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| <b>Borough Green</b><br>Borough Green And<br>Long Mill | <b>560935 157388</b> | <b>14 October 2011</b> | <b>TM/11/02591/FL</b> |
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|------------|---|
| Proposal:  | Change of use: restaurant eat-in (A3) to restaurant eat-in with deliveries and takeaway (A3/A5) |
| Location:  | Basement 49 High Street Borough Green Sevenoaks Kent TN15 8BT                                   |
| Applicant: | Mr Aymal Mohammad   |

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## **1. Description:**

1.1 This application was deferred from the Area 2 Committee meeting of 4 July 2012 for:

- Receipt of amended “red line” plan to include commercial parking area
- Liaison with KCC over parking/waiting arrangements

1.2 The previous report is annexed.

## **2. The Site:**

2.1 The site is as the previous report but to clarify, there are 2 parking areas to the north side of the building and a 3 space “layby” to the front.

2.2 The parking area for the commercial units comprises an area of tarmac with a smoking shelter against the northern-eastern boundary to the railway line. The planning permission TM/98/00802/FL shows 5 spaces in this area. The smoking shelter was erected in 2007 and was investigated as a breach of planning control but it was judged by officers at that time that it was not expedient for enforcement action to be taken.

2.3 This is gated from a separate area at the rear of the Clokes building, which is approved under ref TM/98/00649/FL as parking for the residential elements of Clokes House.

2.4 There is a “layby” at the front of the premises which KHS has stated forms part of the public highway. At the moment there are no waiting restrictions but that is due to be addressed when the Borough Green Parking Action Plan is reviewed in a few months time.

### 3. Planning History:

TM/48/10186/OLD grant with conditions 4 February 1948

New Shop Front.

TM/66/10323/OLD grant with conditions 19 August 1966

Outline application for alterations and extension to premises, and erection of new shops with maisonettes over and vehicular access for Messrs. Clarke Bros., Ltd.

TM/76/10789/FUL grant with conditions 28 September 1976

Formation of car park and construction of access.

TM/96/01051/OA Application Withdrawn 10 March 1998

Outline Application for redevelopment to provide residential and commercial units

TM/97/01950/FL Grant With Conditions 16 February 1998

redevelopment of existing store to provide retail offices and residential.  
Conversion of Coach house to residential. 6 new residential houses and ancillary works (resubmission of TM/97/00616/FL)

TM/98/00569/RD Grant 18 May 1998

details of acoustic treatment to habitable rooms pursuant to condition 04 of consent ref: TM/97/01950/FL (redevelopment)

TM/98/00570/RD Grant 11 May 1998

details of 2.5 metre high acoustic barrier to northern boundary of the site pursuant to condition 05 of consent ref: TM/97/01950/FL (redevelopment)

TM/98/00571/RD Grant 25 August 1998

details of 1 metre high acoustic barrier to Western Road frontage pursuant to condition 06 of consent ref: TM/97/01950/FL (redevelopment)

TM/98/00649/FL Grant With Conditions 28 July 1998

change of use and conversion of first floor accommodation from offices and flat to residential accommodation of 1 no. one bedroom flat and 2 no. two bedroom flats & ancillary works

TM/98/00802/FL Grant With Conditions 20 October 1998

change of use of part ground floor and all of lower ground floor from A1 (shop) to A3 (restaurant) and ancillary works

TM/98/01025/ORM ORM approved 7 September 1998

deletion of increase in height of roof of Coach House and deletion of dormer window and roof light. Add small single storey addition to north elevation of Coach House:(consent ref: TM/97/01950/FL for conversion refers)

TM/98/01548/RD Grant 14 October 1998

details of acoustic protection submitted pursuant to condition 8 of consent ref: TM/98/00649/FL (change of use to flats)

TM/99/02099/FL Grant With Conditions 24 July 2000

change of use of shop premises on ground floor to wine bar/bistro

TM/99/02327/RD Grant 15 June 2000

details of extract unit submitted pursuant to condition 4 of planning permission TM/98/00802/FL: change of use of part ground floor and all of lower ground floor from A1 (shop) to A3 (restaurant) and ancillary works

TM/06/01618/FL Approved 20 December 2006

Replacement windows to accommodate disabled entrance

TM/10/02787/FL Approved 29 March 2011

Removal of condition 6 of TM/99/02099/FL (change of use of shop premises on ground floor to wine bar/bistro) to allow for ancillary hot food take away at ground floor level (Bar K)

#### **4. Consultees:**

- 4.1 Further to the previous responses, KHS advises that a Highways definitions search indicates that the layby outside 49 High Street is public highway. It has been agreed with TMBC's Transportation officers that the provision of short stay parking bays should be considered when the Borough Green Parking Action Plan is reviewed in a few months time.
- 4.2 DHH advises that he requires a risk assessment to show the mechanical kitchen exhaust system still meets Defra Guidance in regard to smell and noise and that they wish for details of the delivery arrangements.

