

MC/16/3243

Date Received: 1 August, 2016

Location: 1 Main Road Hoo St Werburgh Rochester, ME3 9NA

Proposal: Change of use of ground floor from A2 (Bank use) to A3/A5 (hot food take away and restaurant use) and installation of cooking extraction flue to rear elevation security shutters to the front elevation

Applicant: Monopoly Property Investments

Agent: Ms Tina McFadzean Insight Architects The Joiners Shop The Historic Dockyard Chatham ME4 4TZ

Ward Peninsula

Case Officer Doug Coleman

Contact Number 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 16 November 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:16-118 01 P1, 16-118 005 P116-118 06 P116-118 07 P116-118 08 & P116-118 09 P1 received on 1 August 2016.

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

- 3 Prior to the commencement of the development hereby permitted, a scheme for the control of noise and vibration from the system, shall be submitted and approved in writing by the Local Planning Authority. Noise from the extraction system (LAeq,T) shall be at least 10dB(A) below the background noise level (LA90,T) at the nearest residential facade, when assessed in accordance with BS4142:2014. The approved scheme shall be implemented before the development is brought into use and thereafter be maintained in accordance

with the approved details.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on surrounding residential amenities and in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 The separating ceiling and floor between the ground floor unit and first floor unit shall resist the transmission of airborne sound such that the weighted standardised level difference ( $D_{nT,W} + C_{tr}$ ) shall not be less than 60 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.

Reason: In the interests of the amenities of the occupiers of the first floor flat and in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 The use hereby permitted shall only operate between the hours of 12:00 to 23.00.

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 Prior to the first commencement of the use the arrangements for the storage of refuse and recyclable materials, shown on drawing 16-118 001 P1 shall be provided and thereafter be retained for the duration of the development hereby permitted.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 7 Prior to the commencement of the use hereby permitted, details of measures to encourage customers to use the car park at the rear of the premises, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the opening of the premises and shall thereafter be retained for the duration of the development hereby permitted.

Reason: In the interest of highway safety and the amenity of the occupiers of neighbouring and nearby properties and in accordance with Policy T13 of the Medway Local Plan 2003.

- 8 The roller shutters hereby approved to be installed shall be powder-coated in RAL 5004 /Blue Black and shall be retained and maintained as such.

Reason: In the interest of visual amenity in accordance with Policy BNE1 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 relates to a property of the corner of Main Road and Church Street, Hoo St. Werburgh. The building is predominantly two storey, but has a flat roofed single storey projection to the front, which corresponds with the building line of other properties in Main Road, and another flat roof projection to the side and rear. The ground floor is currently vacant, having last been used as a bank. The first floor, known as 1A Main Road, is accessed separately to the side and was last used as office. It has Prior Approval for residential (Class - C3), for a single two bedroom flat. There is a car park to the rear with space for around 10 cars, serving the application property, the first floor and the neighbouring retail unit at 3 Main Road.

The proposal is to change the use of the ground floor from a bank (Use Class A2) to a hot food take away and restaurant (Use Classes A3/A5). The proposal also involves the installation of a cooking extraction flue to the rear elevation and provision of security shutters to the front.

The submitted drawing shows a serving counter to the front with seating for 24 in the middle. To the rear there would be a food preparation area, dish washing area, accessible wc and freezer. It is submitted that the premises would be open between 12:00 and 23:00 seven days a week and that 7 staff would be employed at the premises.

It is submitted that the premises would be occupied by the occupier of the Kebab shop in Knights Road, Hoo. The lease on that property is about to expire and is not being re-newed, so the proposed restaurant take-away would replace an existing take away within the village. However, that is not controllable through planning legislation and is not therefore a material planning consideration.

## **Relevant Planning History**

MC/16/3244	Advertisement consent for the installation of three externally illuminated fascia sign boards Under consideration
MC/15/2869	Prior notification of a proposed change of use of first floor B1 (office) premises to C3 (residential) Prior Approval Not Required 07/09/2015
MC/15/2649	Prior notification of a proposed change of use from offices Class A2 to residential Class C3 Prior Approval Not Required 28/09/2015
MC/05/1170	Construction of disabled access ramp, handrails and new access door to side elevation Approved with Conditions 06/09/2005

## Representations

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

**Two letters** have been received raising the following objections:

- There are already 9 fast food outlets in Hoo village centre;
- Proposal would add to parking problems;
- Additional traffic generation;
- Noise, fumes and litter;
- Loss of take-away at Knights Road;
- Hot food take-aways have been refused at 5 & 13 Main Road.

