

MC/16/3577

Date Received: 24 August, 2016

Location: 55 Luton High Street Chatham ME5 7LP

Proposal: Change of use from nail and beauty salon to hot food takeaway (Class A5)

Applicant: Mr M Alam

Ward Luton & Wayfield

Case Officer Mary Smith

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 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:

The proposed plan and front view received 5 September 2016.

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

- 3 The use hereby permitted shall only operate between the hours of 1700 to 2300 Mondays to Saturdays inclusive and between the hours of 1700 to 2230 on Sundays.

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

- 4 The use hereby permitted shall not commence until arrangements for the conduction and extraction of fumes have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the commencement of use of the hot foot takeaway and

shall thereafter be retained in operation and maintained for the duration of the use.

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.

- 5 The use shall not commence until details of its position and means of enclosure for the storage of waste have been submitted to and approved in writing by the Local Planning Authority. Any waste stored externally shall only be stored in accordance with these approved details.

Reason: In the interest of the amenities of neighbours in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 Prior to the first opening of the hot food takeaway hereby approved the parking area shall be marked out in accordance with the submitted block plan (showing 4 spaces). Thereafter it shall be retained as such for the duration of the use, with the parking area together with vehicular access thereto being made available for parking for site customers at all times that the hot food takeaway is open for business.

Reason: To ensure a suitable parking layout that is available for use by customers in accordance with Policies T1, T2 and T13 of the Medway Local Plan 2003.

- 7 Deliveries to the site shall only take place between the hours of 0900 to 16:45 on any day.

Reason: In the interest of the amenities of neighbours and to ensure that they do not take place when the site is open for business in order that the on-site parking is not out of use for customers in accordance with Policies BNE2 and T1 of the Medway Local Plan 2003.

- 8 Prior to the installation of any external lighting on the site details of such lighting including its height, position, external appearance, any shielding, light intensity, colour, any spillage onto adjoining land and hours of use shall be submitted to and approved in writing by the Local Planning Authority. Only the external lighting approved pursuant to this condition shall be used on the site and it shall only be used within the hours approved pursuant to this condition.

Reason: In order to limit the impact of the lighting on nearby residents and with regard to Policies BNE2 and BNE5 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

It is proposed to change the use of this former nail and beauty salon which is currently

being used as a dog grooming parlour to a hot food takeaway (Class A5). No external changes are proposed, only internal alterations to form a waiting area, reception, cold store and kitchen area within the ground floor of the building. The first floor is in separate use as a flat.

Relevant Planning History

MC/06/1919 Change of use of ground floor from car sales to nail and beauty salon (Class A2)
Decision Approval with Conditions
Decided 20/12/2006

Also of relevance are the following applications:

At the adjacent car sales site:

MC/14/2239 Change of use from car showroom/sales garage (Sui Generis) to food retail convenience store (Use Class A1) with associated car parking and alterations to the building including installation of ATM, plant, external chiller, shopfronts and canopy
Decision Refusal
Decided 05/02/2015

At 47a Luton High Street:

MC/12/2648 Change of use from hairdressers (Class A1) to hot food take-away (Class A5)
Decision Refused
Decided 20/12/2012

Representations

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

13 letters from 8 addresses have been received raising the following objections:

- Already a number of hot food takeaways in the area;
- The percentage of Class A5 uses in Luton High Street already exceeds the Medway Guidance Note on Hot Food Takeaways and would increase;
- Cooking smells, lack of detail on extraction;
- Noise from ventilation, customers, staff and vehicles;
- Congregation/potential anti-social behaviour in the alley/access by 47a Luton High Street – public health concern and making the area feel unsafe;
- Customers would park on the highway and parking in the alley/access by 47A Luton High Street would block access to neighbouring properties;
- There are not 6 parking spaces on site, any more than 2 makes it impossible for visitors to turn and leave forwards, access to and from these spaces would disrupt traffic flow at the pinch point of Luton High Street vehicles would have to reverse out;

- Collection of waste from highway will be detrimental to road safety/free flow of traffic;
- Customer disposal of food waste and containers in the vicinity;
- Light pollution if lights installed to the rear;
- Increased risk to obesity from another takeaway including as close to educational establishments;
- The building has not been used as a nail bar for a long time, it is currently being used by a dog grooming business which intends to continue as a suitable long term business serving the local community, welcome addition to the area;
- Lack of detail on first floor residential use, maybe be an HMO for staff;
- No different to refused hot food takeaway applications at 47A Luton High Street;
- Most of the letters in support are from people not living in the area directly affected by the proposal.

3 letters of support from the site landlord has been received raising the following matters:

- Landlord since 2007 but unable to find a suitable long term business with 7 separate businesses using it since this time as well as some vacant periods;
- Indian takeaway food is likely to be taken to eat at home so is unlikely to lead to a congregation of youths;
- There is on site parking; and
- An extractor canopy system is proposed.

