

MC/17/0405

Date Received: 1 February, 2017

Location: The Railway, 113 Station Road, Rainham, Gillingham, ME8 7SF

Proposal: Construction of a single storey side and rear extension with associated internal and external alterations, mechanical plant and extraction system

Applicant: JD Wetherspoon plc

Agent: Mr C Stott nineteen47 Ltd. Blake House 18 Blake Street York YO1 8QG

Ward Rainham North

Case Officer Doug Coleman

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 10 May 2017.

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:

15002/99E & 15002/109A received on 1 February 2017; 15002/110A received on 3 February 2017; and 15002/104F & 15002/106B received on 14 February 2017.

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

- 3 No development above slab level shall take place until details and samples of all materials to be used externally, including hard surfacing materials and means of enclosure of bins stores, have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

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 07:00 to 23:00 on Sundays to Thursdays inclusive and between the hours of 07:00 to 00:30 on Fridays and Saturdays and 07:00 to 02:30 on New Year's Eve, unless otherwise agreed in writing by the Local Planning Authority.

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 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared and submitted to the Local Planning Authority for approval in writing.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in the remediation scheme are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 6 No goods shall be loaded, unloaded, stored or otherwise handled, no vehicles shall arrive or depart, and no deliveries or collections made outside the hours 09:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturday or at any time on Sunday or Bank Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring properties or the free flow of traffic in the locality, in accordance with Policies BNE2 and T1 of the Medway Local Plan 2003.

- 7 The use hereby permitted shall not commence until a scheme for the extraction and treatment of cooking fumes, including details for the control of noise and vibration from the system, has been submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and thereafter be maintained in accordance with the approved details. No cooking of food shall take place unless the approved extraction system is being operated.

Reason: In the interests of the amenities of nearby properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 The refuse storage arrangements shown on drawing no: 15002/104F shall be provided before the use hereby permitted is commenced and shall thereafter be retained.

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.

- 9 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, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use) together with a report to demonstrate its effect on nearby residential properties, the neighbouring railway and station, and bats (including reference to the recommendations of the Bat Conservation Trust), and of how this effect has been minimised 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, the neighbouring railway and wildlife, and with regard to Policies BNE1, BNE2 and BNE39 of the Medway Local Plan 2003.

- 10 No development shall commence until a Construction Environmental Management Plan (CEMP) that describes measures to control noise, dust, lighting, hours of operation, hours of deliveries, and operatives' parking arising from the construction phase of the development has been submitted to and approved in writing by the Local Planning Authority and all construction works shall be undertaken in accordance with this approved plan.

Reason: Required before the commencement of development in order to minimise the impact of the construction period on (select and add to as appropriate the amenities of local residents, the countryside, wildlife and habitat and with regard to Policies BNE2 and T1 of the Medway Local Plan 2003.

- 11 The noise control mitigation measures specified in Paragraph 6.1.1 of Noise Impact Statement by Spectrum Acoustic Consultants received on 1 February 2017 shall be implement in full prior to the bringing into use of the development hereby permitted and shall thereafter be retained.

Reason: In the interests of the amenity of the occupiers of neighbouring and nearby properties and in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 12 Prior to the bringing into use of the development hereby permitted, details of ecological enhancement measures, as specified in Paragraph 4.9 of the Preliminary Ecological Appraisal by K B Ecology, received on 1 February 2017, shall be submitted to and approved in writing by the Local Planning

Authority. The approved measures shall be implemented in full by a date to be agreed by the Local Planning Authority and shall thereafter be retained.

Reason: In the interests of ecology and in accordance with the provisions set out under policies BNE37, BNE38 and BNE39 Medway Local Plan 2003 and Paragraph 118 of the NPPF.

- 13 No works in relation to the removal of trees on the site, and the removal of Ivy from the building shall be carried out between 1 March and 31 August inclusive, without the prior written consent of the Local Planning Authority and any such works that are agreed shall only be carried out following the carrying out of a survey by an ecologist to ascertain whether or not any nesting birds are present. If any nesting birds are recorded all works must cease within that area until all the young have fledged.

Reason: In the interests of ecology and in accordance with the provisions set out under policies BNE37, BNE38 and BNE39 Medway Local Plan 2003 and Paragraph 118 of the NPPF.

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

Proposal

This application is a re-submission of application MC/15/2835 which was refused on 10 March 2016 and seeks permission for the construction of a single storey side and rear extension with associated internal and external alterations, mechanical plant and extraction system.

