

MC/20/0176

Date Received: 23 January 2020

Location: 16 Rainham Shopping Centre Rainham Gillingham Medway

Proposal: Prior Notification of a proposed change of use from Class A1 (retail) to Class A3 (restaurants and cafes)

Applicant Tick Tocks Coffee and Kitchen Ltd,
Cheryl Wilson

Agent Oastview Builders Ltd
Mr Stephen Wilson

Ward: Rainham North 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 - Prior Approval Not Required

- 1) Prior approval is not required as the effect of the development with regards to the change of use from A1 to A3 would not result in a harmful impact on the local shopping centre, or with regard to impacts relating to noise, odour, waste, opening hours, transport and highways. The development is considered acceptable with regard to Policies BNE2, R6, R17, T1 and T13 of the Local Plan and paragraphs 85, 108, 127 and 180 of the NPPF. In these circumstances prior approval for the change of use is not required.

Recommendation

Prior approval not required

For the reasons for this recommendation please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This is a notification to determine whether prior approval is required for the change of use from Class A1 (retail) to Class A3 (restaurants and cafes) under Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). At present the unit is vacant, and has been

since December 2017 however it was previously occupied as a pet shop. The proposal is for a coffee shop that will serve drinks and food which is cooked and baked fresh on the premises. This first floor will also provide an ancillary community area for baking and craft activities.

Representations

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

Five letters of objection have been received, including four petitions from local traders within the precinct (Centre Cafe, Star Grill, Quick Dry Keen, Rainham Traders) with 272 signatures. The objections are on the following grounds:

- There are not enough A1 retails shops in the local area
- Rainham Shopping Centre is oversaturated with A3 cafes/restaurants
- Another A3 café/restaurant would be unsuitable
- It would have a negative impact on the existing A3 cafes/restaurants

MP Rehman Chishti also wrote in on behalf of two of his constituents highlighting concerns with the number of cafes, coffee shops and retail stores selling food and drink.

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 2019 (the NPPF) and are considered to conform.

Planning Appraisal

Under Class C of Part 3 the change of use of a building from a use falling within Class A1 to Class A3 is permitted development under subsection (a)(i). The external building operations proposed including those required for ventilation and extraction are considered reasonably necessary for a building in A3 use in association with Class C(b).

Section C.1 sets out such development that is not permitted:

- (a) the cumulative floor space of the existing building changing use under Class C would not exceed 150 square metres;
- (b) the development (together with any previous development under Class C) would not result in more than 150 square metres of floor space in the building having changed use under Class C;
- (c) the land or the site on which the building is not located in or forming a part of—
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area;
 - (d) a scheduled monument; or
 - (e) a listed building or curtilage of a listed building.

The total cumulative floor space of the existing building changing use would be approx. 116m² as such it would not exceed the 150m² restriction under Class C (a) and (b). Furthermore the building is not located on a site of special scientific interest, a safety hazard area, a military explosives storage area and is not a scheduled monument, listed building or within the curtilage of a listed building.

Section C.2 (2) says that development under Class C(a) only is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the following items, each to be considered in turn.

C.2 (1)(a) Noise impacts of the development – Although the submitted plans indicate provision for a wall mounted external condenser unit on the side elevation of the building there are no residential units above the commercial premises in this area. Furthermore, the application form indicates noise barriers will be used to minimise any noise impacts. In this context it is not considered that the proposed change would result in unacceptable noise impacts.

C.2 (1)(b) Odour impacts of the development – The application form and submitted plans advise that a full kitchen commercial ventilation extraction canopy system will be used. The application form also indicates that vents will be placed on external walls, away from neighbouring units. In the absence of any residential properties within close proximity to the commercial premises, and in view of the siting of the extraction vents it is not considered that the proposed A3 use would cause any unacceptable odour impacts. An informative has been added to the decision notice to advise the applicant to contact the Councils Food Safety Team for advice regarding effective extraction from cooking odour.

