

MC/20/2338

Date Received: 24 September 2020
Location: 1 Cazeneuve Street Rochester
Medway ME1 1XU
Proposal: Change of use of from E(a) to Sui Generis (Hot Food Takeaway)
Applicant Mr P Kulanayagam
Agent TSJ Drawings
Mr S John Unit 8
48A Upper Fant Road
Maidstone
Kent
ME16 8DN
Ward: Rochester East 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 9th December 2020.

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: 20/1111/HD/12 REV A, 20/1111/HD/12 REV B, received 25 September 2020 and 20/1111/HD/11 REV B, received 30 September 2020.

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

- 3 Prior to the commencement of the use hereby permitted, a scheme for the extraction and treatment of cooking fumes, including details for the control of noise and vibration from the system, 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 before the use is commenced and thereafter be maintained in accordance with the approved details.

Reason: Required prior to first use 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 Prior to the commencement of the use herein approved a scheme to minimise the transmission of noise from the use of the premises (including delivery services) shall be submitted to and approved in writing by the Local Planning Authority. The scheme to minimise the transmission of noise shall be implemented in accordance with the approved details prior to the use commencing and shall thereafter be retained.

Reason: Required prior to first use to ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 5 Unless otherwise agreed in writing by the Local Planning Authority, the takeaway use hereby permitted shall only operate as follow:

Mondays to Thursdays: 11:00 to 12:00 hours; 14:00 to 15:00 hours; and 17:00 to 23:00 hours.

Fridays: 11:00 to 12:00 hours; 14:00 to 15:00 hours; and 17:00 to 00:00 hours.

Saturdays: 11:00 to 00:00 hours; and

Sundays and public holidays: 11:00 to 22:00 hours.

Reason: To regulate and control the permitted development in the interests of amenity and public health considerations in accordance with Policy BNE2 of the Medway Local Plan 2003, the 'Hot Food Takeaways in Medway'- a Guidance Note (July 2014) and paragraph 91 of the NPPF.

Recommendation

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

Proposal

The application seeks planning permission form the change of use from E(a) to Sui Generis (Hot food takeaway).

The proposal seeks a change of use from retail to a hot food takeaway the only external alteration would be the inclusion of an additional door to the side elevation to provide access to the new storeroom to serve the proposed use. The hours of operation proposed are 11:00 to 23:00 hours Mondays to Thursdays, 11:00 to 00:00 hours on Friday and Saturdays and 11:00 to 22:00 hours on Sundays and Public Holidays.

Relevant Planning History

MC/20/1099

Application for lawful development certificate (proposed) for change of use from A1 to A5 (hot food takeaway).

Decision: Refused

Decided: 9 September 2020

Representations

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

Eight letters have been received raising objections on the following grounds:-

- Evening noise (use and delivery drivers) and smell not suitable in residential area.
- Takeaway in proximity to school and health issues associated with take-aways.
- Highway impacts of limited parking in area.
- Over concentration of uses near high street and area.
- Litter and rat problems.

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 and are considered to conform.

Planning Appraisal

Principle

The application site is located in mixed use block of flats and two commercial premises within Rochester outside of the core retail area and not within a designated local shopping centre, village centre or neighbourhood centre as defined in Policy R10 of the Local Plan. Paragraphs 117 of the NPPF seeks to make effective use of the sites. The property is currently vacant and the proposal will bring the property back into active frontage. There are concerns regarding clustering of similar uses in the area, however the other shop is not a hot food takeaway. As such, the proposal would not result in overconcentration of similar uses and no objection is raised.

Policy R18 of the Local Plan provides criteria for the provision of takeaways outside core retail areas which can be surmised as; no detrimental impact on neighbouring amenity, the concentration of other similar uses would not have an environmental or highway safety impact, acceptable hours, suitable refuse storage, including acceptability in terms of noise/general disturbance, and means of extraction. In addition to this policy (R18),

"The Hot Food Takeaway in Medway - A Guidance Note" adopted in July 2014, introduces guidance on the location of such uses and discourages location in proximity to schools, and provides guidance on hours of operation and need for public health contributions depending on size of the unit. While paragraph 91 of the NPPF seeks for decisions to promote healthier lifestyles and access to healthier foods.

