

MC/17/2645

Date Received: 26 July 2017

Location: Unit 5 Block T Pier Road Gillingham

Proposal: Variation of conditions 5 and 8 on planning permission MC/14/0649 to allow Condition 5 to increase operating hours from: 07:00 to 23:00 hrs every day of the week, to 07:00 to 24:00 hrs every day of the week and also change the operating hours from: 07:00 to 01:00 hrs on no more than 50 days in each academic year, to 07:00 to 05:00 hrs on no more than 10 days in each academic year and change the final sentence to read, "The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 24:00" 4, and to remove the wording "requirement for students only after 23:00 hrs" on Condition 8

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Ward: Gillingham North Ward

Case Officer: Hannah Gunner

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 6th June 2018.

Recommendation - Approval with Conditions

- 1 The development shall be operated in accordance with the following approved plans:

3531/001, 002, 101, 111G, 150, 151, 152, 153, UO33/Site/21 rev B & OU33/PI16 Rev A received on 10 March 2014. Application Form received 27 July 2017.

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

- 2 The conduction and extraction system as approved under MC/14/2218 of planning permission MC/14/0649 shall be retained in operation and maintained for the duration of the use.

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.

- 3 The sound insulation measures recommended in the Noise Assessment (Project Number: 4169) submitted and approved under planning permission MC/14/0649, shall be maintained for the duration of the development. No changes shall be made without the prior written approval of the Local Planning Authority.

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.

- 4 The use shall only operate between the hours of 07:00 to 24:00 every day of the week, except when operating between the hours of 07:00 to 05:00 on no more than 10 days in each academic year. The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 24:00.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policies BNE1 and BNE2 of the Medway Local Plan 2003.

- 5 No servicing and deliveries to the unit shall take place outside the hours of 07:00 to 18:00 Monday to Friday inclusive and between the hours of 08:00 to 13:00 on Saturday and shall not take place on Sunday and Public Holidays 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.

- 6 The refuse storage arrangements for the unit, shown on approved drawing no: OU33/PI16 rev A (MC/14/0649) shall be provided and retained for the duration of the permitted development.

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.

- 7 Security arrangements for the venue shall include measures to ensure entry to the use after 23:00 is restricted to students (carrying a KentOne or NUS identification) and their guests only. CCTV and measures to monitor and appropriately control the behaviour of users of the venue - both inside and outside the premises - shall be submitted to and approved in writing by the

Local Planning Authority within 3 months of the date of this decision. Thereafter the approved details shall be implemented and maintained.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policies BNE1 and 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

Variation of conditions 5 and 8 on planning permission MC/14/0649 to allow Condition 5 to increase operating hours from: 07:00 to 23:00 hrs every day of the week, to 07:00 to 24:00 hrs every day of the week and also change the operating hours from: 07:00 to 01:00 hrs on no more than 50 days in each academic year, to 07:00 to 05:00 hrs on no more than 10 days in each academic year and change the final sentence to read, "The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 24:00", and to remove the requirement for students only after 23:00 hrs on Condition 8. MC/17/2645

Condition 5 reads:

The use hereby permitted shall only operate between the hours of 07:00 to 23:00 every day of the week, except when operating between the hours of 07:00 and 01:00 on no more than 50 days in each academic year. The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 23:00.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

Amend to read:

"The use shall only operate between the hours of 07:00 to 24:00 every day of the week, except when operating between the hours of 07:00 to 05:00 on no more than 10 days in each academic year. The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 24:00".

Condition 8 reads:

Prior to the commencement of the use hereby permitted, full details of the security arrangements for the venue that shall include measures to ensure entry to the use after 23:00 is restricted to students carrying a KentOne or NUS identification; CCTV; and measures to monitor and appropriately control the behaviour of users of the venue - both inside and outside the premises - shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be implemented and maintained.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

Amend to read:

“Security arrangements for the venue shall include measures to ensure entry to the use after 23:00 is restricted to students (carrying a KentOne or NUS identification) and their guests only. CCTV and measures to monitor and appropriately control the behaviour of users of the venue - both inside and outside the premises - shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this decision. Thereafter the approved details shall be implemented and maintained”.

Relevant Planning History

MC/14/0649 Change of use to mixed use restaurant/bar (Class A3/A4) and alterations to the rear elevation

Decision: Approved with Conditions
Date: 28 April 2014

Representations

The application has been advertised on site and in the press (delete as necessary) and by individual neighbour notification to the owners and occupiers of neighbouring properties.

Four objections have been received from residents that live within 150m of the unit. The main issues raised by these representations include:

- Problem in the area with drunk students and members of the public
- Crime rate and anti-social behaviour is currently high in the area and increased drinking hours will exacerbate the situation
- Inappropriate behaviour from patrons to residents
- Vandalism occurs where property has been damaged
- Location opposite a halfway house is not appropriate
- Increase in hours will exacerbate the problems currently experienced by local residents

Kent Police raise no objection.

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

In 2014 the application for the change of use of these premises to a restaurant/bar was agreed subject to a number of conditions that ensured that there were restrictions in place to control hours, servicing, refuse arrangements and types of entrant. Having now been established for a number of years there is a requirement to now vary a couple of the conditions to better suit the University.

