National Holidays.

Relevant Planning History

MC/13/1368	Change of use from part residential at ground floor into commercial use Class A1 (retail), change of use of covered storage area to Class A1 floor space with works including re-roofing of storage area and infilling of garage door together with installation of roller shutters and ramp. Approved 30 August, 2013
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Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

4 letters have been received raising the following objections to the proposal:

- Will result in an increase in late night noise;
- Will increase numbers of cars and will result in 'blocking parking near our property';
- Result in litter;
- Will lead to an increase in anti-social behaviour;
- The opening hours previously approved were in-line with other stores in the area.

Other matters raised that are not listed above are not material to the proposal. The matter of the sale of alcohol is a matter for licensing

A 153 name petition in support of the proposal has also been received stating "We support Abi supermarket 199 & 199c Gillingham Road, opening time, Monday to Saturday 6am to 11pm, Sunday 6am to 10pm."

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Planning Appraisal

There is a single matter only to consider in this application. The hours of opening of the approved shop and the impact of those hours on nearby residential amenity with particular reference to Policy BNE2 of the Medway Local Plan 2003.

Under the previous application, MC/13/2232, the proposed hours of operation of the shop unit were 06.00 to 123.00 every day of the week. Notwithstanding this, the Planning Committee, in considering that application, determined that the proposed hours would cause harm to residential amenity and imposed the condition set out above.

The applicants have considered the hours imposed by members and the reasons for the Committee amendment and are now proposing 06.00 to 23.00 Mondays to Saturdays but with a slightly shorter day of 06.00 to 22.00 on a Sunday and National Holidays. In support of their proposal they have submitted a petition (set out above) which has been signed by many residents in the immediate area, which supports the hours now proposed.

For a convenience store the proposed hours are not unusual and there are now a fair number of early/late convenience stores, such as Tesco Express units, with similar or longer opening hours operating in residential areas in Medway. Consideration of opening times of other shops in the area shows: Co-op Store, Gillingham Road is open 07.00 to 22.00 Monday to Saturdays and 08.00 to 22.00 on Sundays; D and A stores in Duncan Road opens between the hours of 06.00 to 23.00 and 'Twin Stars' in Balmoral Road opens 06:00 to 23:00 Mondays to Saturdays and 07.00 to 23.00 on a Sunday.

The determining issue is one of residential amenity and application of Policy BNE2 and it is considered that reflecting comments from many local residents who have signed the petition in support and the closing times of other nearby stores, the proposed opening hours, with shorter hours on a Sunday and National Holidays, are acceptable. Accordingly, no objections are raised under policy BNE2 of the Medway Local Plan 2003.

Local Finance Considerations

Not relevant to this application.

Conclusions and Reasons for Approval

Having considered the existing hours of operation of similar nearby retail outlets, the many signatures in support set out on the petition and the proposed reduced hours on a Sunday and National holiday, the proposal to extend the opening hours from that approved to those now proposed, will not unacceptably impact on residential amenity. The application is accordingly recommended for approval.

This proposal would normally fall to be assessed under delegated powers but is being referred for Committee determination due to the extent of representation received expressing a view contrary to the recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/donline/AcolNetCGI.gov>