

MC/14/3595

Date Received: 3 December, 2014

Location: 84 Watling Street, Gillingham, ME7 2YP

Proposal: Change of use from A3 (restaurant) to A3/A5 (restaurant and takeaway)

Applicant: Zavros Properties

Agent:
Ward Watling

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 4 March 2015.

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:12 03.03/3

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

- 3 The hot food delivery service shall not operate separately from the restaurant use herein approved.

Reason: To ensure that the permitted development does not prejudice residential amenity through intensification of uses at the property in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 The A5 element of the use hereby permitted shall only operate between the hours of 08:00 to 23:00 Mondays to Saturdays and 08:00 to 22:00 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.

- 5 No deliveries to the commercial use shall be received or despatched from the site outside the hours of 07:00 to 19:00 on Mondays to Fridays, 08:00 to 18:00 on Saturdays nor at any time on Sundays, or Bank 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.

- 6 The sound insulation within the preparation area of the permitted A3 use shall be carried out in accordance with the approved specification/drawings submitted under planning reference MC/13/0712 prior to first occupation of the ground floor and flats.

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

- 7 The cumulative noise level $L(A)_{eq, T}$ of any plant; including fans, air conditioning and extraction system, shall be at least 5dB(A) below the background level $L(A)_{90}$ at the nearest residential premises for the duration of the development. Where $T = 1$ hour between 07:00-23:00 and 5 minutes between 23:00 - 07:00 hours.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 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 application is for the part change of use from A3 (restaurant) to A3/A5 (restaurant/ takeaway) at 84 Watling Street, Gillingham. The use is currently a single restaurant use. The proposal is for a part change of use in a manner that a takeaway option (Use Class A5) will be available as part of the main A3 use. No external or internal alterations proposed.

Relevant Planning History

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|------------|---|
| MC/14/2044 | Variation of condition 3 of planning permission MC/14/0247 to extend the opening hours to 07:00 to 00:00 Monday to Thursdays and 08:00 to 00:00 on Sundays and Public Holidays with the exception of Christmas Eve (24 December) and New Years Eve (31 December) where the premises can open until 01.00.
Approved 8 September, 2014 |
| MC/14/0247 | Variation of condition 3 of planning permission MC/13/0712 to extend the opening hours to 07:00 to 23:00 Mondays to Thursdays, 07:00 to 00:00 on Fridays and Saturdays and 08:00 to 23:00 on Sundays and Public Holidays with the exception of Christmas Eve (24 December) and New Years Eve (31 December) where the premises can open until 01:00. |

Approved 21 March, 2014

MC/13/0712

Change of use of ground floor from bank (Class A2) to restaurant (Class A3) with installation of new shop front; extraction flue and 2 replacement air conditioning units to rear, insertion of doors and windows to east and rear elevation, construction of part 2 storey/part first floor side and single storey rear extensions together with roof light to front and window to gable end to provide a managers self contained flat (Resubmission of MC/12/1945)
Approved 17 May, 2013

Representations

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

Nine objections have been received regarding the proposals and relate to the following concerns:

- Too many takeaways existing on this section of Watling Street
- Concern over more violence, late night openings, rubbish, noise, lighting and agitation on residents
- Increase in unhealthy eating options
- Adverse impacts on business and footfall
- Further irritation on existing residents and public services
- General concern about rubbish and the disposal of trade waste as the property has no rights for waste bins on highway or rear private service road, any use of which will cause disputes and disruption.

Kent Police had no specific comments but request that the Policy and Council Licensing Officers be contacted.

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

Principle

The application site is located within a local shopping centre as defined in Policy R10 of the Medway Local Plan 2003. This Policy states that *'development involving the loss of existing shopping facilities, including retail, service and food and drink uses (Classes A1, A2 and A3) will not be permitted unless an improvement to local amenity or the provisions of community facilities occurs that outweigh the loss'* (Note: This policy was adopted prior to modifications to the use classes order and,

therefore, reference to Class A3 includes A4 and A5 uses). The application whilst seeking an option for an A5 use does not result in the loss of the existing A3 use, as the takeaway option will be used in conjunction with the A3 use. On the basis of this, there is no objection raised to Policy R10 of the Local Plan.

Policy R18 of the Medway Local Plan provides more specific advice on hot food and drink uses. It says that such uses will be permitted outside core retail areas provided certain criteria are met:

- No detrimental impact on neighbouring amenity
- The concentration of other similar uses would not have environmental or highway safety impact
- The hours are acceptable
- There are suitable refuse storage facilities and
- The proposal is acceptable in terms of noise/general disturbance, means of extraction and parking.

The site lies within the local centre of Watling Street and is located within 0.5 mile of Robert Napier School and Chatham Grammar. Medway Council's Cabinet agreed on 15 July 2014 to adopt new guidance 'Hot Food Takeaways in Medway: A Guidance Note' as a material consideration in relation to determining applications for new hot food takeaways. The guidance introduced some restrictions on the location and operating hours of new takeaways. This targets the issue of over-concentration of takeaways in particular areas, and in locations close to schools. The guidance covers planning applications for new takeaways only.

