

MC/15/3538

Date Received: 6 October, 2015

Location: 120 High Street, Rochester

Proposal: Construction of a patio area with glazed roof to provide smoking shelter

Applicant: Mr S Ravel

Agent: Mr Tomlin Kentec Group Ltd 10-12 High Street Snodland Kent ME6 5DF

Ward Rochester West

Case Officer Paul Ives

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 18 January 2017.**

### **Recommendation - Refusal**

- 1 This application fails to demonstrate an understanding of the historic Conservation Area setting and archaeological importance of the site and is unacceptable in terms of scale, prominence and materials proposed. The extent of projection would fail to preserve or enhance the historic streetscape and obscure important views of the City Wall (a Scheduled Ancient Monument) in its proposed form and would detract from the character and visual amenities of the Conservation Area, in conflict with the objectives of paragraphs 9, 128, 131, 132, 135, 137 and 139 of the NPPF; Policies BNE1, BNE12, BNE14, BNE20 and BNE21 of the Medway Local Plan 2003 and the objectives of the Historic Rochester Conservation Area Management Plan (September 2010).

**For the reasons for this recommendation for refusal please see Planning Appraisal Section and Conclusions at the end of this report.**

### **Proposal**

The applicants propose the excavation of an area of land to the side of the premises to form a smoking shelter for customers. The shelter will be part glazed finish.

The area to the side of the wine bar is on two levels and access for disabled

customers is provided via a ramp up from the side of the premises to street level to an external seating area used to the side by all customers. This area is currently bounded by timber fencing and used by customers at all times of the day whilst the premises are open. The application proposes to enlarge the lower level to provide additional space for customers and enclose this with a mono pitched structure that is open ended to the front (facing the high street) and rear. The side elevation and mono pitched roof would be finished in acoustic glazing supported by a steel frame clad in Kentish rag stone. The structure would measure 9.2m depth and 6m projection and in part would be supported by a boundary enclosure with handrail to the front and rear. The main part of the structure would be set back 4.2m from the main frontage. The development proposes minor changes to the existing disabled access ramp but overall this would be retained and at the rear, stairs would be provided up from the lower level to the ground level at the rear of the site.

### Relevant Planning History

MC/14/3348	Partial demolition of rear external wall and construction of a flat roof single storey extension containing storage area and walk-in chiller <b>Decision Approval With Conditions</b> <b>Decided</b> 5 February, 2015
MC/13/1289	Variation of condition 2 to planning permission MC/12/3015 (Application for a new planning permission to replace extant planning permission MC/09/1921 ( Construction of a rear extension and new roof over existing yard area to provide a covered storage area (demolition of store rooms) for alterations to roof <b>Decision Approval With Conditions</b> <b>Decided</b> 29 July, 2013
MC/12/3006	Application for a new planning permission to replace extant planning permission MC/09/1924 for excavation works to enlarge lower perimeter pathway in order to extend the time limit for implementation <b>Decision Approval With Conditions</b> <b>Decided</b> 17 April, 2013
MC/12/3015	Construction of a rear extension and new roof over existing yard area to provide a covered storage area (demolition of store rooms) <b>Decision Approval With Conditions</b> <b>Decided</b> 17 April, 2013
MC/09/1924	Excavation works to enlarge lower perimeter pathway <b>Decision Approval With Conditions</b> <b>Decided</b> 31/08/2010
MC/09/1224	Construction of a free-standing timber planter <b>Decision Refusal</b>

	<b>Decided</b> 30/10/2009
MC/06/1115	Retrospective application for the construction of a detached canopy providing a storage area to the rear <b>Decision</b> Refusal <b>Decided</b> 25/07/2006
MC/05/2437	Installation of a covered structure to side of building <b>Decision</b> Refusal <b>Decided</b> 13/02/2006
MC/99/6203	Internal alterations and improvements, bar extension, new toilets together with new access to garden. <b>Decision</b> Approval with Conditions <b>Decided</b> 11/02/2000
ME/97/0189	Use of land and outbuilding as public house, garden and bar area <b>Decision</b> Approval with Conditions <b>Decided</b> 25/06/1997
ME/83/455	Change of use to bistro/wine bar <b>Decision</b> Approval with Conditions <b>Decided</b> 12/07/1983

