

MC/18/3617

Date Received: 19 December 2018

Location: 47-49 High Street Rochester Medway ME1 1LN

Proposal: Variation of condition 7 of planning permission MC/16/3590 in order to vary the hours of opening to increase from 11pm to 1am on Friday and Saturday (only).

Applicant Mr Latham

Agent Mrs Holly Pitcher
32 High Street
West Malling
ME19 6QR

Ward: Rochester West Ward

Case Officer: Tom 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 13th February 2019.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of planning permission MC/16/3590, that date being 17 November 2016.

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 all received on 25 August 2016:

Drawing numbers HSR47/14/SK31D, HSR47/14/SK32B, HSR47/14/SK33B, HSR47/14/SK34A, HSR47/14/SK36A HSR47/14/SK37C, HSR47/14/SK38, LX-8613 Rev C (Proposed Plant Layout); and LX-8613 Rev A (Proposed Plant Position) received on 25 August 2016.
Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The noise rating level associated with the development site shall be at least 10dB below the background noise level (LA90,T) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142:2014.

Reason: In the interests of protecting residential amenities in accordance with Policy BNE2 of the Medway Local Plan 2003

- 4 An acoustic assessment demonstrating compliance with condition 3 above shall be submitted to the Local Planning Authority no later than two months after commencement of the operation of the development hereby permitted. Any provisions indicated in the assessment which need to be made to control noise emanating from the site (acoustic mitigation) pursuant to condition 3 shall be submitted in writing for the written approval of the Local Planning Authority within 1 month of the acoustic assessment having been undertaken and all works, which form part of the approved scheme, shall thereafter be implemented in accordance with a timetable to be agreed in writing by the Local Planning Authority. The acoustic mitigation shall thereafter be maintained in accordance with the details approved pursuant to this condition.

Reason: In the interests of protecting residential amenities in accordance with Policy BNE2 of the Medway Local Plan 2003

- 5 The new shopfront shall be implemented prior to the restaurant use being implemented and in accordance with the joinery details and the details of the pilasters and moulding as approved by application reference number MC/17/0864.

Reason: To ensure that the development makes a positive contribution to the High Street and its surroundings, including the Conservation Area and the setting of nearby listed buildings with regard to Policies BNE9, BNE12, BNE14 and BNE18 of the Medway Local Plan 2003.

- 6 The external materials in the construction of the shopfront and the construction of the rear extension shall be implemented in accordance with the details approved under application reference MC/17/3042.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, including the character and appearance of the Conservation Area and the setting of nearby listed buildings with regard to Policies BNE1, BNE9, BNE12, BNE14 and BNE18 of the Medway Local Plan 2003.

- 7 The use hereby permitted shall only operate between the hours of 08:00 to 23:00 Monday to Thursday, 08:00 to 01:00 Friday and Saturday and 10:00 to 22:00 on Sunday and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity including in view of the cumulative effect of a number of late night uses in the High Street and the presence of residential properties in close proximity to the site and with regard to with Policy BNE2 of the Medway Local Plan 2003.

- 8 No goods shall be loaded, unloaded or otherwise handled external to the building and no vehicles shall arrive or depart within the application site outside of the hours of 07:00 to 19:00 Monday to Friday and 08:00 to 18:00 Saturday or at any time on Sunday or Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring properties in accordance with Policy BNE2 of the Medway Local Plan 2003

- 9 The use hereby permitted shall not be brought into use until full details of any provision on the site for people wishing to smoke (Smoking Provision) have been submitted to and approved in writing by the Local Planning Authority. The approved details of the Smoking Provision shall be provided on site prior to the approved use being brought into effect and shall thereafter be maintained.

Reason: In order to protect the amenities of nearby occupants, particularly the occupiers/residents located adjoining and in close proximity to this site and with regard to Policy BNE2 of the Medway Local Plan 2003.

- 10 The extraction flue and ancillary equipment, hereby permitted, shall be painted matt black prior to the development permitted being brought into use. Thereafter the extraction flue and ancillary equipment shall be maintained in a painted matt black finish.

Reason: In the interests of visual amenities of the conservation area, the setting of the listed building that are located close to and adjoining the site and in the interests of the visual amenities of adjoining occupiers and the surrounding area in general in accordance with Policies BNE1, BNE2, BNE12, BNE14 and BNE18 of the Medway Local Plan 2003.