## 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 and are considered to conform.

## Planning Appraisal

### *Principle*

The site is within the Local Shopping Centre of Hoo St. Werburgh, defined as 'All shops in village'. 18 shops have been identified in the centre, comprising the following:

1 Main Road	Application property	Class A2 (vacant)
3 Main Road	Newsagent	Class A1
5 Main Road	Pharmacy	Class A1
7 Main Road	Optician	Class A1
9-11 Main Road	Co-op	Class A1
13 Main Road	Estate agent	Class A2
15 Main Road	Restaurant/take-away	Class A3/A5
17 Main Road	Hairdresser's	Class A1
10 Main Road	Take-away	Class A5
4 Main Road	Estate agent	Class A2
2 Main Road	Restaurant	Class A3
1 The Parade	Betting Office	Sui generis
2 The Parade	Fish & chips shop	Class A5
3 The Parade	Butcher's shop	Class A1
4 The Parade	Motor spares shop	Class A1
5 The Parade	Hairdresser's	Class A1
6 The Parade	Bakery	Class A1
7 The Parade	Spar	Class A1

This shows the current balance of units within the village centre as: Class A1 - 10 (55.5%); Class A2 - 3 (16.6%); Class A3/A5 - 4 (22.2%); and sui generis - 1(5/5%)  
If the proposal were allowed the balance would be: Class A1 - 10 (55.5%); Class A2 - 3 (11.1%); Class A3/A5 - 5 (27.7%); and sui generis - 1(5/5%).

Policy R10 of the Local Plan states that *in local centres, development resulting in the loss of existing shopping facilities, which includes Classes A1, A2 & A3(A4 & A5) will not be permitted unless there is an improvement to local amenity or the provision of community facilities occurs that outweighs the loss.*

Paragraph 28 of the NPPF supports the retention and development of local services and facilities in villages, including local shops.

The property is currently empty and has been empty for a considerable time, and the proposal would bring it back into use, thereby increasing the range of facilities. The proposal would not result in the loss of an A1 retail unit and the percentage of A1 uses within the centre would remain unchanged.

Having regard to the above considerations, it is considered that the principle of the proposal is acceptable and in accordance with Policy R10 of the Local Plan and Paragraph 28 of the NPPF.

### *Design*

The proposed change of use does not in itself raise any issues in terms of design and appearance. However, the installation of an extraction flue and the provision of security shutters to the front do need to be assessed in terms of design and appearance, and in this regard the proposal falls to be assessed under Policy BNE1. In addition, the security shutters fall to be assessed under Policy BNE8 of the Local Plan and in terms of the impact on the shopfront, under Policy BNE9. Regard should also be paid to Paragraphs 58 and 64 of the NPPF when assessing matters of design and appearance.

The proposed flue would be located on the rear elevation facing the car park and would emerge at a height of 2.6m above ground level, rising to a height of 7.5m, 2m above the top of the nearest window on the neighbouring property and at the same height as the ridge of the application building. Although visible from the car park, it would not be unduly prominent and would not be out of character, having regard to other items - drainpipes, satellite dishes etc. on the rear of these buildings. Due to a tree screen along the eastern boundary to the car park, the flue would not be readily visible from Church Street.

The proposed security shutters would be punch hole design, the same as those on the adjoining property, 3 Main Road, which were approved on 3 May 2016 (MC/16/0845). Whilst, solid and pin whole shutters (which have a solid appearance) are visually unattractive, punch hole shutters do not have a solid effect (particularly when back lit) and are considered acceptable in visual terms.

Having regard to the above considerations, no objection is raised in terms of design and appearance under Policies BNE1, BNE8 and BNE9 of the Local Plan, and

Paragraphs 58 and 64 of the NPPF.

