

MC/19/3342

Date Received: 31 December 2019

Location: 359 Walderslade Road, Walderslade Chatham Medway

Proposal: Variation to condition 2 on planning permission MC/02/0300 to extend operating hours opening times to 08:00 - 20:00hrs Monday - Saturday and 08:00 - 15:00 Sundays and Public holidays

Applicant Michael Jones

Ward: Walderslade Ward

Case Officer: Nick Roberts

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 1st April 2020.

Recommendation - Approval with Conditions

- 1 The use hereby permitted shall only operate between the hours of 08:00 to 20:00 Mondays to Saturdays and between 08:00 to 15:00 Sundays and Public holidays

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

- 2 Within two months from the date of this decision notice details of the conduction and extraction system including a timetable for implementation (if not already installed), shall be submitted to and approved in writing by the Local Planning Authority and such arrangements shall thereafter be maintained.

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

- 3 There shall be no sales of hot food directly to the general public for consumption off the premises.

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

- 4 The outside seating area shall only be used between the hours of 09:00 to 18:00 Mondays to Saturdays and between 09:00 to 15:00 Sundays and Public holidays

Reason: To regulate and control the permitted development in the interests of amenity 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 is for the variation of condition 2 on planning permission MC/02/0300 to extend the opening times to 08:00-20:00hrs Monday-Saturday and 08:00-15:00 Sundays and Public holidays.

Condition 2 currently states:

The use hereby permitted shall only operate between the hours of 08:00 to 17:00 Mondays to Saturdays and 10:00 to 15:00 on Sundays and National Holidays.

Reason: To regulate and control the permitted development in the interests of amenity.

Relevant Planning History

MC/02/0300 Change of use from shop to cafe (Class A3)
Decision: Approval with conditions
Decided: 29 May 2002

MC/99/5752 Erection of two shops and nursery school at first floor
level
Decision: Approval with conditions
Decided: 22 December 1999

Representations

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

Three letters of representation were received objecting to the proposal on the following grounds,

- Excessive noise associated with its extended use
- Odour nuisance and noise from extractor fan
- Patrons blocking residents driveways
- Rubbish and Litter
- Unit is looking to add takeaway function
- Could encourage Anti-Social Behaviour

Development Plan Policies

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 2019 (NPPF) and are considered to conform.

Planning Appraisal

Principle

Planning permission was granted for the use of the premises as a café (Class A3) in 2002 under planning reference MC/02/0300. The principle of the development has therefore been established. As this application only seeks to vary the opening hours of this approved permission, the primary consideration for this application relates to amenity.

Amenity

The application seeks permission to extend the opening hours by an additional three hours Monday – Saturday and by an additional two hours on Sundays and Public/Bank Holidays. The difference in the proposed times are shown below;

Day	MC/02/0300	Proposed
Monday – Saturday	08:00 – 17:00	08:00 – 20:00
Sunday	10:00 – 15:00	08:00 – 15:00
Bank/Public Holidays	10:00 – 15:00	08:00 – 15:00

The application site is within the Neighbourhood Centre of Walderslade as defined in Policy R10 of the Local Plan. This policy encourages A3 (Restaurant and Cafe) uses and recognises the important role they play in promoting sustainable living patterns. The neighbourhood centre of Walderslade has a mix of uses, and the parade of shops between 359 – 385 Walderslade Road consists of four estate agents, a post office, beauty salon, two coffee shops, two takeaways, a convenience store and the Co-Op Supermarket directly opposite. These uses have a variety of historic and recently approved opening hours that extend beyond the hours applied for in this current application which are summarised in the table below. With the exception of the Co-Op these units also have residential accommodation at first floor level.

Address	Use	Opening Hours	Historic/Approved
371 Walderslade Road	Convenience Store	09:00 – 22:00 (Mon-Sun)	Historic
373 Walderslade Road	Dominoes	11:00 – 23:00 (Mon-Sun)	Approved MC/18/0976
379 Walderslade Road	Beauty Salon	09:00 – 21:00 (Mon-Sat) 10:00 - 16:00 (Sun/BH)	Approved MC/18/1985
383 Walderslade Road	Chinese Takeaway	17:00– 24:00 (Sat) 17:00 – 22:30 (Sun-Fri)	Historic
Co-Op	Supermarket	07:00 – 22:00 (Mon-Sat) 10:00 – 16:00 (Sun)	Historic

The key consideration in this application is therefore the impact of the proposed additional hours and associated comings and goings on the neighbouring residential properties. Although the area may be expected to be generally quieter during the evening there will be activity from vehicular and pedestrian movements to and from the hot food takeaway shops and Co-Op Supermarket. The proposed extended hours would not be later than the opening hours of those facilities and would not therefore extend the evening hours during which there would normally be customer movements in the area. Furthermore, it is not considered that the additional opening hours requested would be unreasonable with the sort of opening hours you would generally expect to find for a café/restaurant use in a neighbourhood centre.

Whilst it is acknowledged that on Sunday's the general traffic levels are likely to be less than during the week, in view of the above it is not considered that opening at the earlier time of 08:00 would result in any significant adverse impact on nearby residents living conditions. In addition there is also a free public car park in front of the parade of shops to the south of the site and therefore, despite a neighbour objection relating to parking, it would not be necessary for customers to park on the road outside the residential properties.

Although the application site is located in close proximity to residential properties to the north and there has been one objection from the owner of 357 Walderslade Road relating to noise and odour from the kitchen extract system there have been no recent records of complaints to either the Councils Environmental Protection team or Planning Enforcement Team. Furthermore, an Environmental Protection Officer has attended site and did not witness any noise or odour issues at the time of his visit. The applicant originally applied to open from 07:00 Monday-Saturday, however following concerns raised by the Local Planning Authority, and due to its close proximity to residential properties this was amended to 08:00, in line with the current approved hours, which is now considered acceptable.

It was noted from the initial site visit that there were tables and chairs outside the premises. Although the outdoor seating area was relatively small, consisting of approx. two tables and seven chairs, and did not appear to have any form of outdoor heating which would limit the extent of its use, in view of its close proximity to the residential

property at 357 Walderslade Road, and the extended opening hours, it is deemed necessary to impose a condition restricting its use in the interests of neighbouring amenity.

Consequently, the proposal would not be considered detrimental to the neighbouring residential properties and the additional customer movements associated with the extended opening hours are also unlikely to be detrimental. Therefore, the application is considered to be in accordance with Policy BNE2 of the Local Plan and paragraph 127f 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 set out in the original decision notice under planning reference MC/02/0300. Condition 1 has been removed as the use has commenced and condition 2 has been amended to reflect the proposed times within this application. The wording for condition 3 has also been altered to request information relating to conduction and extraction fumes within 2 months from the date of this decision notice.

Conclusions and Reasons for Approval

The proposed variation to the opening hours is considered to be acceptable with respect to policy and amenity considerations. The extended opening hours as proposed are therefore recommended for approval being compliant with Policy BNE2 of the Local Plan and paragraph 127f of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of 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/>