

MC/14/2011

Date Received: 11 July, 2014

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

Proposal: 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

Applicant: Goldex Investments Limited

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

Approval, subject to conditions. 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 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. Initially the applicant sought to allow for deliveries on a Sunday and Bank Holiday unrestricted. However, following discussions with the applicant has agreed to seeking to vary the existing hours of deliveries to include deliveries on a Sunday and Bank Holiday between the hours of 08:00-16:00 hours.

Relevant Planning History

MC/14/2102	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 Decision: Also on this Agenda
MC/14/0433	Installation of a new staircase to basement, insertion of new windows and stud walls within the basement area to form storage and toilet areas, new fixed serving counter, new dado panels and replacement flooring. Decision Approval With Conditions Decided 14 April 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.

Four letters of representation have been received raising the following summarised planning objections:

- Costa Coffee should have planned their perishable food and refrigeration accordingly.
- The change in delivery hours is unnecessary.
- Additional noise on a Sunday and Bank Holiday is unacceptable.

Two additional letters have been received objecting to Costa Coffee opening in Rochester High Street. However, Costa Coffee has permission to operate and these two objections are not considered to raise any valid planning objection to the current application seeking to vary the hours of delivery.

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 4 of decision notice stated:

"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 or at any time on Sunday or Bank Holidays."

The reason for the imposition of this condition was to *"ensure that the development is without prejudice to conditions of amenity."*

Main Issues

The main issue in regard to this application is to whether the variation in the hours of deliveries, to include Sundays and Bank Holidays between the hours of 08:00-16:00 hours, 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 that many of these do not have planning conditions restricting them to hours of delivery similar to those imposed

on the above mentioned planning permission. As such other similar retail units could have deliveries at any time of the day or night unrestricted. This being the case, the variation of the hours of delivery to allow deliveries on a Sunday between the hours specified will not allow deliveries beyond that which already have the potential to occur for similar businesses in the immediate vicinity.

In the light of this, it is not considered that the development, operating within the delivery hours suggested above, would have the potential to result in a deterioration of the amenity of the neighbourhood from increased noise from deliveries. The NPPG on Noise states that where 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). The revised hours of delivery to include Sundays and Bank Holidays between the hours of 08:00 to 16:00 Hours will not adversely impact on the amenities of the area or adjoining occupiers and is therefore 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 any other planning 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 there is no need to re-impose this condition.

Condition 2 of MC/13/2864 related to the approved plans. Members will have noted from the history section above that since first approved, permission has been granted to allow the use of the basement area as part of the A3 use. Therefore condition 2 needs to be updated to reflect the most recent approved plans (see MC/14/0433)

Condition 3 of MC/13/2864 relates to opening hours. Application MC/14/2102 which seeks to vary the existing opening hours is also on this agenda. If approved that condition 3 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 delivery are 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 delivery would not be contrary to the objectives of policy BNE2 of

the Medway Local Plan 2003 and it is recommended that the hours of delivery 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>