

Snodland
Snodland East

570236 161696 7 May 2010

TM/10/01148/FL

Proposal: Construction of single lock-up shop, Class A5 hot food take-away
Location: 43 Malling Road Snodland Kent ME6 5AA
Applicant: Mr A Langroudi

1. Description:

1.1 Please see previous report from 19th August (annexed).

2. Reason for reporting to Committee:

2.1 The application was deferred from the previous Committee at the request of Members to allow further investigation into the following matters:

- Local highways situation as a context, including whether there had been any recent changes in parking facilities, and the availability of these, either on street (Rocfort Road) or in the nearby public car park;
- motorcycle deliveries; and
- hours of operation.

3. The Site:

3.1 As described in previous report.

4. Planning History:

4.1 As described in previous report.

5. Determining Issues:

5.1 ***Highway situation:***

The following comments are those of my specialist Parking Team engineers:-

5.2 *"Double yellow lines are used only to reinforce the rules of the Highway Code and prevent parking where to do so would cause danger or nuisance to other road users. They are not something to be considered as "optional" and certainly not placed in locations which could be genuinely considered for use as a legitimate parking space.*

5.3 *I do not have any information on parking levels at either location for the evening or weekends as there were no changes in the parking plan which would influence the*

use of these locations by any particular group of driver and so which remain freely available in the evenings for any driver who wishes to park there.

- 5.4 *The Snodland Parking review made no changes to the availability. The main body of the car park is available for car parking and the 76 spaces remain unrestricted 23 hours maximum stay on all days and free of charge.*
- 5.5 *One disabled bay was suspended next to the toilet block and 3 additional disabled bays installed nearest to the High Street. Time limited bays of 1 hour were introduced Monday –Thursday 8am-6pm only, on a few bays in the short spur of the car park nearest the High Street.*
- 5.6 *The double yellow lines were introduced in Rocfort Road only at locations to reinforce the rules of the Highway Code on and around junctions and to promote the free flow of traffic to and from the surrounding roads.*
- 5.7 *Day time limited waiting was introduced for 1 hour Monday –Saturday between 8.30am and 6.30pm on the short section of Rocfort Road between Malling Road and the car park entrance to assist with the daytime turnover of parking spaces for local retailers and their customers. The remainder of the legitimate kerbside parking space in Rocfort Road is available without restriction at all times and on all days, provided vehicles park within marked bays. All parking opportunities in Rocfort Road are unrestricted in the evening which is exactly the same situation which was in place before the implementation of the parking scheme.”*
- 5.8 In the light of the above, and bearing in mind that, when recently viewed at 6pm, there were at least 6 empty spaces in Rocfort Road car park, it would seem to be difficult to pursue a reason for refusal based on highway matters.
- 5.9 **Motorcycle deliveries:** The applicant’s agent has confirmed that it is not his client’s intention to carry out home deliveries from the new shop premises and therefore there will be no delivery vehicles leaving from the premises.
- 5.10 This matter can be covered by a condition.
- 5.11 **Hours of operation:** The applicant’s agent states that his client has voluntarily kept these to the minimum necessary for a viable business to operate.
- 5.12 Members will be aware from the planning history for the site that an outline application TM/06/02245 was considered for a lock up A1 shop and was approved with a condition attached restricting the hours of use to 9am-6pm Monday to Saturday, based on the applicant’s proposed hours. A detailed application was then considered under reference TM/08/791 for a lock up shop. The hours of use were not specified on the form submitted with this application and were not discussed in the report. A condition was attached to this consent again restricting the hours to 9am-6pm Monday to Saturday.