In light of the above, it is considered that the proposed use is located appropriately, although within proximity of a school, subject to appropriate operating hours, the use would not cause additional harm to highways or parking. Consequently, there is no objection in principle to the proposed change of use subject to the consideration of the details of the above-mentioned policies considered below.

Design

The proposed change of use would not result in any external change to the shop front and no extraction flue is proposed. The proposal is considered to be in accordance with Policy BNE1 of the Local Plan and paragraphs 124 and 127 of the NPPF.

Amenity

Given that no external changes are proposed, there would be no detrimental impact on neighbours amenities in terms of outlook, privacy overshadowing or daylight.

However concerns have been raised with regards to odour and noise and due to the location of the unit in relation to residential properties situated above, it is accepted that there is a potential for noise disturbance and odour from the use on residential occupiers especially with the hours proposed which would be later than the adjoining commercial use, in addition to potential noise impact from delivery services. However, it is considered that these concerns of neighbour amenity issues can be mitigated by suitably worded conditions to ensure an acceptable extraction and a noise management measures are put in place to minimise or mitigate those potential impacts.

Further concerns have been raised regarding issues with litter and rats, the applicant has indicated bin store to be provided which would be appropriate to mitigate litter issue.

Consequently, the proposed use is considered to be in accordance with Policies R18 and BNE2 of the Local Plan and paragraph 127 of the NPPF.

Highways

Concerns have been raised regarding the impact on highways in particular to parking/opportunist parking associated with such uses due to existing pressure on parking in the area. Given the size of the unit it is not considered that a takeaway service of this scale would generate significant traffic demand that would be to levels harmful to the parking in the area or amenity of residents. The use is not expected to generate high levels of vehicle movement which would cause severe impact on the highway network.

The proposal therefore complies with Policies R18, T1 and T13 of the Local Plan and paragraph 109 of the NPPF.

Other matters

Concerns have been raised by residents with regards to public health and proximity to school. With regards to public health consideration the 'Hot Food Takeaways in Medway'- a Guidance Note (July 2014) document indicates the impact of hot food takeaways on public health and particularly the detrimental impact on school children when within 400m of schools. The guidance also sets out Medway Councils stance on planning application for new hot food takeaways being to restrict opening hours between 12:00 -14:00 and 15:00-17:00 in areas where such use is within 400m of both primary and secondary schools and for hot food takeaways over 100m² subject to a £100 per 10m² financial contribution towards public health schemes.

In terms of this proposal, it would not be subject to the contribution as the floor area does not exceed this threshold. The site, however, is within 400m of St Margaret's of Troy Town Primary School and, as such, condition to restrict the hours of operation in line with the guideline is recommended.

Subject to the above-mentioned condition, on hours of operation, there is no objection with regards to paragraph 91 of the NPPF.

Climate Change and Energy Efficiency

The applicant has agreed to install 100% LED lighting and stated their intention for all materials to be sourced locally and responsibly from suppliers who are environmentally accredited (ISO14001, BES6001) or similar.

Local Finance Considerations

There are no local finance considerations.

Conclusions and Reasons for Approval

Subject to conditions, the proposal is considered to be acceptable in principle, and in terms of design, amenity and highway aspects and with regard to all other material planning considerations. The proposal accords with the provisions of Policies R10, R18, BNE1, BNE2 and T1 of the Medway Local Plan 2003 and paragraphs 91, 109, 117, 124 and 127 of the NPPF.

The application would normally be determined under delegated powers but is being referred to Committee for determination due to the number of representations received expressing views contrary to officers 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 on Medway Council's Website
<https://publicaccess1.medway.gov.uk/online-applications/>