

MC/18/0312

Date Received: 29 January 2018

Location: 1 Fourwents Road Hoo St Werburgh Rochester ME3 9JX

Proposal: Change of use from retail shop (Class A1) to Restaurant (Class A3) with hot food takeaway (Class A5)

Applicant Avanta Restaurants Limited

Agent Mr P Thomas 4A Ashford House Beaufort Court
Sir Thomas Longley Road
Rochester
ME2 4FA

Ward: Peninsula Ward

Case Officer: Paul Ives

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 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:

Drawing numbers: Proposed elevations (without external enclosure finish) 17 265 D2 Rev C; Proposed Floor Plan 17 265 D1 Rev C received 6 April 2018.

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

- 3 Notwithstanding the submitted elevation details provided, prior to the commencement of the development full details of a flue enclosure (to encase

the flue design shown) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with any approved details prior to occupation and once installed, thereafter maintained.

Reason: This is required prior to commencement so to ensure that visual amenity would be protected, in accordance with Policy BNE1 of the Medway Local Plan 2003 and Paragraph 17 and 56 of the National Planning Policy Framework 2012.

- 4 Prior to the commencement of the development, full details of the noise and anti vibration specification to support the submitted extraction facility (Extraction Air Cleaner details (RY7500A) by Rydair received 29 January 2018) shall be 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 in accordance with the submitted details and additional design and layout information received on 19 March 2018 and 6 April 2018 before the development is brought into use and thereafter be maintained.

Reason: Required prior to commencement in the interests of residential amenity in accordance with Policy BNE2 of the Medway Local Plan 2003 and Paragraph 17 of the National Planning Policy Framework 2012.

- 5 Prior to commencement of the development 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, shall be 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: Required prior to commencement in the interests of amenity protection in accordance with the objectives of Policy BNE2 of the Medway Local Plan 2003 and Paragraph 17 of the National Planning Policy Framework 2012.

- 6 The use hereby permitted shall only operate between the hours of 10:00 to 23:00 hours Monday to Saturday and between 11:00 and 22:00 hours on Sunday and Public 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.

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 for the change of use of a ground floor retail shop (Class A1) to combined Restaurant (Class A3) with hot food takeaway (Class A5) including installation of an extraction flue to side. The applicants advise that a free home delivery service will be provided for customers also. Up to 24 customers will be provided with seating within the building. The remainder of the floor space will be dedicated to a serving counter and waste storage; food preparation area and walk in fridge.

The flue would measure approx. 0.5 m wide by approx. 0.5 m in depth and approx. 7.5m in height (set 1.2m above the external ground floor level to the side of the building). This is proposed to be enclosed in a flue enclosure finished in hanging tile. The proposed opening hours are 10:00 to 23:00hrs Monday to Saturdays and 11:00 to 22:00hrs on Sundays and Public Holidays.

Three parking spaces would be provided at the rear accessed via a private access road.

All waste will be stored in dedicated bins inside the property under the proposed ducting. This will be collected by an approved trade waste company on a regular basis.

Representations

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

16 letters of objection have been received (including 8 from four households) raising the following concerns:

- Adverse impact from smells and odour
- There is no need for an additional takeaway facility in this location
- The development would increase obesity
- Noise and activity levels would have an adverse impact on amenity for the hours proposed
- The village is already served by sufficient hot food facilities
- Litter generation
- Anti social behaviour
- Inadequate parking to serve the development

Hoo St Werburgh Parish Council objects to the proposal on the following grounds:

- Inadequate parking would lead to adverse impact on highway safety and efficiency
- Noise generation

- Litter generation
- Odour /smell

They comment that they encourage new business but the proposed is the wrong type for this location.

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

The application site is situated outside a retail core or neighbourhood centre.

The National Planning Policy Framework (NPPF) makes it clear that local planning authorities (LPAs) have a responsibility to promote healthy communities. It says that local plans should “take account of and support local strategies to improve health, social and cultural wellbeing for all”.

Policy R18 of the Local Plan supports hot food shops and restaurants outside the retail core area provided that the development would have no detrimental impact on neighbouring uses or residential amenity; there would be no overconcentration of similar uses; the combined impact would not be detrimental to the environment and highway safety; the proposed hours of opening would not be detrimental to neighbouring amenity; refuse storage, disposal and collection facilities are provided; and the proposal pays particular attention to meeting the terms of policies BNE2, T1, T13 and T22 in respect of noise mitigation, disturbance, odour extraction, parking and access for the disabled. The proposed change of use would not lead to an over concentration of hot food takeaways as the site is within a building shared with a newsagents (with both having self contained flats above). In principle, no objection is therefore raised to the proposed use as set out in terms of an overconcentration of similar uses in the vicinity in the context of Policy R18. The other material considerations are considered below.