## **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.

**Six letters** of representation have been received objecting to the proposal on the following grounds:

- The development would be out of character with the area
- Some noise loss may result but the structure will encourage greater number of visitors and intensify noise generated
- The development would be best located at the rear and out of sight and further from residents
- Noise intensity increased with hours of operation not stated
- Potential restriction of access to nearby flats
- The proposed materials are inappropriate for the site and detract from the historic surroundings
- Loss of view of the city wall
- The development is too large for the identified need
- No management details have been provided and this could leave the area exposed and unsupervised detrimental to neighbouring amenity
- The rear steps are unnecessary
- The description does not make reference to nearby residential properties
- The floorspace would double the existing and increase residential disturbance

- The rear part does not occupy the existing patio
- The development fails to acknowledge Rochester City Conservation Area, the public open space or the grade 1 listed monument
- Loss of outlook
- The land was gifted to the people of Rochester and such a loss to the use proposed is inappropriate

The **City of Rochester Society** object to the proposal on the grounds that:

- The development would have an adverse impact on the historic character of the area,
- The design and appearance is too large;
- Detrimental to the principles of the historic Rochester Area Management Plan.

**The Historic Rochester Residents Association** object to the proposal on the following grounds:

- The need could be met by a small cover at the side of the bar
- Sound reducing glass could never be sufficiently large to reduce noise
- The design and access statement contain inaccurate and misleading claims
- The design does nothing to enhance its surroundings and detracts from the setting
- Loss of view of an important historic structure
- Poor quality drawings
- precedent for similar development in the vicinity

**Historic England** advises that the development should be determined in accordance with national and local policy guidance, and on the basis of the Council's specialist advice. They advise that the city wall (a scheduled monument) is a designated heritage asset of national importance and in assessing the sustainability of the proposed development, great weight should therefore be given to the objective of conserving and avoiding harm to designated heritage assets, any associated non-designated assets, and their setting.

The development fails to provide a heritage statement that demonstrates an understanding of the impact to the scheduled monument and potential archaeological remains within the vicinity.

The development proposals seek to add an extension which requires supporting framework and excavation of the ground up to c.1 m in depth. Construction may therefore have an impact to the scheduled monument through development within its setting, modification of upstanding fabric, and through impacting upon any buried archaeological deposits. In addition there may be undesignated archaeological remains in the vicinity of the wall, which although not designated themselves, may have increased significance because of their relationship with the scheduled monument.

The submitted information fails to identify known heritage assets, explore what the archaeological potential of the area might be, and/or identify what the impact on any heritage assets might be from this development.

Architectural designs for an extension or covered area should use the heritage assets in the vicinity as a starting point for designing an appropriate scheme. Any proposals should seek to minimise harm to, and enhance the heritage significance of, both designated and undesignated heritage assets.

The proposed ground disturbance in the current scheme is of significant depth over a relatively large area, and it is likely that pre-determination archaeological evaluation would be required as part of a planning application, and that there may be a need for subsequent archaeological conditions for further fieldwork or recording. The current proposals would also require Scheduled Monument Consent, in addition to planning consent, as there may be ground disturbance within the scheduled area, modification of wall fabric, and an extension would also be classed as an addition to the monument.

### **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**

#### *Background*

The site is within Rochester City Conservation area where any built form needs to be carefully considered in terms of visual impact and archaeological potential. It's in a very sensitive location and the current gap between buildings allows for views across from the main High Street to appreciate the presence of the historic City wall.

The site is immediately adjacent to, and also straddles part of, the known line of the Rochester City Wall scheduled monument (National Heritage List no 1003361). The Rochester City Walls were built primarily in the 13<sup>th</sup> and 14<sup>th</sup> centuries to defend the town. The corners had circular bastions to strengthen them, and building materials from Roman buildings were re-used and built into the walls. The wall is therefore particularly important for understanding the history and development of the city over an extended period of time. Part of the City wall is incorporated within the construction of 120 High St and crosses the edge of the development area, and there is therefore an increased likelihood that development in this area could potentially harm the heritage significance of the scheduled monument.

The planning application for the works was submitted in October 2015 and feedback has been given to the applicant in terms of information submitted and potential design solutions. The application submission has failed to promote the design concept and how it would link with the historic environment. The applicant was asked for:

- A robust case for the reasons why the development is required.
- An acoustic survey to demonstrate both the existing and proposed levels of noise

to help justify why the structure is needed (including details of management of the space);

- A justification for the design approach taken with regard to the historic setting in terms of design, scale and appearance.
- A heritage statement was encouraged and
- An archaeological desk based study due to the site being archaeologically sensitive close to the historic wall.

None of these have been received.

