

**MC/18/0811**

**Date Received:** 12 March 2018

**Location:** 49 Wainscott Road Wainscott Rochester ME2 4LA

**Proposal:** Change of use of ground floor shop from A1 (Supermarket) to A3/A5 (Hot food take away and restaurant use) and installation of cooking extract flue to side elevation

**Applicant** Mr Yildiz

**Agent** McFadzean The Joiners Shop  
The Historic Dockyard  
Chatham  
ME4 4TZ

**Ward:** Strood Rural Ward

**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 9th May 2018.**

**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:

Drawings 18 104A 001 P1 ; 18 104A 002 P1 18 104A 003 P1 18 104A 004 P1 received 12 March 2018; Email received 20 March 2018 including specification of flue details(dated 28 July 2016) and refuse details.

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

- 3 Notwithstanding the submitted information, no development shall take place until full details of a scheme for the extraction and treatment of cooking fumes with a full noise and anti vibration specification to support the submitted

extraction facility (as confirmed by email dated 28 July 2016, received 20 March 2018) has been submitted to 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: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with paragraph 17 of the National Planning Policy Framework 2012 and Policy BNE2 of the Medway Local Plan 2003

- 4 No development shall take place until a full scheme of soundproofing to mitigate against noise and activity levels generated within the building between the use and the first floor flat above have been submitted to and approved in writing by the Local Planning Authority. The mitigation shall be implemented prior to the development being brought into use and thereafter maintained.

Reason: In the interests of amenity protection in accordance with the objectives of paragraph 17 of the National Planning Policy Framework 2012 and Policy BNE2 of the Medway Local Plan 2003.

- 5 No commercial goods with the exception of hot food sales shall be loaded, unloaded, stored or otherwise handled and no delivery vehicles shall arrive or depart, within the application site outside the hours 07:00 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 property in accordance with Policy BNE2 of the Medway Local Plan 2003

- 6 The A3 use hereby permitted shall only operate between the following hours:

07:00 and 23:00 Monday to Saturday;  
11:00 and 22:00 Sunday and Public Holidays.

The A5 use hereby permitted shall only operate between the following hours:

12:00 and 14:00 or between 15:00 and 17:00 hours Monday to Sunday

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.

- 7 The proposed refuse storage in the form of a Metro Stor PBM2 shall be provided as shown on the submitted plans and in accordance with the (applicants) email received on 20 March 2018 prior to the development being

brought into use. The bin storage shall be provided 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.

- 8 The proposed flue shall be painted in heat proof paint to match the external finish of the building prior to the development being brought into use.

Reason: In the interests of visual amenity in accordance with paragraph 17 of the National Planning Policy Framework 2012 and Policy BNE1 of the Medway Local Plan 2003.

- 9 A litter bin shall be provided to the front of the premises prior to the development being brought into use.

Reason: In the interests of amenity protection in accordance with the objectives of 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 planning application relates to the conversion of the front floorspace of the premises from Retail (Class A1) to a combined Restaurant (Class A3) and hot food takeaway use (Class A5). The works also include the installation of a cooking extract flue to the southern side elevation of the property.

The development would provide an 86m<sup>2</sup> restaurant with seating for 18 customers; a serving counter; customer toilet; food preparation area; washing room; with refrigeration and general storage rooms.

The plans indicate a takeaway facility for off site food consumption. A delivery exit (and fire escape door) is proposed to the side flank that would open up onto an existing vehicular access. At the rear, parking is proposed for two cars for use by the restaurant.

Refuse storage is proposed within the access way within a self contained storage enclosure that can accommodate up to 4-wheeled bins.

Opening hours for the proposed Restaurant are from 7:00 to 23:00 hrs seven days a week. The applicant confirms that hours for collections and deliveries will be restricted to between 07:00 and 19:00 Monday to Friday, 08:00 and 18:00 Saturday or at any time on Sunday or Bank.

## **Extraction flue**

An extraction flue is proposed to the side and will exit the ground floor level at high level and run vertically up the side of the building to discharge approx. 1m above the first floor

level of the premises. The flue would be required to be fixed to the southern elevation. It would be finished in galvanised steel and 300mm in diameter. Applicant has confirmed that the flue would be painted to match the colour of the brick on the building.

The rear floor space is subject to separate conversion to residential use currently under consideration. That scheme includes parking for one vehicle at the back of the site.

### **Relevant Planning History**

MC/18/0806              Prior notification for the part change of use of ground floor from Class A1 (shop) to Class C3 (dwellings)  
Decision: Currently undecided  
Decision Date:

### **Representations**

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

**Thirteen letters** have been received raising objection to the proposal on the following grounds:

- Inadequate parking
- Adverse impact on highway safety and efficiency
- Odour and smell generation
- Inadequate public consultation
- Noise disturbance at night/Loitering outside
- Litter generation in surrounding streets
- Anti social behaviour
- No additional need for hot food sales in the locality
- Will lead to vermin on the streets

**Frindsbury Extra Parish Council** objects to the proposal in terms of inadequate parking where the site is within a residential area and adverse impact on residents in terms of odour generation.