Design and street scene impact

The application proposes no physical change to the proposed shopfront, but would introduce an extraction flue to the side following amendments to the original scheme and a re design of the flue arrangement. The flue is considered to be of a suitable size and scale and the applicant has agreed to house the flue within a hanging tiled enclosure. A planning condition may be used to manage the design and finish of the flue. Subject to the proposed condition the application would be considered to be in

accordance with Policy BNE1 of the Medway Local Plan 2003 and Paragraph 56 of the NPPF.

Amenity

Policies BNE2 and R18 of the Medway Local Plan 2003 seek to ensure that the amenities of future occupiers and existing residents of neighbouring properties are protected. This includes consideration of noise impacts, smells and general disturbance.

The proposed scheme would provide sufficient mitigation against odour generated from the development. The proposed activity levels would be acceptable where the development principally provides a means to visit and eat within the premises. There will be an element of hot food sales but the proposed internal seating area will encourage customers to eat within the building rather than outside where noise levels and activity will be more greatly experienced. Whilst there may be potential for this disturbance to be caused, the seating proposed and hours of operation are considered reasonable for the proposed use where the existing retail facility does not have any control on hours of opening. In consideration of the neighbouring newsagents which remains open to approx. 10:30pm, no objection is raised.

The development would increase visits to the premises either by car or by walking to the site. The existing use would have had visitors as a retail use (butchers) but as the premises have been vacant, activity levels will have been low key in recent months and visits to the neighbouring newsagents only. This part of Hoo does not have a hot food takeaway facility within easy walking distance to this part of the village. The use would provide a facility for locals through home deliveries; casual visits to the site for takeaway purposes or to eat within and socialise. The proposal would also reduce travel by car into the main village and meet the needs of existing and future residents within the vicinity.

It is considered that the proposed hours would be acceptable for this area and protect residential amenity of adjoining and neighbouring residential dwellings and would not open late into the night. There are self contained flats above the site and adjacent newsagents. The proposed kitchen extraction system incorporates both grease and carbon filtration and discharges at a high level which would be beneficial for the dispersal of cooking fumes. The scheme also shows that the extraction fan is located internally within the ground floor area and includes a post fan silencer to reduce duct noise. There is a concern that noise disturbance may be detrimental to the flat above from the noise sources of the proposed use from a mixture of the noise sources of staff, customers, kitchen and extraction system. It is considered that these noise concerns could be addressed by a suitably worded condition for a scheme of acoustic protection to be submitted and implemented prior to the use commencing to mitigate against noise from the flue fixing and activity levels generated. Consequently subject to the conditions listed above, the application would be considered to be in accordance with Policies BNE2 and R18 of the Medway Local Plan 2003 and Paragraph 17 of the NPPF.

Highways

The Medway Parking Standard requires four parking spaces to be provided for the existing use as compared to 14 for the proposed use at a maximum. The application property has three off-street car parking facility to the rear which in practice will be most likely used by staff. The majority of customers will visit the site and park in Fourwents Road where parking is available. The exception to this being directly to the front of the site, where parking is controlled. In view of the historic use as a retail unit and in consideration of both on street parking available and off street parking available in a private car park (with garages also), no highway objection is therefore raised to the scheme as set out. The application is considered to be in accordance with Policy T13 and R18 of the Medway Local Plan 2003.

Other matters

"The Hot Food Takeaways in Medway - A Guidance Note" adopted in July 2014, introduces guidance on the location and operation hours of hot food takeaways. As the site is more than 400m away from the nearest school, the proposal would be unlikely to contribute to childhood obesity issues in Medway. Therefore lunchtime opening and opening for a period after school is not a concern in terms of meeting healthier lifestyle objectives for younger people.

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 floorspace of the proposed hot food takeaway is approx. 76sqm, 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.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

The proposed change of use would not lead to an over concentration of hot food takeaways within the area outside a neighbourhood centre. No objection is raised to the impact of the development in terms of external changes; the impact upon amenity or highway safety. Consequently the application is considered to be in accordance with Policies BNE1, BNE2, R18 and T13 of the Medway Local Plan 2003, Paragraphs 17 and 56 of the NPPF and "The Hot Food Takeaways in Medway - A Guidance Note" adopted in July 2014.

The application would normally be determined under delegated powers but is being referred to Planning Committee for determination due to the number of the representations received expressing a view contrary to the officer's 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://publicaccess1.medway.gov.uk/online-applications/>