16 other letters of support from 11 addresses have been received raising the following matters:

- Creation of jobs;
- Sustainable business for local population;
- Good transport links;
- Not like other takeaways, food is eaten in the home;
- Works as a delivery driver for an Indian restaurant, generally 2-5 orders on week days with an average of 5-8 for each of 2 drivers at weekends;
- Chef estimates medium range Indian restaurant has 8-12 orders delivered Sunday to Thursday and 20-25 per evening at weekends.

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

Parts of Luton High Street are designated as a local shopping centre by Policy R10 of the Local Plan (25-49 odds and 50-54 evens) however the site falls outside of this area. The proposed use therefore needs to be considered with regard to Policy R18 of the Local Plan which relates to A3, A4 and A5 uses which are outside of the defined core retail areas, saying that these will be permitted providing certain criteria are met. These criteria relate to amenity, environmental impact and highway safety and will be addressed below.

Design

The proposals do not include any external changes although a fume extraction system would be required if permission were granted. Subject to details it is not considered that this would be likely to be visually harmful therefore there is no objection with regard to the appearance and design, including in respect of Policy BNE1 of the Local Plan and Section 7 of the NPPF.

Amenity

The site is located within an area of mixed use on a small high street. To the west is a car sales site and to the east is a newsagent, with other commercial uses beyond that including a public house, a fish and chip shop and a Chinese takeaway. There are also residential properties close by, including opposite and to the rear, as well as flats above the commercial premises. Subject to conditions, in this mixed use location on a through-road it is not considered that the proposed hot food takeaway use is likely to result in significant levels of additional noise and disturbance to neighbours. The proposed opening hours are 5pm until 11pm (10:30pm on Sundays) and a condition is proposed to ensure that these are not exceeded. Conditions are also proposed to secure details of refuse storage in the back yard area (the position and the nature of the storage) and to require details of any additional lighting in order to prevent harm to the amenities of neighbours.

In summary the amenities impacts of the proposed use are considered acceptable in this location including with regard to Policy BNE2 of the Local Plan and the guidance given in the NPPF (including the fourth core planning principle in paragraph 17). It is also noted that the proposed Class A1 retail store directly to the west which was to be open until 11pm every night was not refused on the grounds of its impact on amenity (MC/14/2239), neither was the proposed hot food takeaway at no. 47A (MC/12/2648).

Highways

The site is already in commercial use and has been for many years. It has an existing vehicular access on to Luton High Street and the area to the side and rear of the building is already hardsurfaced and used for car parking. Parking on the street frontage is controlled through double yellow lines and bollards and the adjacent Pelican crossing provides a safe crossing for pedestrians visiting the site.

It is considered that four cars can reasonably be accommodated on the site although the layout is not particularly conventional. This would accord with the Council's adopted Standards which require up to six spaces. Customers would be likely to be served by a variety of means; home delivery, pedestrian collection and collection by

vehicle, such that not all customers would arrive by individual car and delivery vehicles could take more than one order at a time.

In summary the highway and parking impact of the proposed use are therefore considered acceptable including with regard to Policies T1, T2 and T13 of the Local Plan. In reaching this conclusion consideration has been given to the refusal of applications nearby on parking/highway grounds. The proposed Class A1 retail store directly to the west (MC/14/2239) was refused on the basis of the inadequate provision for access, egress and on-site manoeuvring by delivery vehicles and the consequent detrimental impact on highway safety and the free-flow of traffic on Luton High Street. In the current case a condition could ensure that the much more limited deliveries which would be needed for the current proposal took place outside of the proposed takeaway opening hours. The proposed hot food takeaway at no. 47A (MC/12/2648) was refused due to increased vehicle movements and activity in close proximity to the site, increasing the risk of road traffic accidents and giving rise to indiscriminate parking and illegal manoeuvres in the area, detrimental to highway safety. However the current site is able to provide some off-street parking for customers, unlike this nearby site.

Local Finance Considerations

None considered relevant.

Other Matters

The Hot Food Takeaways In Medway: A Guidance Note 2014 which is part of a strategy to tackle obesity in Medway has been taken into account in assessing this application. This Guidance seeks to restrict the hours of operation of such uses within a buffer zone of 400m around schools, roughly equivalent to a five minute walk. In the current case the proposed opening hours would accord with this Guidance as it is not proposed to open before 5pm on any day. As stated above the site is not within a designated retail area therefore the concentration of different uses within such areas is not directly relevant. The requirement for a financial contribution towards measures to fight obesity is not relevant either as the proposed unit is below the size threshold for such contributions.

Conclusions and Reasons for Approval

In summary the amenity, environmental and highway safety impact of the proposed change of use of this fairly small commercial unit to a Class A5 hot food takeaway use are considered acceptable, including with regard to the combined effect with other similar uses in the local area. Approval is therefore recommended with regard to Policies BNE1, BNE2, R18, T1, T2 and T13 of the Local Plan and the advice in the NPPF.

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