

MC/14/2102

Date Received: 21 July, 2014

Location: 59-61 High Street, Rochester, ME1 1LX

Proposal: Variation of condition 3 on planning permission MC/13/2864 to extend opening hours to 06:30 - 21:00 Monday to Saturday and 07:00 - 19:00 Sundays and Public Holidays

Applicant: Goldex Investments Ltd

Agent: Mr Phillips Architecture Design Limited The Joiners Shop The Historic Dockyard Chatham Kent ME4 4TZ

Ward Rochester West

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

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing number 8.8/4.01, 8.8/A.02, 8.8/A.03, 8.8/A.04, 8.8/A.05 & 8.8/A.07 received 11 November 2013 & 8.8/A.06 received 3 January 2014 and Drawing Numbers: 8.8/A.01, 8.8/A.02, 8.8/A.03, 8.8/A.04, 8.8/A.05, 8.8/A.06, 8.8/A.07, COS.DPD, COS.ESTAIR, COS.RDOP2, COS.SUNLIT REV C and COS/DOOR REV F all received 17 February 2014 as amended under decision notice MC/14/0433.

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

- 2 The use hereby permitted shall only operate between the hours of 06:30 to 18:30 Mondays to Fridays inclusive and between the hours of 07:00 to 18:30 on Saturdays and 08:00 to 18:30 on Sundays and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 3 No goods shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours 07:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturday and 08:00 to 16:00 hours Sunday or Bank Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local

Plan 2003.

Recommendation

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

Proposal

This application seeks planning permission for the variation of condition 3 on planning permission MC/13/2864 to extend opening hours to 06:30 - 21:00 Monday to Saturday and 07:00 - 19:00 Sundays and Public Holidays.

Due to concerns raised by the case officer this application has now been amended to reflect a change in opening hours for Sundays and Bank Holidays only, with opening hours for Mondays to Fridays and Saturdays remaining as existing. It is now proposed to amend the opening hours to 08:00 to 18:30 on Sundays and Bank Holidays.

Relevant Planning History

MC/14/2011 Variation of condition 04 on planning permission MC/13/2864 (change of use from Florist (Class A1) to a coffee shop (Class A3) with ancillary retail (class A1) to allow deliveries Monday - Sunday including bank holidays

Decision

Decided Currently under consideration

MC/13/2921 Advertisement consent for the installation of two non-illuminated fascia signs and one externally illuminated hanging sign.

Decision Approval With Conditions

Decided 30 January, 2014

MC/13/2864 Change of use from Florist (Class A1) to a coffee shop (Class A3) with ancillary retail (class A1)

Decision Approval With Conditions

Decided 30 January, 2014

Representations

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

Eight Letters of representation have been received raising the following summarised planning objections:

- The changes to opening hours will impact on residential amenity.
- Longer opening hours will result in more rubbish being generated which is left out on Northgate and is therefore detrimental to the character and appearance of the area.
- Longer opening hours will take trade from other coffee shops.

All other concerns raised are not considered to be material planning considerations and therefore cannot be addressed in the determination of this application.

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

Background

Under decision notice MC/13/2864, Costa Coffee were granted planning permission for the change of use from florist (Class A1) to coffee shop (Class A3) with ancillary retail (class A1). Condition 3 of the decision notice stated:

“The use hereby permitted shall only operate between the hours of 06:30 to 18:30 Mondays to Fridays inclusive and between the hours of 07:00 to 18:30 on Saturdays and 08:00 to 17:00 on Sundays and Public Holidays unless otherwise agreed in writing by the Local Planning Authority.”

The reason for this condition was to *“To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.”*

Main Issues

The main issue in regard to this application is to whether the variation in the opening hours to extend opening hours to 06:30 - 21:00 Monday to Saturday and 07:00 - 19:00 Sundays and Public Holidays, will have an adverse impact on amenity. Since planning permission MC/13/2864 was approved the Government has published its National Planning Practice Guidance (NPPG) on Noise. The NPPG states that *“Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment...”* (NPPG Noise paragraph '002 Reference ID: 30-002-20140306)

Amenity

In regard to the specific site circumstances of this proposal, it is clear that it is located in Rochester High Street with retail operators, including cafes and restaurant in the immediate vicinity. Having researched the planning history of other similar operations in the immediate vicinity, it is clear than many of these have

planning condition restricting them to hours of operation similar to those already permitted in relation to this retail unit, with the exception that many of the other retail units can operate on a Sunday/Bank Holiday between 08:00 to 18:00 hours. As such other similar retail units, in the vicinity of the site, can already operate similar hours to the existing hours on this retail unit, but can also operate on a Sunday and Bank Holiday where this retail units is restricted. Bearing this in mind and the fact that there are residential properties located above this retails unit and in the vicinity of the site it is considered that the hours of operation during Monday to Saturday should remain unchanged, but it is not considered unreasonable to variation the hours of operation, to include Sunday/Bank Holiday between 08:00 to 18:00 hours, as the variation will not result in extended operating beyond that which already has the potential to occur for similar businesses in the vicinity of the site.

In the light if this, it is not considered that the development, operating within the hours suggested above, would have the potential to result in a deterioration of the amenity of the neighbourhood from increased noise from patrons using the premises. The NPPG on Noise states that were noise can be heard, but does not cause any change in behaviour or attitude then this is only likely to slightly affect the acoustic character of the area, but not to such a degree that there is a perceived change in the quality of life. The NPPG refers to this as "No Observed Effect" and advises that in terms of perception, whilst noticeable, it will not have an adverse effect. The NPPG on noise does not advise that such developments should be avoided. (NPPG Noise paragraph '002 Reference ID: 30-005-20140306). Bearing in mind the above, it is considered reasonable to revised hours of operation to include Sundays and Bank Holidays between the hours of 08:00 to 18:30 Hours, as this will not adversely impact on the amenities of the area or adjoining occupiers. On this basis, the revised hours as set out above are considered to be acceptable when assessed against the NPPF, NPPG and policy BNE2 of the Medway Local Plan 2003.

Other Matters

Members will be aware that whilst this application is only seeking to vary condition 4 of the original consent, case law indicates that the effect of granting such consent is to issue a fresh planning permission. This being the case should members be minded to grant consent they need to be mindful of pulling through any conditions previously imposed, as may be required to be varied to reflect current circumstances.

Condition 1 of MC/13/2864 relates to a standard 3-year time condition to implement the change of use. As the change of use has already occurred it is considered that condition 1 does not need to be re-implied.

Condition 2 of MC/13/2864 related to the approved plans. Approved plans have since been varied to allow for the use of the basement (see MC/14/0433) and as such Condition 2 should be re-imposed to reflect both MC/13/2864 and MC/14/0433.

Condition 4 of MC/13/2864 relates to delivery hours. Application MC/14/2011 which seeks to vary the existing delivery hours is also on this agenda. If approved that

condition 4 needs to be updated to reflect the revised opening hours.

Conclusions and Reasons for Recommendation

In this instance, it is considered that the extended hours of operation as outlined above are considered to be acceptable in terms of impact on amenities of neighbouring occupiers, in this town centre location. On the basis and bearing in mind the advice contained in the NPPG on noise, the revised hours of operation as set out above would not be contrary to the objectives of policy BNE2 of the Medway Local Plan 2003 and it is recommended that the hours of operation condition be amended accordingly.

This proposal would fall to the determined under delegated powers but is being reported to Planning Committee for 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/dconline/AcolNetCGI.gov>