### **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 located within Wainscott village where protection is afforded to existing retail, service and food and drink uses. The provision of a food and drink use would conform to this objective in the context of Policy R10 of the Local Plan.

Policy R18 of the Local Plan refers to changes of use from Class A1 to A2 or A3 (food and drink uses) outside the retail core. This policy was introduced before Class A4 and A5 were added to the Use Classes Order.

Such changes of use will be permitted provided there is no significant detrimental impact on neighbouring land uses or residential amenity; the combined presence of similar uses is acceptable in terms of environmental impact and highway safety; the hours of opening area acceptable in amenity terms; suitable refuse storage is provided and the proposal mitigates against noise, general disturbance, odour management, and parking/servicing and access for the disabled.

No objection is raised to the principle of such a change where the use would conform to this objective but the remaining material considerations are considered below.

### *Design*

The proposal will not result in any changes to the shop frontage. Advert consent may be required under separate legislation. The main change to the appearance would be the provision of an extraction flue to the site of the premises set back from the frontage within the side access road. Whilst the flue would be seen from the road, the visual impact would be limited if the flue is painted to match the existing painted finish of the building. On this basis, the development would meet the terms of paragraph 56 of the NPPF and Policy BNE1 of the Local Plan.

### *Amenity*

The proposed use will have an impact on neighbouring residents through activity levels, hours of opening and potential disturbance. The existing lawful use is as a retail use and was formerly used by the COOP before its relocation within the vicinity. This use had no hours of control but the agent advised that the Co-op store was open between 7:00 and 22:00hrs (7 days a week). Parking was provided to the rear for three cars with deliveries only to the front at the time.

The levels of activity and movement outside the premises will on balance be similar to the lawful use. Parking is most likely to be the same where customers will generally walk to the site or find a space in the road, park up, purchase goods/eat and leave.

There may be a longer stay if customers decide to eat in but in amenity terms this would reduce lingering times outside. Overall, residents will notice more activity due to the premises having been empty for a while but overall, no objection is raised in consideration of the impact the use already had.

The submitted drawings indicate a kitchen extraction system including an extraction cowl on the roof. It is important that suitable equipment is used to ensure that fumes and odours do not adversely affect the surrounding area. Details of a scheme for the extraction and treatment of cooking fumes was submitted with the application but further details are needed of the exact specification to suit the final type of cooking facility to be installed. However, no objection is raised in principle provided the correct extraction is used and the design altered to manage potential noise from the flue construction and

from activities within the building that may potentially filter through to the self-contained flat above. This may be managed by planning conditions.

The proposed use would provide a balance of takeaway and seated arrangements for customers that would reduce the chances of people waiting outside causing disturbance through lingering. The proposed hours of opening and delivery times can be managed by condition in the interests of amenity protection. A litter bin is proposed to be sited in front of the premises in addition to those within the vicinity.

Subject to appropriate mitigation conditions, the impact of the proposals on amenity is considered acceptable in accordance with the objectives of paragraph 17 of the NPPF and Policies R18 and BNE2 of the Local Plan.

### *Highways*

The development would provide 7 full time jobs for the 86m<sup>2</sup> of floor space proposed and in its retail use would require a maximum of 5 parking spaces to serve the development. The proposed development would require a maximum of six spaces to be provided based on hot food sales proposed. The two parking spaces to the rear are noted but most likely will be used for staff parking due to restricted access. There would be no significant difference between the retail space that could be retained and the proposed use. Parking competition on the highway in the vicinity is historic and the current premises if operational as a whole would also have an impact on the highway in terms of parking competition and vehicles parked on the highway where space allows. There are double yellow lines also on the highway that manage highway safety. Overall, in consideration of these factors, it is not considered that the development would result in any adverse parking or highway safety impacts and there would be no conflict with Policies T1, T13 and R18 of the Local Plan.

### *Other matters*

In terms of public health considerations, new hot food takeaways, where they are deemed appropriate development, would be charged a fixed fee of £1000 if the internal floor area of the premises is above the 100sqm. However as the floor space of the proposed hot food takeaway is approx. 86sqm, there is no requirement to secure a contribution as set out in paragraph 5.20 of the Hot Food Takeaways in Medway: A Guidance Note 2014.

As the site is within 400m from a primary school however, the proposal would be likely to contribute to childhood obesity issues in Medway. Lunchtime opening and opening for a period after school is a concern in terms of meeting healthier lifestyle objectives for younger people. Therefore the hot food takeaway would not be permitted to operate between 12:00 and 14:00 hours or between 15:00 and 17:00 hours so to encourage a healthier lifestyle. This can be managed by planning condition.

### *Local Finance Considerations*

There are no local finance considerations.

## **Conclusions and Reasons for Approval**

The proposed development is considered to comply with the objectives of paragraphs 17 and 56 of the National Planning Policy Framework 2012 and Policies BNE1, BNE2 R10, R18, T1 and T13 of the Medway Local Plan 2003.

The application would normally be determined under delegated authority but is being referred to Members for decision due to the number of representation received expressing a view contrary to officers recommendation.

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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://publicaccess1.medway.gov.uk/online-applications/>