

Hildenborough **556746 148692** **6 September 2013** **TM/13/02727/FL**
Hildenborough

Proposal: Change of use from residential (C3) and ground floor shop (A1) to restaurant and cafe (A3) on ground floor and beauticians and meeting area at first floor. Demolition of flat roof side and rear extension and removal of two storey rear extension. Construction of new single storey additions and alterations to front elevation

Location: 152-154 Tonbridge Road Hildenborough Tonbridge Kent TN11 9HW

Applicant: Double Gold Enterprise Ltd

1. Description:

- 1.1 This planning application was deferred from APC1 on 24 October to allow for further consideration by the applicant of the impacts on residential amenity arising from the scale of the proposed use, and to allow for the provision of more detailed information regarding how the use is proposed to operate and to reconsider the proposed design.
- 1.2 Since the last Committee meeting, the application has been amended to omit the provision of a bridal preparation area at first floor level. The first floor space is now intended to be limited to a beauty studio and meeting room.
- 1.3 The ground floor plan has also been amended to show a maximum of 70 covers within the building, with a maximum of 15 further covers to be provided within the rear garden, and another 15 within the seating area to the front of the building (total of 100 covers maximum).
- 1.4 The children's play area previously shown to be provided within the rear garden has been removed and a landscaped herb garden is now shown in its place.
- 1.5 Sectional plans have now been provided which show the line of sight across the rear of the site from the existing and proposed terrace and the relationship with the residential rear gardens to the north of the application site.
- 1.6 An additional supporting statement has been provided outlining in greater detail how the cafe use is intended to operate. This is discussed in more detail in the assessment that follows but, importantly, it does expressly state that:

"The client's vision is for the café to have an Artisan style menu providing quality sandwiches, soups, salads, cakes, juices/smoothies, coffee, tea, hot chocolate and breakfast items such as salmon and poached eggs. The menu will not include any fried food such as burgers or Chinese or Indian food or pizzas. This is not a takeaway destination save for coffee and sandwiches."

1.7 A copy of my October report is annexed for ease of information.

2. Consultee responses (since 24 October):

2.1 PC: No response received to date.

2.2 KCC (H&T): It is noted that there is a general scaling down of the aspirations of the development proposals and that the applicant is willing to accept various planning conditions. As discussed in my previous response it is also considered that limited car parking opportunities will have a limiting or governing effect on the attractiveness of the proposals to customers. Whilst additional parking demands may have an effect on local amenity, it is not considered that customers will park in a manner that will cause obstruction or discernible detriment to road safety. It is considered that car owners are correspondingly concerned about the protection of their own vehicles in this regard. I write to confirm on behalf of the Highway Authority that I have no objection to these proposals and do not consider that there are grounds to sustain a highway objection.

2.3 Private Reps: 17/0X/0R/13S. The letters of support received raise no issues beyond those reported previously.

2.3.1 Any further representations received will be reported as a Supplementary matter.

3. Determining Issues:

3.1 A number of issues arose during the debate that took place on 24 October concerning the scale and nature of the proposed use and the potential for the activities to have a detrimental impact on the surrounding residential properties. One matter of particular concern centred on the ambiguity regarding the number of covers within the cafe that the building could accommodate and the specific nature of the food offer. The recently amended plans submitted indicate that a maximum of 70 covers will be provided inside the building with a further 30 to be provided externally, evenly split between the front and rear spaces. This is significantly below the 190 covers projected by one of the earlier layout plans and this should give far more comfort as to the scale and intensity of the proposed use. The maximum number of covers can be secured by planning condition to ensure that this level is not exceeded.

3.2 The applicant has now provided a clear and concise statement about the nature of the proposed use and has stressed that the intention is to provide an 'artisan style café' with no intention to cook fried food of any kind. Again, this provides a far greater degree of assurance about how the use is intended to operate. Furthermore, ensuring that no fried food will be cooked within the building would remove the need for any commercial ventilation extraction system, thus further limiting the potential for the noise or odour to emanate therefrom. This may be controlled by condition.