- 5.13 The following application TM/09/1356 for the construction of a single lock up shop for Class A5 takeaway did not specify the hours of operation on the application form and again were not discussed in the report. This application was recommended for approval with a condition restricting the hours to 9am -6pm Monday to Saturdays. The application was however refused by Members for reasons related to noise disturbance and highway matters.
- 5.14 From the above it appears that there has not been a detailed discussion about hours of operation during the determination of the previous applications. In general most retail units would be open from early morning until late afternoon, roughly in line with office hours, although convenience stores and services such as video shops tend to stay open much later into the evening. The applicant however has chosen to operate his proposed business during the evening hours at the traditional times associated with eating take-away food, in order to make the business viable. It might be considered unrealistic to restrict the hours of operation to those throughout the day, when take-away food use trade is typically less intense.
- 5.15 Whilst the use as a take-away has some potential to generate activity and noise, it is noted that Malling Road is a busy through route into the town and that Rocfort Road provides a link through to the by-pass and local town centre car park. As such there is already the potential for a certain number of vehicle movements in the vicinity. Provided the acoustic fence is constructed and maintained around the premises as discussed above then any noise issues associated with a take-away should be limited to acceptable levels thus avoiding harm to existing residential amenities, bearing in mind DHH comments in paragraph 5.3 of the previous report.
- 5.16 Having regard to the above it is concluded that the recommendation for approval should remain unchanged but that an additional condition is attached preventing home deliveries from taking place thus preventing any disturbance from motorcycle deliveries.

6. Recommendation:

- 6.1 **Grant Planning Permission** in accordance with the following submitted details: Design and Access Statement dated 07.05.2010, Report dated 07.05.2010, Details dated 07.05.2010, Drawing 1H dated 07.05.2010, 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 No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 3 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 4 No building shall be occupied until the area shown on the submitted plan as turning area has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent 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 or in such a position as to preclude vehicular access to this reserved turning area.

Reason: Development without provision of adequate turning facilities is likely to give rise to hazardous conditions in the public highway.

- 5 The parking spaces shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: Development without the provision of adequate vehicle parking space is likely to lead to hazardous on-street parking.

- 6 a) If during development work, site contaminants are found in areas previously expected to be clean, the work shall cease immediately and a remediation strategy shall be agreed with the Local Planning Authority and implemented by the developer.

b) Any soil brought on site should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.

c) A closure report is provided by the developer delineating (a) and (b) above and other issues such as any pollution incident during the development.

Reason: In the interests of public safety.

- 7 The use hereby approved shall only operate between the hours of 6pm to 10pm Monday to Sunday.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

- 8 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 9 This permission shall be an alternative to the following permission(s) and shall not be exercised in addition thereto, or in combination therewith. (Permission(s) granted on 22.5.2008 and under reference(s) TM/08/791).

Reason: The exercise of more than one permission would result in an over intensive use of the land.

- 10 Prior to the development hereby approved commencing, an acoustic fence shall be constructed along the northern and western boundaries of the site, the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the work commencing. Such details as are agreed shall be carried out concurrently with the development.

Reason: In order to safeguard the aural amenity of the occupiers of the neighbouring properties.

- 11 At no time shall any home deliveries take place from the premises.

Reason: In the interests of the residential amenities of the occupants of the area.

Informatives

- 1 With regard to the construction of the pavement crossing, the applicant is asked to consult The Community Delivery Manager, Kent County Council, Kent Highway Services, Double Day House, St Michaels Close, Aylesford Tel: 08458 247 800.
- 2 This permission does not purport to convey any legal right to undertake works or development on land outside the ownership of the applicant without the consent of the relevant landowners.
- 3 Surface water from private areas shall not discharge onto the public highway.

- 4 Regarding the application of Food Hygiene Regulations under the Food Act 1984, the applicant is advised to contact the Director of Health & Housing, Tonbridge & Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling Kent, ME19 4LZ. Tel : (01732 844522)
- 5 The granting of this permission does not purport to convey any legal right to block or impede any private right of way which may cross the application site without consent which may be required from the beneficiaries of that right of way.
- 6 You are advised to consider the possibility of displaying a sign advising drivers not to leave their car engines idling whilst visiting the site, subject to the need to obtain any necessary advertisement consent from the Local Planning Authority.

Contact: Hilary Johnson