The application site is a broadly 'L' shaped plot of land with the main frontage to Station Road, adjacent to the entrance to the Rainham railway station car park and a small return frontage to Tufton Road. The site is occupied by a three storey building, main frontage on Station Road, that is currently vacant. The site and building has previously been in use as a public house with ancillary residential accommodation over. There is a vehicular access off Station Road, which is currently gated, leading to a car park at the rear. There is a derelict outbuilding in the car park and a large tree at the Station Road frontage to the site. To the rear, the site is overgrown.

The proposal is to infill the area to the rear, to create a larger customer seating area on the ground floor with a garden on the north side facing the station car park. In addition, a new kitchen and storage area would be provided. The proposed extension would occupy much of the land to the rear of the entire site with a small open area of approx. 20 sq. m. to the front of the Station Road access and the proposed garden area to the north with an area of approx. 118 sq. m. The proposed extension would project 36m from the rear of the main building and 28m from the rear of the projection on the north side of the existing building. In addition, it would project 5m to the south of the outbuilding, onto the vehicular access. It would continue towards the return frontage to Tufton Road projecting a further 5m to accommodate the storage area and plant.

The notable change from the previous application is the removal of the roof garden and 35m long and 8m high screen wall along the south elevation, together with the fire escape. The wall would now rise to a height of 3.5m. In addition, following the applicant's 'engagement with the community' the proposed coolers/condensers have been relocated away from the southern end of the proposed flat-roofed extension to its northern end above the proposed kitchen area, and a pitched roof and acoustic fencing is proposed above this equipment.

Apart from a new stairway to the rear, the existing building would not be extended above ground floor level. The first floor would accommodate male and female toilets and an ante room, whilst the second floor would be used for storage and staff facilities.

The proposal would increase the overall floorspace from 445 sq. m. to 875 sq. m. (851 sq. m.)

The Tufton Road frontage to the site would be cleared and used for deliveries to the site.

It is proposed that 30 members of staff would be employed at the premises (equivalent of 20 full time post).

The application is accompanied by a Planning Statement, Preliminary Ecological Appraisal, Noise Impact Assessment, Arboricultural Report, and Tree Survey and Plan.

No opening hours are stated on the application form. However, according to the Noise Impact Assessment the proposed trading hours are 07:00 to 00:30 (Sunday to Wednesday) and 07:00 to 01:30 (Thursday to Saturday). In addition to the above, the proposed use would remain open for an additional hour (until 02:30) on Maundy Thursday, Christmas Eve, Boxing Day, and New Year's Eve and all Sundays before a bank holiday.

The kitchen would operate between 07:00 and 23:00 daily. It is expected that the plant associated with the customer area, toilets and staff areas would only run during the proposed trading hours. Plant associated with the kitchen would only run during the hours when the kitchen is in use. All other items of plant will run 24 hours daily. There would be no amplified music at the premises.

Relevant Planning History

MC/15/2835	Construction of a single storey side and rear extension with roof-top garden and associated internal and external alterations, mechanical plant and extraction system Refused 10/03/2016
MC/09/1351	Demolition of building and construction of a two storey block containing four 1-bedroomed self contained flats with associated parking Approved With Conditions 17/12/2009

MC/06/0623	Construction of two storey block of four 1 bedroom flats with associated parking and amenity area (demolition of existing stable block) Refused 19/06/2006
MC/05/1841	Demolition of building and construction of a two storey block containing four 1-bedroomed self contained flats with associated parking Refused 07/12/2005 Appeal UPHeld 13/11/2006
MC/05/0209	Demolition of building and construction of a three storey block containing six 1-bedroomed self-contained flats with associated parking Refused 30/03/2005

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. KCC's Biodiversity Officer and Network Rail have also been consulted.

10 letters have been received raising the following objections:

- Proposal would increase traffic and on street parking;
- Noise and disturbance;
- Overlooking;
- Proposal would still fail to respect scale and proportion of surrounding buildings;
- Design does not protect amenities of adjacent properties;
- Fumes from cooking and cigarette smoke;
- Proposed opening hours are unacceptable;
- No boundary treatment details shown;
- Plans are inaccurate;
- Servicing area is too small;
- The Noise Impact Assessment is out of date;
- Concern at arrangements for storage and collection of waste;
- Consultation with local residents was inadequate;
- Smoking area adjacent to flats (This is a 'no smoking' area).

Other matters raised are non-material.