**5. Determining Issues:**

- 5.1 The determining issues are as previously advised. The parking area to the NE of the site is now included in the “red line” area. This does not include the “layby” to the front. The Highway definitions team at KCC has investigated the situation with regard to the scope for short term parking in the “layby” and has concluded that the land is public highway and would warrant the introduction of parking restrictions in the near future to enable it to be used by short term visitors and shoppers rather than long term use by commuters or similar. The introduction of any such restrictions would need to be the subject of public advertisement and consultation procedures under Highways legislation.
- 5.2 At the previous meeting, the Committee heard the oral representations of the objector summarised as:
- Disappointed at lack of enforcement action.
  - Concerned with highway safety and the ability to access parking spaces.
  - Concern with refuse storage, odour and noise from the ventilation system.
- 5.3 KHS raises no objections on Highway matters. The suggested condition 6 should allow the conflicts between waste storage and parking to be mitigated. Condition 5 is intended to help resolve odour and noise problems from the ventilation systems.
- 5.4 In the light of the improved potential for short term parking to the front of the site that is more suited to persons collecting takeaway food from the premises, my recommendation remains to approve the application subject to the conditions detailed below.

**6. Recommendation:**

- 6.1 **Grant Planning Permission** as detailed by: Other APPLICATION FORM Amended dated 14.10.2011, Location Plan dated 09.07.2012, Letter dated 19.09.2011, Letter dated 14.10.2011, Notice LANDLORD dated 14.10.2011, Notice 37 BELL ST dated 14.10.2011, Notice 51A HIGH ST dated 14.10.2011, Notice 51B HIGH ST dated 14.10.2011, Notice 51C HIGH ST dated 14.10.2011, Drawing BASEMENT dated 14.10.2011, Drawing GROUND FLOOR dated 14.10.2011 subject to the following:

**Conditions / Reasons**

1. Within 1 month of the date of this decision, details of car parking and servicing of the premises shall be submitted for the approval of the Local Planning Authority. Following such approval, no development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any

order amending, revoking and re-enacting that Order) shall be carried out on the land so shown and vehicular access to these areas shall not be obstructed or precluded at any time.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking contrary to Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ8 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraph 35 of the National Planning Policy Framework 2012.

2. The premises shall not be open for business outside the hours 08.00 to 23.30 on any day. Customers shall vacate the premises by 23.30.

Reason: To protect the amenities of nearby dwellings in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ6 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraphs 17, 57, 58, 61, 125 of the National Planning Policy Framework 2012.

3. The premises shall be used for restaurant and ancillary takeaway/home delivery only and shall not be used solely as a Class A5 premises unless otherwise approved by the Local Planning Authority.

Reason: In the interests of the vitality and viability of Borough Green district centre in accordance with policy CP22 of the Tonbridge and Malling Borough Core Strategy 2007 and paragraph 23 of the National Planning Policy Framework 2012.

4. No live music shall be played in the premises and the playing of amplified music is to be confined to background music from a domestic type hi-fi system and the noise attributable to the playing of amplified music within the premises shall not be audible at the external façade of the building.

Reason: To protect the amenities of nearby dwellings in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ6 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraphs 17, 57, 58, 61, 125 of the National Planning Policy Framework 2012.

5. Within 2 months of the date of this planning permission, a risk assessment shall be submitted for the approval of the Local Planning Authority. This shall show that the mechanical exhaust ventilation from the kitchen accords with requirements and recommendations of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and incorporate appropriate noise attenuation measures, grease filters and an odour treatment system. There shall be arrangements for the continuing maintenance of this equipment, and wherever practicable, the units should discharge at high level. The noise from the equipment shall not exceed NR35 at the nearest noise

sensitive premises/site boundary. Following approval, no cooking of hot food shall take place at the premises unless the extraction system is in operation in accordance with the approved details.

Reason: To protect the amenities of nearby dwellings in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policy SQ6 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraphs 17, 57, 58, 61, 125 of the National Planning Policy Framework 2012.

6. Within 2 months of the date of this planning permission, details shall be submitted for the approval of the Local Planning Authority for the outside area to be clearly demarcated to show:

- Residential parking
- Staff parking ( including “home delivery” arrangements)
- Customer Parking
- Smoking area
- Refuse storage area
- Vehicular/Pedestrian Access as relevant to all areas above

The areas shall be demarcated as such within 1 month of the approval of the details and retained for the relevant uses thereafter.

Reason: To ensure no adverse impact upon amenity and safety in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007, Policies SQ6 and SQ8 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 and paragraphs 17, 35, 57, 58, 61, 125 of the National Planning Policy Framework 2012.

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