- 3.3 In terms of hours of operation, the additional supporting statement explains that the use is not intended to operate outside the hours of 8am and 10pm and that the outside space will not be used beyond 8pm. Although these proposed hours now differ from the hours suggested by condition 4 of my previous report, I am satisfied that they would not cause harm to the residential amenities of the neighbouring properties, particularly when considering the ability to limit the total number of covers and the further limitations over the hours the outside space is used. I also consider that the removal of the children's play area should be welcomed in further reducing the potential for the use of the outside space to give rise to noise and disturbance.
- 3.4 I would reiterate that the existing commercial element of the premises enjoys an unfettered A1 use, meaning that this part of the premises could be used for the retail sale of goods to the public without any control by the Local Planning Authority for any length of day, for 7 days a week, and even on a 24 hour basis.
- 3.5 Another issue raised by Members was the provision of a rear terrace to serve the bridal preparation and beauty area proposed at first floor level and the potential for this to adversely affect privacy levels of the surrounding residential properties in Mount Pleasant as well as 150 Tonbridge Road. Amended details/plans have been received which have removed the bridal preparation element of the proposal. Sectional plans and photographs have been submitted showing the existing and proposed terrace arrangements and their relative relationships with the rear gardens of neighbouring dwellings to the north of the application site. The *existing* rear terrace allows a person to stand, at its northern edge, at a distance approximately 9m from the rear boundary of the site shared with the nearest residential garden to the north (2 Mount Pleasant). This distance will be increased to approximately 12.7m in the proposed arrangements (because in actuality the extent of the useable terrace is set closer to rear wall of the main building). Photographs have also been provided which show that the view towards these residential gardens would be focused towards the end of the gardens, the nearest being enclosed by close boarded fence, rather than affording any view of the area of garden closest to the houses which is normally accepted in planning terms as the area where occupants can expect to enjoy a greater degree of privacy.
- 3.6 The terrace is not proposed to be used in connection with the café at ground floor and is only to be associated with the rooms at first floor level. The applicant has confirmed a willingness to accept a planning condition to that effect. I would also suggest that the terrace be subject to the same condition limiting the hours of use as the external seating areas.
- 3.7 The plans confirm the provision of a privacy screen to the east to prevent overlooking of 150 Tonbridge Road and I would recommend that, should Members be minded to grant planning permission, a condition be imposed requiring full details of the privacy screen to be submitted to and approved prior to the commencement of the use.

- 3.8 I therefore can conclude that the proposed arrangement in respect of the rear terrace is an improvement on the prevailing situation in terms of the privacy of the surrounding residents.
- 3.9 At the last meeting discussion also took place as to the rights and arrangements in place for the access which runs between the application site and 150 Tonbridge Road. The applicant has provided a plan which clarifies the position in respect of this access which has been publicly available for inspection since 08 November. This makes it clear that the access between 150 and 152 is entirely within the ownership of the applicant but that an 800mm wide route allows for access by foot to the rear garden of No. 150 to allow for repairs.
- 3.10 An area along the site frontage allows for vehicles to cross the drive and public footway, to allow vehicular access onto the parking hardstanding on the frontage of 150 Tonbridge Road. There is no intention for vehicles to use this access way at any time.
- 3.11 While the rights of access to 150 are private rights that cannot form part of the Council's consideration, it is helpful that it has been confirmed that such private rights are unaffected by this proposal.
- 3.12 Members also queried how the alleyway which runs along the western flank of the building would be used. This is intended to be a route for the emptying of bins as well as a fire escape route from the staircase lobby to the rear garden, for use in the case of an emergency.
- 3.13 Some discussion also took place in connection with the proposed design of the scheme, with some commenting that the resultant aesthetic would be out of keeping with the Conservation Area. Members will note that there have been no changes to the proposed design and, in noting this, I would reiterate the comments made in paragraphs 6.9 and 6.10 of my previous report. I remain very firmly of the view that the proposals would provide a well thought out, well articulated and much needed improvement to the appearance of the building, which would have a positive impact on the street scene and wider Conservation Area.
- 3.14 The level of parking provision to serve the proposed use was another issue debated at the October Planning Committee. The applicant's agent, as part of the supporting information, has now set out that the existing A1 and C3 uses could generate the need for a total of 9 spaces in accordance with SPG4 and IGN3 – this level of provision is not provided at the site under any form of planning control. The premise has a dropped kerb to its frontage thus allowing for the parking of two cars and/or delivery vehicles. Delivery vehicles will be able to use the lay-by and not adversely affect the flow of traffic on the B245 under this proposal just as is the case at present. In light of the parking needs of the current use rights for the site, the nature of the uses as now clarified and the location within the village I am of the view that the position with regard to potential parking should not be a cause for concern in any case. This view continues to be shared by the Highways Authority.