12 letters have been received making the following comments in support of the application:

- The proposal would be beneficial to the area;
- The property has been a public house for many years;
- Weatherspoon's would be a properly run pub, better than previous;
- Proposal would generate employment and bring building back into use.

One letter was received raising questions which have been addressed.

KCC's Biodiversity Officer has written advising that sufficient ecological information has been submitted to determine the application and has made recommendations that are detailed in the report.

Network Rail has written noting that the site is close to Rainham level crossing and drawing attention to their online information for safety awareness for level crossings that are in close proximity to developments.

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

This application is a re-submission of application MC/15/2835 which was refused on 10 March 2016 for the following reasons:

- 1 The proposal, due to its design, scale and location, would be out of proportion with the main building and would result in over-development of the site, which would fail to respect the character and appearance of the surrounding development and due to its prominent location, would result in harm to the appearance of the street scene. As such, the proposal would be contrary to the provisions of Policy BNE1 of the Medway Local Plan 2003 and paragraph 58 of the National Planning Policy Framework 2012.
- 2 The proposal, due to its location, scale and height, would result in an unacceptable loss of light, outlook and privacy for neighbouring occupants. In addition, the proposed roof garden, by virtue of its use and proximity to neighbouring properties, would create an unacceptable level of noise and disturbance, with loss of privacy through overlooking resulting from the fire exit route and external steps, which would be detrimental to the residential amenity that surrounding occupants can reasonably expect to enjoy. As such, the proposal is contrary to the provisions of Policy BNE2 of the Medway Local Plan 2003.
- 3 The proposal would result in the loss of trees and in the absence of survey information to demonstrate whether the trees are suitable to be used by roosting bats and in the absence of any emergence surveys that may be required as a result, the proposal could result in harm to a protected species and is therefore contrary to Policy BNE39 of the Medway Local Plan 2003 and Paragraph 118 of the National Planning Policy Framework 2012.

Following the refusal of planning permission, the applicant sought pre-application advice prior to preparing the latest plans. In addition, the applicant sought to 'engage with the community' in accordance with the Localism Act, Paragraph 188 of the NPPF and Medway Council's Statement of Community Involvement 2014 on the revised plans showing the removal of the roof garden and wall. Letters were sent to the owners/occupiers of 9 adjoining properties on 25 November 2016, drawing their attention to the online availability of draft plans and requesting any comments. Two responses were received as a result of the consultation, raising the following matters:

- Disturbance from the use of the premises as a public house, including in terms of general noise from customers;
- Concern over the noise from M&E equipment;
- Disturbance from delivery lorries;
- Concern over the siting of the proposed refuse storage area, including in terms of odours and noise;
- Concern regarding the structural integrity of a boundary wall following the removal of an adjacent tree.

Following this consultation, further changes to the scheme were made, namely the relocation of the proposed coolers/condensers, and the provision of a pitched roof and acoustic fencing above this equipment.

The issue for consideration is whether these changes address the reasons for refusal of the earlier application.

Principle

The application site is outside Rainham Shopping Centre and is not within a local centre identified under Policy R10 of the Local Plan. The area is predominantly residential, with some shops and the railway station nearby. However, the building has an established use as a public house, and although it has been empty for a while, it could re-open as a public house without the need for a further planning application. Policy CF1 of the Local Plan seeks to retain existing community facilities. In this regard Policy CF1 is consistent with Paragraph 70 of the NPPF which states that planning decisions should plan positively for the provision of community facilities, including public houses.

The proposal would ensure that the existing community facility is retained and enhanced; in this regard the proposal would be in accordance with Policy CF1 of the Local Plan and Paragraph 70 of the NPPF. The proposal to extend the public house is, therefore, acceptable in principle.

Design and appearance

The previous application was refused on account of the design, scale and location of proposed extension, with particular regard to the scale of the large wall and sloping roof and its visual impact, primarily on the outlook from the terrace of four three-storey town houses to the south (2, 2a, 2b & 2c Tufton Road), and a two storey corner property (111 Station Road), which is occupied as three flats. The current proposal

would remove the roof garden and associated sloping roof, reducing the height of the wall from 8m to 3.5m, which would be only marginally higher than the existing boundary wall. The proposed extension would be visible from the station car park, but unlike previous scheme, being single storey it would not be unduly prominent. Two garden areas are proposed one on the north side, adjacent to the car park and the other where the existing gated entrance is on the Station Road frontage. The location of these two garden areas at the more prominent parts of the site would result in the building being set back and therefore further reducing its visual impact.