### *Amenity*

In terms of neighbour amenity, the primary issue relates to internal and externally generated noise. External noise will predominantly come from the kitchen extract system (for example fan noise, case breakout and flue noise), but there may also be noise from delivery vehicles particularly, if the business is to offer a home delivery service. In addition there will be noise from customers entering and leaving the premises.

Internal noise will come from general business operations, but potentially also from staff and customers, which may be transmitted to the residential flat above the premises through the separating ceiling/floor, which given its previous use may not be sufficient to restrict the passage of sound from the proposed use.

It is considered that these issues could be addressed by the imposition, of appropriate conditions relating to the fume extraction system, sound insulation between ground and first floors, and restricting the hours of operation. Subject to these conditions, no objection is raised in terms of neighbour amenity under Policy BNE2 of the Local Plan and Paragraph 17 of the NPPF.

### *Highways*

The Council's adopted Vehicle Parking Standards require the provision of one car parking space per 6 sq. m., plus one space per member of staff (maxima) for a restaurant and 6 spaces for a hot food take-away (maxima). The restaurant area would have a floorspace of approx. 24 sq. m., whilst the remainder of the building would be occupied by the hot food take-away and ancillary preparation area etc. Resulting in a requirement for 10 spaces.

Unlike most commercial premises in the village centre, this property has its own parking area to the rear, albeit shared with the neighbour property and the first floor flat. In addition, there is a public car park approx. 100m away.

It is likely that the busiest period for the use of the restaurant/take-away would be in the evenings, when other premises are likely to be closed and hence demand for parking lower.

There are parking restrictions outside, the application property, meaning that effectively customers would not be able to park outside. However, concerns have been expressed that customers will ignore these restrictions and park indiscriminately outside the premises. This is strictly a parking enforcement matter, but in order to address these concerns, it is recommended that a condition is attached to any planning permission requiring the submission and approval of measures, such as signage, to encourage customers to use the rear car park. Subject to this condition, no objection is raised under Policy T13 of the Local Plan in terms of parking.

### *Health and well being*

Paragraph 69 of the NPPF states that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. This is supported by Planning Practice Guidance 'Health and Wellbeing' (2014) which states that Local Planning Authorities should ensure that health and wellbeing and health infrastructure are considered in local strategies to improve health, social and cultural wellbeing for all.

Medway Council has produced a Guidance Note "Hot food take-aways in Medway" (July 2014) which is a material consideration in determining planning applications. This document looks at three key issues with regard to hot food take-aways: the concentration of units within commercial/retail frontages, units clustering together, usually no more than two adjoining each other), and proximity to schools.

The table above demonstrates that there would not be an undue concentration of units within the local centre.

The Guidance Note states also states that in an effort to establish healthy eating habits and reduce the rate of childhood obesity the Council considers it appropriate to restrict the hours of operation of hot food take-aways within 400m (the equivalent of a five minute walk) from schools. The nearest schools, both primary and secondary are located approx. 650 to the west of the application site in Main Road.

In view of the size of the proposed unit, no contribution is sought towards public health initiatives.

### *Other Matters*

Reference has been made in the letters of representation to planning permission being refused for hot food take-aways at 5 and 13 Main Road. Whilst this is correct, no objection was raised in either case, to the principle of a hot food take-away. The hot food take-away at 5 Main Road was refused on 23 February 2007 on account of the unacceptability of the roller shutters which were solid and not pinhole (MC/2006/2279). At 13 Main Road, planning permission was refused on 13 May 2011, again on account of the unacceptability of the roller shutters, and the visual impact of the proposed flue (MC/11/0288).

### *Local Finance Considerations*

There are no local finance considerations raised by this application.

### **Conclusions and Reasons for Approval**

The principle of the proposal is considered to be acceptable and no objection is therefore raised under Policy R10 of the Local Plan and Paragraph 28 of the NPPF. No objection is raised in terms of design and appearance, neighbour amenity, parking and public health and the application would, therefore comply with Policy BNE1, BNE2, BNE8, BNE9 and T13 of the Local Plan and Paragraphs 17, 58 and 64 of the NPPF and the application is recommended for approval.

The application would normally fall to be determined under Officer delegated powers,

but is being referred to Committee for consideration at the request of Cllr. Freshwater as he feels that the issues over number of take aways in the centre and on street parking problems are most appropriately considered by members..

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### **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/>