Officers have indicated to the applicant that they may accept a lean to structure but on a far more modest scale specific for its purpose and in line with the return of the City Wall Bar. This would maintain the open feel specific to need and also maintain a view through to a part of Rochester's significant historic City wall. This has not been progressed by the applicant.

### *Principle*

The land the subject of this development has historically been used by customers of the City Wine bar as an external area for visiting customers as overflow from the main building. Set within a high street location, the land is established for this purpose and enclosed by timber fencing managed by the bar owners during opening hours. The principle of this ancillary use to the existing premises is accepted in this location.

The NPPF (paragraph 9) seeks to achieve sustainable development with positive improvements in the quality of the built, natural and historic environment. Local Authorities should also take account of the desirability of sustaining and enhancing the significance of heritage assets (paragraph 131) and look for opportunities to do so (paragraph 137). The Authority should therefore seek to improve proposals so that they avoid or minimise harm to, and enhance the significance of, designated heritage assets. The NPPF paragraph 132 is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater this weight should be, and harm to a designated heritage asset should require clear and convincing justification. Paragraph 135 states that the impact on the significance of non-designated heritage assets should also be taken into consideration when determining an application, and paragraph 139 states that non designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled' monuments, should be considered subject to the policies for designated heritage assets.

Paragraph 128 of the NPPF notes that when determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

At a local level, Medway Council strongly supports the role of cultural heritage in

enriching people's lives. In terms of maintaining sustainable environments, heritage is at the forefront. Heritage led regeneration is a vital and hugely popular part of the local and national economy. Medway Council's Historic Rochester Conservation Area Management Plan adopted in September 2010 acknowledges the importance of the interrelationship of spaces to contribute visually to the character of the area, and to a sense of place. It seeks to ensure that the footprint of any new building should fit into the urban context of the area and where possible relate to the existing 'grain'. Any undue set back of the building line may seriously prejudice the continuity of the street scene. New development should respect the 'grain' of the area by reflecting, in its design, the linear pattern of traditional plots. Alleyways and passages are encouraged to be retained, as indeed are the views and vistas within, into and from the conservation area which are acknowledged as important to their visual character and unique setting. It acknowledges that new developments should have regard to their impact on key views in accordance with national planning guidance and local policy. The remains of ancient City Walls that link present day Rochester with its origins as a walled town are acknowledged as essential to the City's identity and ancient associations. The plan requires that development maintains and where possible enhances the setting and access to extant walls and ensures preservation of buried wall remains. Also the plan seeks to protect the remains of undisturbed archaeological deposits from Rochester's long history and where an application site includes archaeological interest, due consideration should be given to archaeology, including desktop assessments and/or field evaluation and an assessment of the impact of the proposal.

The applicants have failed to submit a heritage statement with this application that identifies known heritage assets, that explores what the archaeological potential of the area might be, and that identifies what the impact on any heritage assets might be from this development. Architectural designs for an extension or covered area should use the heritage assets in the vicinity as a starting point for designing an appropriate scheme. Any proposals should seek to minimise harm to, and enhance the heritage significance of, both designated and undesignated heritage assets.

In this context the application fails to meet the objectives of paragraphs 9, 128, 131, 137 and 139 of the NPPF.

### *Design*

The applicant's submission fails to demonstrate an understanding of the surrounding historic streetscape or archaeological constraints through promotion of the proposed design concept. The token gesture approach with the use of a hollow steel frame clad in Kent rag stone and huge panels of STADIP Glass is not a part of the historic character of the High Street as a mono pitched enlargement of external space. Such a large expanse of this type of glass in this arrangement and the lack of a design concept statement fails to convince that the works are appropriate in this sensitive historic setting.

The scale of the development proposed is a concern in terms of the immediate negative impact it would have against the historic City Wall (SAM) and the historic streetscape. The drawings show the shelter in elevation against the City Wall pub but not in the context of its High Street setting, as part of its contextual streetscape or the

extent of its protrusion onto the highway against the building of neighbouring properties. It is understood that establishments such as this require smoking shelters but it is felt that what is being proposed has a detrimental impact on the Conservation Area in terms of its scale, setting and materials. The lack of supporting evidence to justify the size of the building and minimum requirements needed is disappointing. A lean to structure in line with the return of the City Wall Bar may be acceptable. This would maintain the open feel and also maintain a view through to a part of Rochester's significant historic City wall. In the absence of revisions being forthcoming despite guidance being given, the development fails to respect the historic setting of the conservation area and historic City wall in terms of design, scale, appearance and materials to be used. This application would result in a development which is unacceptable in terms of scale, materials proposed and the extent of projection and would fail to preserve or enhance the streetscape in its proposed form and detract from the character and amenities of the Conservation Area, in conflict with the objectives of paragraphs 132 and 135 of the NPPF and Policies BNE1, BNE12, BNE14 and BNE20 of the Medway Local Plan 2003.