Having regard to the above considerations, the proposed extension is now considered to be acceptable in terms of scale, mass, proportion, layout and siting and as such, would comply with Policy BNE1 of the Medway Local Plan and Paragraph 58 of the National Planning Policy Framework.

Neighbour Amenity

In addition to the design and appearance of the proposed extension, the application was also refused on account of the detrimental impact on the residents of the properties to the south in Tufton Road and Station Road in terms of loss of light, loss of outlook, noise and disturbance, and overlooking from the fire escape which would have been directly accessible from the roof garden. The removal of the roof garden and wall effectively removes this reason for refusal and no objection is raised in this regard under this regard under Policy BNE2 of the Local Plan.

Other concerns could be addressed by the imposition of appropriate conditions, to control opening hours, hours for deliveries, and noise and odour from the extraction system and air conditioning plant.

With regard to opening hours, the proposed trading hours are 07:00 to 00:30 (Sunday to Wednesday) and 07:00 to 01:30 (Thursday to Saturday) are noted. The applicant maintains that as the authorised use of the building is a public house and that there is currently no planning restriction on opening hours. However, it is considered that lesser opening hours would be appropriate to help minimise the impact of the proposed use on the neighbouring occupiers in terms of noise and disturbance especially at unsociable hours. As such, subject to condition restricting opening hours the proposed development would cause significant harm to the amenity of neighbouring occupiers.

Highways

No on-site parking is proposed. However, in view of the proximity of the site to Rainham Shopping Centre, Rainham station and nearby public car parks, no objection is raised in terms of parking under Policy T13 of the Local Plan. The existing vehicular access onto Station Road would be closed and a new vehicular access onto Tufton Road created. This access would be for serving and delivery only and would necessitate vehicles either reversing into or out of the site. No objection is raised in principle to of this access onto Tufton Road.

Trees

The application has been accompanied by a Tree Survey, which has identified six trees at the rear of the site and a small group of trees close to the northern boundary at the rear. Under the proposed scheme, all of these trees would be removed. One of the trees (T4) a Holly tree is identified as a category B tree (of moderate quality and value) whilst the remainder are category C trees (of poor form with limited long term potential). Whilst the trees are of some prominence, they are not considered to be of sufficient value or significance as to impose a constraint of the development of the site and therefore no objection is raised in this regard under Policy BNE43 of the Local Plan.

Ecology

The previous application was also refused as a survey was needed to assess the suitability of the trees to be used by roosting bats and that recommendations are made for any emergence surveys and no such survey had been submitted. A survey has been submitted with the current application and KCC's Biodiversity Officer has commented on the submission.

The survey has detailed that the dense Ivy on the building has potential to be used occasionally by occasional roosting bats. The submitted report advises that there is a need to remove the Ivy during the winter period to minimise the risk to roosting bats. Therefore, subject to this work being carried out during winter, no objection is raised with regard to the impact on roosting bats.

There is suitable habitat within the site to be used by breeding birds. All nesting birds and their young are protected under the Wildlife and Countryside Act 1981 (as amended). If the works are to be carried out between March and September, an ecologist should carry out a survey prior to works starting and if any nesting birds are recorded all works must cease within that area until all the young have fledged.

The Biodiversity Officer recommends that an informative is attached to any planning permission to address this.

The Biodiversity Officer also advises that one of the principles of the NPPF is that "opportunities to incorporate biodiversity in and around developments should be encouraged" and that if planning permission is granted the applicant incorporates the ecological enhancements recommended within the ecological survey into the garden area of the proposed development.

Subject to these requirements being met, no objection is raised under Policy BNE39 of Medway Local Plan and Paragraph 118 of the NPPF.

Local Finance Considerations

There are no local finance considerations raised by this application.

Conclusions and Reasons for Approval

The principle of the proposed development is acceptable and in accordance with Policy CF1 of the Local Plan and Paragraph 70 of the NPPF. The current proposal addresses the previous concerns with regard to the scale and size of the proposed development and its impact on the amenities of the occupiers of neighbouring properties in terms of loss of light, loss of outlook, loss of privacy and noise and disturbance and the proposal would comply with Policies BNE1 and BNE2 of the Local Plan.

The previously raised concerns with regard to potential harm to protected species have been addressed, and no highway concerns are raised and the proposal would also comply with Policies BNE39 and T13 of the Local Plan and Paragraph 118 of the NPPF. The application is, therefore recommended for approval.

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/>