

MC/16/2422

Date Received: 3 June, 2016

Location: 49 High Street, Gillingham ME7 1BQ

Proposal: Change of use of ground floor retail shop (Class A1) to hot food takeaway (Class A5) including installation of a extraction flue to rear

Applicant: Konebat Properties Limited

Agent: Mr Huseyin FNH Property Services LTD Hillside London Road
West Kingsdown TN15 6EX

Ward Gillingham South

Case Officer Thomas Stubbs

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 21 September, 2016.

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:

Drawing number 02 received on 3 June 2016.

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

- 3 All materials used externally shall match those of the existing building.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 The use hereby permitted shall only operate between the hours of 11:00 to

23:00 Mondays to Saturday inclusive and between the hours of 11:00 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 Prior to the bringing into use of the development hereby permitted, a scheme of acoustic protection shall be submitted to and approved in writing by the Local Planning Authority. The scheme must demonstrate that the internal noise levels within the nearest noise sensitive receptors will conform to the indoor ambient noise levels for dwellings identified by BS8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings. All works which form part of the approved scheme shall be completed before any part of the development is brought into use and shall thereafter be maintained in accordance with the approved details.

Reason: Required before commencement of the use to safeguard, irreversible impacts on the amenities of the occupants of the proposed development 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 seeks planning permission for the change of use of ground floor retail shop (Class A1) to hot food takeaway (Class A5) including installation of an extraction flue to rear. There are no other external alterations proposed within the application. The flue would measure approx. 0.3m wide by approx. 0.3m in depth and approx. 6m in height with a brick bond effect cover. The proposed opening hours are 11:00 to 23:00 Monday to Saturdays and 11:00 to 22:00 on Sundays and Bank Holidays.

Representations

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

Three letters of objection have been received raising the following concerns:

- Noise issues
- Too many takeaways in the area and detrimental impact on the high street

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). 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 (NPPF) and are considered to conform.

Planning Appraisal

Principle

The application site is situated within Gillingham Core Retail Area as identified within the Medway Local Plan 2003. Paragraph 23 of the NPPF also advises that planning policies should promote competitive town centre environments; recognising town centres are at the heart of their communities and supporting their vitality and viability. Town Centres should provide customer choice and a diverse retail offer, reflecting the individuality of town centres.

Policies R5 and R17 of the Local Plan specifically refer to Gillingham and permit A1, A2, A3 use and other uses that are appropriate to the form of the centre, provided they support the vitality and viability of the centre as a whole, except where there would be a cumulative detrimental effect on the character and retail function of the centre or visual amenity.

"The Hot Food Takeaways in Medway - A Guidance Note" adopted in July 2014, introduces guidance on the location and operation hours of hot food takeaways. The guidance explains that too many hot food takeaways together can undermine the main retail function of a centre and appear to promote hot food takeaways in preference of healthier options. Paragraph 5.12 of the guidance note indicates how the Council will assess the impact of hot food takeaways on the vitality and viability of the core areas. It states that "A1 units should normally account for at least 60% of the total linear frontage; A5 uses should not normally exceed 10% unless there is a clear issue with the unit being vacant for 12 months or more. No more than two adjoining units will normally be allowed. This is to avoid fragmentation of the main retail function and avoid an undue concentration of A5 units". A survey of a section Gillingham Core Retail Area (odds 29a-75 and evens 30-80) was undertaken on the 17 August 2016, the current linear frontage of hot food takeaways within the section of the High Street is approx. 5.5% and the A1 frontage at 57%. The proposed change of use would alter this linear frontage to approx. 7.5% A5 uses and 55% A1 uses. Marketing information has been provided with the application, indicating that it has been marketed for over a year, however it also confirms that the use ceased on 29 May 2016 and therefore it has not been vacant for more than 12 months.

Consequently the proposed change of use would not lead to an over concentration of hot food takeaways as the linear frontage would only be 7.5% but would add further loss of A1 units (by 2%) within this section of the Gillingham Core Retail Area. However as the majority of the units remain as A1 it would not be considered to be detrimental to the vitality and viability of Gillingham Core Retail Area and is in accordance to Policies R5 and R17 of the Medway Local Plan 2003, Paragraph 23 of the NPPF and "The Hot Food Takeaways in Medway - A Guidance Note" adopted in July 2014.

Design

The application proposes no physical change to the proposed shopfront, but would

introduce an extraction flue to the rear. The flue is considered to be of a suitable size and scale and would be screened with a brick bond cover. If the application were considered to be acceptable, a matching materials condition would be required regarding the brick bond cover. Subject to the proposed condition the application would be considered to be in accordance with Policy BNE1 of the Medway Local Plan 2003 and Paragraph 56 of the NPPF.

Amenity

Policies BNE2 and R17 of the Medway Local Plan 2003 seek to ensure that the amenities of future occupiers and existing residents of neighbouring properties are protected. This includes consideration of noise impacts, smells and general disturbance.

It is considered that the proposed hours would be acceptable for this area and protect residential amenity of adjoining residential dwellings during the night period and an appropriate condition is recommended. There is a maisonette flat above the proposed ground floor. The proposed kitchen extraction system incorporates both grease and carbon filtration and discharges at a high level which would be beneficial for the dispersal of cooking fumes. The scheme also shows that the extraction fan is located internally within the ground floor area and includes a post fan silencer to reduce duct noise. There is a concern that noise still may be detrimental to the maisonette above from the noise sources of the proposed ground floor use form a mixture of the noise sources of staff, customers, kitchen and extraction system. It is considered that these noise concerns could be addressed by a suitably worded condition for a scheme of acoustic protection to be submitted and implemented prior to the use commencing. Consequently subject to the conditions listed above the application would be considered to be in accordance with Policies BNE2 and R17 of the Medway Local Plan 2003 and Paragraph 17 of the NPPF.

Highways

The application property has no off-street car parking facilities of its own, but it is a Town Centre site, which is well served by public car parks and by public transport. No highway objection is therefore raised and the application is considered to be in accordance with Policy T13 of the Medway Local Plan 2003.

Other matters

With regard to 'Hot Food Takeaways in Medway'- a Guidance Note (July 2014), the application property is within 400m of school where restrictions to opening hours would normally apply. However, the site lies within a town centre as designated within the Medway Local Plan 2003 and therefore this restriction of opening hours does not apply to this application as set out in paragraph 5.15 of the Hot Food Takeaways in Medway: A Guidance Note 2014.

In terms of public health considerations, new hot food takeaways, where they are deemed appropriate development, would be charged a fixed fee of £1000 if the internal floor area of the premises is above the 100sqm. However as the floorspace of the proposed hot food takeaway is approx. 67sqm, there is no requirement to secure

a contribution as set out in paragraph 5.20 of the Hot Food Takeaways in Medway: A Guidance Note 2014.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

The proposed change of use would not lead in an over concentration of hot food takeaways within Gillingham Core Retail Area, and would not be considered to be detrimental to the vitality and viability of Gillingham Core Retail Area. There are also no objections to design, amenity and highways. Consequently the application is considered to be in accordance with Policies BNE1, BNE2, R5, R17 and T13 of the Medway Local Plan 2003, Paragraphs 17, 23 and 56 of the NPPF and "The Hot Food Takeaways in Medway - A Guidance Note" adopted in July 2014.

The application would normally be determined under delegated powers but is being referred to Planning 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/>