C.2 (1)(c) Impacts of storage and handling of waste in relation to the development – The applicant proposes to use commercial waste disposal bins, including a food waste bin with weekly collection from a registered waste management company. The bins will be stored to the rear of the premises, with access for commercial bin lorries from the private service yard to the side of the unit. The bins therefore won't be visible from the public vantage points, and will reflect the existing waste disposal arrangements for the adjacent commercial properties. This arrangement would be considered acceptable for the proposed use.

C.2 (1)(d) Impacts of the hours of opening of the development – The premises is proposed to open between 08:00 to 18:00 Monday-Friday, 08:00 to 19:00 Saturday and 09:00-18:00 Sunday and Public Holidays. The proposed opening hours would not be later than the opening hours of the facilities already provided within Rainham Shopping Centre including Tesco, Boots, Wilkos and Iceland and as such would not therefore extend the evening hours during which there would normally be customer movements in the area.

C.2 (1)(e) Transport and highways impacts of the development – The site is located within a pedestrianised local shopping area which has designated public car parks within close proximity. This includes Longley Road and Orchard Street. In these

circumstances it is not considered that the proposed change would result in any significant impact with regard to parking, transport and highway safety.

C.2 (1)(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area –

The site lies within the core retail area of Rainham as defined on the proposal maps for Local Plan. Policy R6 of the Local Plan states that A1, A2 and A3 uses will be permitted provided they support to the vitality and viability of the centre as a whole. Policy R17 further provides that changes of use within the core area of Rainham from Class A1 to A3 uses will be permitted except where the addition of such a use would cumulatively have a detrimental effect on the character and retail function of the centre or visual amenity.

A land survey of the Rainham Shopping Centre, High Street (27-113 inclusive) and Station Road (1-36 inclusive) which includes 102 units has been carried out to look at the various different land uses and more specifically the café/restaurant representation in this area. The cumulative occupancy of the commercial units surveyed is summarised in the table below:

Use Class	Number	Percentage %
A1 (Shops/Retail)	55	54%
A2 (Financial Services)	16	16%
A3 (Restaurant/Cafes)	7	7%
A4 (Pubs)	3	3%
A5 (Takeaways)	6	6%
B1 (Offices)	3	3%
D1 (Non-residential Institutions)	3	3%
D2 (Leisure)	1	1%
Sui Generis	8	7%
Total	102	100%

Although the proposal would result in the loss of an A1 unit 54% of the units surveyed would still be in A1 use. Furthermore, when comparing the representation of A1 units (54%) to A3 units (7%) it is considered that adequate Class A1 provision would be retained. Although the letters of representation received have suggested that Rainham Shopping Centre is oversaturated with A3 cafes/restaurants, when focusing on the allocation of uses in the core retail area alone as defined on the proposal maps to the Local Plan there are currently 6 units in A3 use compared to 43 units in A1 use. Therefore, it is not considered that the sustainability of the shopping area would be significantly harmed. The proposal would also result in an empty unit being brought

back into use which would otherwise would have been left empty, and has been since 2017 according to Council Tax records.

Other Matters

Although it has been alleged that the applicants have commenced development, the removal of the existing shopfront and to let sign, the staining of the windows and the removal of items from inside the unit would not be considered an implementation of the A3 use and as such the prior approval process is still valid.

Climate Change and Energy Efficiency

Due to the nature of this proposal there is limited criteria that be considered under Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Climate change and energy efficiency is not one of those criteria.

Local Finance Considerations

There are no relevant local finance considerations.

Conclusions and Reasons for Decision

In summary, it is not considered that the proposed change of use from A1 to A3 would result in a harmful impact on the local shopping centre. The noise, odour, waste, hours, transport and highways and impact on the centre use are considered acceptable including with regard to Policies BNE2, R6, R17, T1 and T13 of the Local Plan and paragraphs 85, 108, 127 and 180 of the NPPF. In these circumstances prior approval for the change of use is not required.

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/>