Condition 5 reads:

The use hereby permitted shall only operate between the hours of 07:00 to 23:00 every day of the week, except when operating between the hours of 07:00 and 01:00 on no more than 50 days in each academic year. The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 23:00.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

The amendment proposed is as follows:

- An increase in operating hours from: 07:00 to 23:00 hrs every day of the week, to 07:00 to 24:00 hrs every day of the week
- A change in the operating hours from: 07:00 to 01:00 hrs on no more than 50 days in each academic year, to 07:00 to 05:00 hrs on no more than 10 days in each academic year
- A change in the final sentence to read, "The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 24:00"

The condition (5) will be reworded as follow:

"The use shall only operate between the hours of 07:00 to 24:00 every day of the week, except when operating between the hours of 07:00 to 05:00 on no more than 10 days in each academic year. The Local Planning Authority shall be notified in writing in advance of those dates on which the use shall operate later than 24:00".

The submission made by the University have stated that the current operating hours do not property reflect the needs of the restaurant/bar as the current position means that last orders have to be at 22:30 with an earlier time for food orders in order to get the premises cleared for 23:00. The increase in hours as proposed would allow for better dispersal of patrons throughout the evening.

With regards to the 50 days when the premises can operate until 01:00, the University state that this number of days is not required. However to accommodate a number of sporting events such as world sports followers they would like to be able to offer the opportunity to show sports such as Baseball, American Football and Basketball throughout the year. This would allow for live broadcasts from across the world.

It is not considered that this proposal would be unacceptable given the requirement is to allow for sporting events to be broadcast on the premises. The proposed 24:00 (closing) operating time is also considered to be reasonable as it would allow for a better management of the premises.

Concerns have been raised by local residents to the proposed amendment to the closing hours, however given number of objections received when compared to the number notified of the application (503), this is considered to be significantly low. Notwithstanding this, it is considered that the proposed increase by 1 hour would not be significantly harmful to the amenity of local residents. In addition, the proposal would allow for a better management of the premises and could potentially reduce some of the concerns raised.

The issue of anti-social behaviour is dealt with in more detail below.

Condition 8 reads:

Prior to the commencement of the use hereby permitted, full details of the security arrangements for the venue that shall include measures to ensure entry to the use after 23:00 is restricted to students carrying a KentOne or NUS identification; CCTV; and measures to monitor and appropriately control the behaviour of users of the venue - both inside and outside the premises - shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be implemented and maintained.

The amendment proposed is as follow:

- The condition is amended to allow students and their guests only after 23:00.

The condition (8) will be reworded as follow:

“Security arrangements for the venue shall include measures to ensure entry to the use after 23:00 is restricted to students (carrying a KentOne or NUS identification) and their guests only. CCTV and measures to monitor and appropriately control the behaviour of users of the venue - both inside and outside the premises - shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this decision. Thereafter the approved details shall be implemented and maintained”.

The supporting information given within the application clarifies the reason for the proposal. Currently, any non-student patron would have to leave after any extended hours (if granted). If the alterations set out in condition 5 are approved this would result in none students being made to vacate the premises. The wording that is proposed would ensure that the restaurant/bar does not turn into a local public house but remains as a student facility by allowing students and their guests to socialise.

The proposed amendment to the condition to remove the restriction to student only is not considered to be unreasonable and its amendment to allow the students guest would still maintain the emphasis to the fact that the facility is only for students of the

University and not for the general public. This wording ensures that this would not become a Public House that is available to any visiting member of the public which is considered appropriate in these circumstances.

Both amendments are considered to be reasonable and would not result in any detrimental impact to the local residents. This proposal is therefore considered to be compliant with Policies BNE1 and BNE2 of the Medway Local Plan 2003 and Paragraphs 17, 69 and 70 of the National Planning Policy Framework 2012.

Design

It is considered that the proposed amendment to the conditions would not have any impact in terms of design, appearance, highways or heritage and therefore there are no design considerations to this application.

Amenity Consideration

Anti-Social behaviour

The main issues that have been raised by the objections received generally relate to the anti-social behaviour that they feel is apparent within the area. However, reviewing the Crime Map available on-line and in conjunction with the comments received from Kent Police, it is apparent that the reported crimes in this area is comparable with its surrounding areas and is not considered to be excessive.

Comment from the Police Licencing Team states that throughout 2017 there were 3 instances reported to the police that related to the Cargo Bar. One of these instances was over the theft of a mobile phone. The other two related to minor drunken disturbance. The most recent incident reported at the application site, or one that Kent Police have related to this site, was in November 2017 and is one of the disturbances accounted for within the 2017 figures. It has been confirmed by officers within the Licencing Team for Kent Police that this bar is not 'on their radar and that incidents here are so infrequent and minor that this application does not cause concern for them'. Kent police have not objected to this proposal and have stated that they work with the bar manager giving advice when required and are aware that they broadcast international sporting events.

Consequently, it is not considered that this premises has an existing anti-social behaviour issue nor is it considered that the proposal would increase anti-social behaviour from the use. As such, the proposal would not have a harmful impact on the amenity of local residents in the manner raised by the objectors, and the proposal would be compliant with Policy BNE2 of the Medway Local Plan 2003 and Paragraph 69 of the National Planning Policy Framework 2012.

Conclusions and Reasons for Approval

The proposed amendment to the operations of the approved restaurant/bar is considered to be acceptable and would not have a harmful impact on the amenity of local residents. The proposed amendments to conditions 5 and 8 are therefore considered to be acceptable and would be in accordance with Policies BNE1 and

BNE2 of the Medway Local Plan 2003 and the objectives of Paragraphs 17, 69 and 70 of the National Planning Policy Framework 2012.

This application would normally be determined under delegated powers but is being referred for determination by Planning Committee due to the number of representations received expressing views contrary to 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/>