In addition to the Hot Food Takeaways Guidance Note, Policy R18 of the Medway Local Plan 2003 seek to secure a balance of shops and services in local centres. Whilst hot food takeaways contribute to the mix of centres, it is important that they do not dominate the local retail food offer in the area. An over abundance of hot food takeaways displaces other shop and food options and impacts on the vitality and viability of designated neighbourhood centres. The possible impact of a new takeaways on the local centre in terms of the vitality and viability of the centre as a whole is a consideration in the determination of the application.

A survey was undertaken on 12 January 2015 with subsequent information received from the Council's Public Health Department. Information received from the latter indicates that of the 47 units on this section of Watling Street, A5 units account for approximately 17% of the business. The January 2015 land use survey was carried out of the Local Centre, comprising of 66 to 94 and 91 to 147 Watling Street and is listed below:

147 Watling Street	A1
145 Watling Street	A1
143 Watling Street	A1
141 Watling Street	A2 (One Unit)
139 Watling Street	A2 (One Unit)
137 Watling Street	A1

135 Watling Street	A1
133 Watling Street	Vacant
131 Watling Street	D1
129 Watling Street	A5
127 Watling Street	A1
125 Watling Street	D2
123 Watling Street	A1
121 Watling Street	A1
119 Watling Street	A1/A2
117 Watling Street	D1
115 Watling Street	A5
113 Watling Street	D1
111 Watling Street	A5
109 Watling Street	A1
107 Watling Street	A2
105 Watling Street	A2
103 Watling Street	A3
101 Watling Street	A1
99 Watling Street	A5
97 Watling Street	A1 (One Unit)
95 Watling Street	A1 (One Unit)
94 Watling Street	A1
93 Watling Street	A5
92 Watling Street	A2
91 Watling Street	A1
90 Watling Street	A3
88 Watling Street	A5
86 Watling Street	A2
84 Watling Street	A3 (Application Site)
82 Watling Street	A1 (One Unit)
80 Watling Street	A1 (One Unit)
78 Watling Street	A1
76 Watling Street	A1 (One Unit)
74 Watling Street	A1 (One Unit)
72 Watling Street	A5
70 Watling Street	A5
68 Watling Street	A3 (One Unit)
66 Watling Street	A3 (One Unit)

The current use on the application site is for A3 (Café/ Restaurant Use). Of the 39 units surveyed in the immediate area of the application site, the current percentage breakdown in terms of uses is as follows: A1 (43.4%); A2 (12.8%); A3 (10.25%); A5(20%); D1(7.7%), D2(2.56%). The change of use would result in an increase to between 19% and 23% of Class A5 uses, therefore exceeding the threshold to comply with the objectives of the Hot Food Takeaways in Medway: A Guidance Note. Should the application be for a change of use from A3 to A5, or if an option were present to pursue either use class in isolation, this would be considered to be a disproportionate concentration of A5 uses in this section of Watling Street and therefore detrimental to the vitality of the Local Centre. However, if the restaurant A3 use will continue to be the main function of the property and the A5 use as proposed

will be ancillary to the A3 use. It is considered that the proposal is in accordance with Policies R10 and R18 of the Medway Local Plan 2003 and the Hot Food Takeaway in Medway: A Guidance Note, 2014.

Design

There are no external alterations proposed as part of the change of use proposals. An extractor fan is currently in situ to the rear which was approved part of Planning Permission MC/13/0712. Accordingly, no objection is raised to Policy BNE1 of the Local Plan.

Amenity

Regarding hot food takeaways, key sources of disturbance would include any further significant noise generated, or an increase in odours. Whilst the restaurant use may operate between the hours of 07:00 - 00:00, it is considered that should the A5 use be aligned with this, the increase in associated noise from drop offs, doors banging, conversation, traffic and general noise generated from a take away/delivery service would increase levels of disturbance during late hours to surrounding properties. As such, a condition on opening hours is recommended to be imposed on the takeaway aspect of the operations.

Issues relating to litter etc, should be adequately addressed by the existing waste facilities and flue system as assessed in relation to the approved A3 restaurant use. The proposal is therefore considered acceptable to Policy BNE2 of the Local Plan.

Highways

There are no off-site car parking spaces to serve the existing or proposed use, and vehicles accessing the site would rely on parking that is provided within the lay-by on Watling Street directly adjacent to the site. This provides unrestricted parking for around 4/5 vehicles. Holmside and Malvern Road also provide some unrestricted parking although this is very well used at present, especially in the evenings and weekends. It should be noted that the A3 use as proposed (MC/13/0712) was considered acceptable to Policies T1 and T13 of the Local Plan. As such, it cannot not be demonstrated that the option for an A5 would result in any additional impacts. Additionally, given the largely urban residential area within which the proposal is located it is not considered the proposals would result in unacceptable parking demand. Accordingly no objection is raised.

Local Financial Contributions

None relating to this application

Conclusions and Reasons for Approval

The proposed development, subject to the recommended conditions is considered to be acceptable in terms of its impact on the character and uses in the area, the street scene, neighbour amenities and highways .The proposal therefore accords with the provisions of policies BNE1, BNE2, T1, T13, R10, and R18 of the Medway Local

Plan 2003 and is recommended for approval.

The application would normally be determined under delegated powers but is being referred to committee for determination due to the extent of the representations 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://publicaccess.medway.gov.uk/online-applications/>