- 3.15 Furthermore, it can now be accepted with greater confidence that the number of staff needed to work at any one time would be limited, particularly in the knowledge that there is a more limited number of covers, and I am comfortable that the nature of the staff travelling to the site by car will be limited. I would still suggest that a travel plan concerning staff should be required by condition.
- 3.16 I therefore conclude that the amended plans and additional information submitted since 24 October give a far greater degree of assurance as to how the use is intended to operate and allows me to conclude that the specific scale and nature of the proposed use will be quite acceptable and can be managed through the imposition of a series of planning conditions, such that there would not be a detrimental impact on the residential amenities of the surrounding neighbouring properties< particularly when considering the potential permitted development fallback position for which there would be no level of conditional control afforded. The following recommendation is therefore put forward:

4. Recommendation:

- 4.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 06.09.2013, Design and Access Statement dated 06.09.2013, Topographical Survey B13039-HILDEN-02.DWG dated 06.09.2013, Proposed Elevations 13/1779/101 dated 06.09.2013, Photo montage 13/1779/102 dated 06.09.2013, Letter ADD INFORMATION dated 03.10.2013, Letter ADD INFORMATION dated 07.10.2013, subject to the following:

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
- 2 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.
- Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.
- 3 The uses hereby approved shall be operated fully in accordance with plan number 13/1779/100 C and the Supporting Statement prepared by MKA Architects received on 08 November 2013 unless otherwise agreed in writing by the Local Planning Authority.
- Reason: In the interests of residential amenity and highway safety.

- 4 The uses at ground and first floor level hereby permitted shall be limited only to that applied for and specified in the Supporting Statement prepared by MKA Architects received on 08 November 2013, with the ground floor café only serving the items specified within that Supporting Statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- 5 There shall be no more than a total of 100 café customers on site at any time during any working day.

Reason: In the interests of residential amenity.

- 6 The business shall not be carried on outside the hours of 08.00 to 22.00 Monday to Sunday unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- 7 External seating shall be limited only to the areas identified on plan number 13/1779/100 C and the use of these areas and the rear first floor terrace shall cease by 20:00 with all customers vacating these areas by this time on each day.

Reason: In the interests of residential amenity.

- 8 No external lighting shall be installed in connection with the building until such details have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: To ensure that the development does not harm the character and visual amenity of this rural locality.

- 9 Prior to the commencement of the use hereby approved, full details of the privacy screen serving the first floor terrace shall be submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details.

Reason: In the interests of amenity and privacy of adjoining property.

- 10 The uses shall not commence until a Travel Plan covering all staff shall be submitted to the Local Planning Authority for formal approval. Thereafter, the Travel Plan shall be implemented and monitored to ensure strict compliance with the approved scheme.

Reason: In the interests of highway safety.

- 11 The designated cycle storage area shall be kept available for the storage of cycles at all times.

Reason: In the interests of highway safety.

- 12 The designated bin storage area shall be kept available for the storage of refuse bins and recycling boxes at all times.

Reason: In the interests of visual and residential amenity

- 13 No amplified music/speech shall be played within the garden or on the terrace and any music played within the building shall be inaudible outside of the building.

Reason: To protect the aural environment of nearby dwellings and in the interests of residential amenity.

Contact: Emma Keefe