- 11 Prior to the first use as a restaurant, details of the proposed colour finish to the shopfront shall be submitted to and approved in writing by the Local Planning Authority. The shopfront shall thereafter be finished in accordance with the approved details and shall thereafter be maintained.

Reason: To ensure that the development makes a positive contribution to the High Street and its surroundings, including the Conservation Area and the setting of nearby listed buildings with regard to Policies BNE9, BNE12, BNE14 and BNE18 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 the variation of condition 7 on planning permission MC/16/3590 to increase the opening hours of the premises on Fridays and Saturdays from 23:00 to 01:00.

Condition 7 currently states:-

The use hereby permitted shall only operate between the hours of 08:00 to 23:00 Mondays to Saturdays and 10:00 to 22:00 on Sundays and Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity including in view of the cumulative effect of a number of late night uses in the High Street and the presence of residential properties in close proximity to the site and with regard to with Policy BNE2 of the Medway Local Plan 2003.

Relevant Planning History

MC/17/3042	Details pursuant to condition 6 on Change of use from retail (Class A1) to restaurant (Class A3), construction of an extension to side/rear and alterations to existing shopfront (demolition of existing extensions) Decision: Condition Discharged Decided: 17 October 2017
MC/17/2474	Alterations to main roof height to facilitate formation of a hipped roof and installation of a mezzanine floor Decision: Approval with Conditions Decided: 11 September 2017
MC/17/0864	Details pursuant to condition 5 on planning permission MC/16/3590 for change of use from retail (Class A1) to restaurant (Class A3), construction of an extension to side/rear and alterations to existing shopfront (demolition of existing extensions) Decision: Part discharge of conditions Decided: 27 March 2017
MC/16/3590	Change of use from retail (Class A1) to restaurant (Class A3), construction of an extension to side/rear and alterations to existing shopfront (demolition of existing extensions) Decision: Approval with Conditions

Decided: 17 November 2016

Representation

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

Four letters of objection from three addresses have been received raising the following planning concerns:-

- Noise disturbance to neighbours from the proposed late night opening and cumulative impact from existing uses.

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 2018 and are considered to conform.

Planning Appraisal

Background

This application has been submitted following unsuccessful uptake in terms of occupation.

Principle

The principle of the development has been established and this amendment does not result in any change in that initial assessment. As this application only seeks change to the opening hours, the primary consideration for this application relates to amenity.

Amenity

The application seeks permission to open two hours later on Friday and Saturdays. The opening hours would remain 08:00 to 23:00 Monday to Thursday and 10:00 to 22:00 on Sundays. The approved A3 use is located in Rochester High Street in proximity to residential areas with flats the various commercial uses. The objections raised during consultation are concerned around the noise impact from anti-social drinking and the cumulative impact from the other late night uses within the High Street.

As the use falls within Use Class A3 which is a restaurant it is not considered that the extension to the opening hours would result in anti-social behaviour and associated noise issues to levels harmful to residential amenity. It is likely that an open restaurant could provide passive surveillance to the area which could help to disperse anti-social behaviour in the area. The original planning permission included conditions to control and

limit the noise rating level associated with the restaurant requiring it to be at least 10dB below the background noise level (LA90,T) at the nearest residential façade. The conditions also required an acoustic assessment to be submitted after two months of the implementation of the use to demonstrate that the acoustic mitigation (which is to be retained) is meeting the required level.

This condition has not yet been discharged as the unit has not yet been occupied.

It is considered that there would be no detrimental impact in terms of residential amenity, particularly by re-imposing conditions 3 and 4 of the original planning permission and therefore the application would be in accordance with Policy BNE2 of the Local Plan and paragraph 127(f) of the NPPF.

Other matters

A variation of condition application is such that when granted approval for the variation, in effect, a new planning permission is granted. It is therefore necessary to re-impose the conditions which remain relevant as set out in the original decision notice under MC/16/3590.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

It is considered subject to a condition for the use to operate as per the Noise Management Plan the impact on neighbouring amenity the application would be in accordance with Policy BNE2 of the Local Plan and paragraphs 127 (f) NPPF.

The application would normally be determined under Officer delegated powers but is being reported to Committee for a decision in view of the number of letters of representations received 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/>