### *Amenity*

The site is located within an existing High Street location where noise levels are variable due to the mixed nature of uses in a busy historic environment. The surrounding area has a mix of shops, other commercial uses and residential dwellings at first floor and as such, by virtue of the siting and height of the proposed addition, it is considered that the development would not introduce any detrimental impact on neighbouring amenities in terms of outlook, privacy or light.

In terms of noise, based on the information submitted, the description of smoking shelter implies that the premises need a form of shelter for customers 'in need' but once finished will return to the main building. This in turn would mean perhaps that the structure could be far smaller than put forward. If however, it is seen as a means of extending the floor space for sitting and standing, then in the summer months in particular it may encourage more people to use the space than current which could result in even greater noise levels experienced in the vicinity through a funnelling affect of the noise.

Any potential occupants of nearby residential property choose to live in an environment where disturbance from surrounding uses may be more frequent than in a predominantly residential area. Intermittent sounds, music and loud voices from uses in the Town Centre can however be disturbing past accepted hours of opening.

The applicant has failed to confirm the hours of usage associated with the proposed development or to formally respond to details of management and so a judgement needs to be made based on the potential harm that would be caused. Usage could be controlled by planning condition if considered appropriate in the interests of amenity even though in planning terms the hours of use of the premises have not been historically controlled by condition overall. In view of the lack of commitment to hours of operation the scheme is a concern as the current situation (with a relatively unobstructed free field path), for sound from the outdoor area to propagate (and hence attenuate with distance), could be made worse by what is being proposed. The glass wall and roof could:



- increase the sound pressure levels from the area
- make the sound more directional
- increase the sound pressure levels being experienced at the nearest residential receptor locations

To mitigate this aspect and in consideration of the use of the site already, control of the hours could be conditioned so that the use of the proposal is limited until no later than 22.00 hours linked to full details of a noise management plan demonstrating how the outdoor area would be managed and noise emission controlled.

Accordingly subject to such conditions, on balance, the proposal is considered acceptable in terms of amenity considerations and is in accord with Policy BNE2 of the Medway Local Plan 2003.

### *Archaeology*

The application site lies in an area of archaeological interest immediately inside the line of the Roman and Medieval town walls. The proposed ground disturbance in the current scheme is of significant depth over a relatively large area. An archaeological evaluation was requested (in accordance with the NPPF and policy) to gain an understanding of the site and potentially help inform the need for subsequent archaeological conditions for further fieldwork or recording. No desk top study has been provided to help demonstrate what impact the development would have or identify a methodology of approach to address potential findings in this very sensitive location. The applicant has not recognised the archaeological potential of the site in his submission and it is possible that archaeological remains may be affected by the proposals. On this basis, the development fails to meet the objectives of Policy BNE21 of the Medway Local Plan 2003.

### *Highways*

The development would have no adverse impact on terms of highway safety and efficiency. The proposal would comply with the objectives of Policy T1 and T3 of the Local Plan.

### *Local Finance Considerations*

None relevant to this application

### *Other matters*

The current proposals would also require Scheduled Monument Consent, in addition to planning consent, as there may be ground disturbance within the scheduled area, modification of City wall fabric, and an extension would also be classed as an addition to the monument.

## **Conclusions and Reasons for Refusal**

This application fails to demonstrate an understanding of the historic Conservation

Area setting and archaeological importance of the site and is unacceptable in terms of scale, prominence and materials proposed. The extent of projection would fail to preserve or enhance the historic streetscape and obscure important views of the City Wall (a Scheduled Ancient Monument) in its proposed form and would detract from the character and visual amenities of the Conservation Area, in conflict with the objectives of paragraphs 9, 128, 131, 132, 135, 137 and 139 of the NPPF; Policies BNE1, BNE12, BNE14, BNE20 and BNE21 of the Medway Local Plan 2003 and the objectives of the Historic Rochester Conservation Area Management Plan (September 2010).

The application would normally be determined under delegated powers but is being referred to Committee for determination at the request of the Head of Planning due to the sensitivities of the site.

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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/>