

MC/16/4857

Date Received: 30 November, 2016

Location: 146 Hempstead Road Hempstead Gillingham ME7 3QE

Proposal: Variation of Conditions 3, 4, 5 and 6 on planning permission MC/14/2786 to allow a takeaway use

Applicant: Mr Luthfur Rahman

Agent:
Ward Hempstead & Wigmore

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 15 February 2017.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing number N24.20 received 19 September 2014.

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

- 2 The hours of operation of the restaurant use, takeaway and hot food delivery use shall not be outside the hours of 10:30 to 23:00 on Mondays to Saturdays and 10:30 to 22:00 on Sundays and Public Holidays.

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

- 3 10 car parking spaces shall be kept available at all times for parking in association with the restaurant use, takeaway and hot food delivery use herein approved and home delivery vehicles shall utilise these spaces when collecting or waiting for home delivery requests.

Reason: To ensure that the permitted development does not prejudice residential amenity through inadequate parking provision in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 The use of the property shall be restricted to restaurant use, takeaway and hot food delivery service only together with ancillary overnight staff accommodation for up to two staff members only at first floor level and for no other purpose.

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

- 5 The takeaway and 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.

- 6 The flue extractor system installed as part of the permission granted under reference MC/06/0691 shall be retained in working order.

Reason: To ensure that the permitted development does not prejudice residential 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 seeks planning permission to vary of the wording of conditions 3, 4, 5 and 6 of planning permission MC/14/2786 to allow a takeaway use by including takeaway within the conditions.

Condition 3 states: - The hours of operation of the restaurant use and hot food delivery use shall not be outside the hours of 10:30 to 23:00 on Mondays to Saturdays and 10:30 to 22:00 on Sundays and Public Holidays.

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

Condition 4 states: - 10 car parking spaces shall be kept available at all times for parking in association with the restaurant use and hot food delivery use herein approved and home delivery vehicles shall utilise these spaces when collecting or waiting for home delivery requests.

Reason: To ensure that the permitted development does not prejudice residential amenity through inadequate parking provision in accordance with Policy BNE2 of the Medway Local Plan 2003.

Condition 5 states: - The use of the property shall be restricted to restaurant use and hot food delivery service only together with ancillary overnight staff accommodation for up to two staff members only at first floor level and for no other purpose, including any hot food collection facility from the premises.

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

Condition 6 states: - 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.

This application does not look to vary the current opening hours, parking numbers or level of overnight staff accommodation which are currently covered within these conditions but to purely allow the

Relevant Planning History

MC/14/2786	Permanent change of use of property as restaurant with home delivery and overnight accommodation for staff Decision Approval With Conditions Decided 31 December, 2014
MC/12/2122	Temporary permission for restaurant with home delivery and overnight accommodation for staff Decision Approval With Conditions Decided 31 October, 2012
MC/10/3757	Temporary permission for restaurant with home delivery and overnight accommodation for staff Decision Approval With Conditions Decided 5 January, 2011
MC/10/0938	Continuation of current temporary use at ground & part first floor (restaurant with home delivery service) and part first floor (overnight accommodation for staff) Decision Withdrawn - Invalid Decided 7 June, 2010
MC/08/0353	Installation of back illuminated fascia sign Decision Approval with Conditions Decided 18 June, 2008
MC/08/0443	Retrospective application for temporary permission for overnight accommodation for staff at first floor level Decision Approval with Conditions Decided 22 May, 2008

MC/06/0691 Temporary change of use from doctor's surgery to restaurant
Decision Refusal
Decided 14 June, 2006

MC/04/0437 Change of use from doctors surgery to restaurant together
with construction of conservatory to rear
Decision Refusal
Decided 26 April, 2004

Representations

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

Ten letters of objection have been received, including one from **Hempstead Residents Association** raising the following concerns:

- Impacts on parking in Hempstead Road.
- Noise of additional custom.

A petition of **70 signatures** from **40 separate addresses** has also been submitted in support of the application.

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

Historically the property was granted a temporary permission for the use of the premises as a restaurant at appeal, for a period of 3 years on 29 March 2007. Later permission was granted for the use of the first floor level for staff accommodation in association with the restaurant permission and extended temporary uses. On 31 December 2014 permanent planning permission was granted for the change of use of property as restaurant with home delivery and overnight accommodation for staff.

Principle

The application site is located in an urban area of Hempstead and is located within the Local Centre as defined by Policy R10 of the Local Plan. The existing use of the property is an A3 restaurant with a home delivery service and overnight staff accommodation. Policy R10 of the Local Plan aims to protect and enhance existing local centres and looks to support the development of additional retail or service uses will be generally supported. The takeaway use would provide an additional service

ancillary to the main restaurant use and therefore no objection is raised under Policy R10. "The Hot Food Takeaway Medway" guidance note adopted in July 2014, the use would be located within 400m of a school but as in a Local Centre it would not benefit from the restriction set by paragraph 5.15. There are no objections in principle to the hot food takeaway the primary considerations for this application relate to amenities and highways as no external alterations are proposed.

Amenity

Policy BNE2 of the Local Plan seeks to protect amenities enjoyed by nearby and adjacent properties regards to include privacy, daylight, sunlight, noise and activity levels. Paragraph 17 of the NPPF seeks to secure high quality amenity for all existing and future occupants of land and buildings.

The site is located within the Local Shopping Centre at Hempstead and as such there is a level of expectation of movement related to the commercial uses of the centre. The site is also in a residential area and the additional takeaway use has the potential to cause additional noise disturbance to nearby residents through additional comings and goings and vehicle movements to site. It is considered that the additional noise would not be significant to warrant a refusal and in any case a condition controlling the hours can be applied so that the takeaway does not operate any later than the existing restaurant and home delivery service. Consequently the proposal is considered to be in accordance with Policy BNE2 of the Local Plan and paragraph 17 of the NPPF.

Highways

Concerns in representation have been raised in relation to parking and impacts on Hempstead Road. The whole of the rear of the site is used as a car park and conditioned to be retained within the original approval, in addition to parking to the front. It is considered that parking is of a level that can accommodate most of the parking related to the proposed use. There is also on street parking available for any low levels of overspill parking from the use. Given the sufficient levels of parking and adequate on street parking there are therefore no objections with regard to the parking and highway safety from the proposed use and is in accordance with Policy T1 and T13 of the Local Plan.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

The proposed development is considered acceptable in principle and there would be no significant impact on the neighbouring properties, or the highways and so the application would not conflict with Policies R10, BNE2, T1 and T13 of the Medway Local Plan 2003, so recommendation is for approval.

The application would normally fall to be determined under delegated powers but has been referred to Committee due to the number of representations received contrary to officers' 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/>