
Snodland **570199 161658** **28 March 2012** **TM/12/00730/FL**
Snodland West

Proposal: Change of use to A3 and erection of Extract Riser
Location: 66 Malling Road Snodland Kent ME6 5NB
Applicant: Mrs M Yuzey

1. Description:

- 1.1 The application comprises a change of use from A1 retail to A3 café. The Applicant does not propose to serve alcohol. No external alterations are proposed save the introduction of an extraction flue to serve the proposed ventilation system on the rear elevation.
- 1.2 The application is retrospective and is also the subject of a Planning Enforcement investigation. The Applicant has been informed by letter dated 16.05.2012 that the operation of the premises as a café does not have the benefit of planning permission.

2. Reason for reporting to Committee:

- 2.1 The application is of widespread public interest and is therefore being reported to this Committee at the request of Councillor Maloney.

3. The Site:

- 3.1 The site lies within the urban confines of Snodland. It occupies a corner plot on the junction of Bramley Road and Malling Road.
- 3.2 The unit forms part of a small parade of shops. The ground floor unit is accessed from Malling Road with a residential flat above.

4. Planning History:

TM/56/10725/OLD grant with conditions 24 May 1956

Garage.

5. Consultees:

- 5.1 Snodland TC: Objection: There is insufficient information regarding the extract riser. The opening hours and the preparation of hot food in the morning will be detrimental to the neighbours.
- 5.2 KCC (Highways): No objection. The site lies in the centre of Snodland within close reach of other local shops, amenities, residential streets and a car park. Private parking is available for 2 cars. The Kent & Medway Vehicle Parking Standards recommend a maximum of 1 space per 6m² for A3 use which would

equate to a maximum of 8.5 spaces being provided. Parking provision is therefore well below the maximum recommended, however in view of the accessible location of this site, the proximity to the car park and on street parking bays, I do not feel that this will lead to any detriment to highway safety or capacity issues and therefore I do not wish to raise objection.

- 5.3 DHH: Holding Objection. DHH concurs with the findings of the Applicant's submitted Noise Impact Assessment which demonstrates that the proposed equipment will not exceed Noise Rating 35 at the suggested nearest noise sensitive property. However clarification is required regarding the rooms served by the windows nearest to the equipment. Additional information is also required to demonstrate that the proposed ventilation system for the removal and treatment of cooking odours is suitable for the types of foods to be cooked on the premises. This must draw reference from the requirements and recommendations of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and shall include a risk assessment for odour as detailed in Annex C. *[DPTL comment: The Agent has been apprised of these requirements by letter dated 09.05.12 and additional details were received on 16.05.12. Further DHH comment is awaited.]*
- 5.4 DHH also raises concerns over the proposed hours of use sought and feels that these may lead to some loss of amenity to nearby residents, especially during the early hours and on Sundays/Bank Holidays. *[DPTL comment: The Agent has been apprised of these concerns by letter dated 09.05.12 and details of revised opening hours were received on 16.05.12. Further DHH comment is awaited.]*
- 5.5 Private Reps: 21/1X/6R/1S: The comments received are summarised below:
- Support for the café as a good reuse of an empty shop bringing a continental touch to the Town.
 - No objection to the café providing there is no alcohol served.
 - The café is already trading. Opening until 6 – 7pm and has placed tables onto the pavement at the front. The café has begun to serve cooked food (as of 12.05.2012).
 - Parking is inadequate and parking on the kerb and general congestion is already causing problems in the area.
 - The submitted drawings are inaccurate. The rear doorway under the stairway is not shown. The velux window in the rear roof slope is not shown and this could be affected by the smells from the extract unit. The outside seating is not shown. The on-site parking is a single space not two as shown in the application.
 - The café is advertising alcohol for sale.

- The application contains contradictory information. It states that the extract riser will be operated from 12.00 to 19.00 but the opening hours sought are 07.00 to 17.00. This will not be appropriate as the café intends to serve breakfasts.
- Opening at 7.30 is too early as the area is already disrupted by noise from the local taxi cab office. The hours should be normal business hours 9 to 5 or 6.
- The potential noise generated by the extraction system may cause problems to the nearby dwellings.
- The failure to use and/or maintain the extraction system will pollute the area with food smells.
- Location of refuse bins. These may cause a nuisance to residents.
- The conversion to an A3 use may lead to a different operator wanting to open a fast food shop opening later at night. This would lead to further noise and other pollutants.
- There are other cafes and outlets offering the same services close by.
- The site was previously operated as a kebab house. This use was unapproved and led to the prosecution of the owner. Therefore this application should be refused on the same grounds.
- No disabled toilet.
- Does the café have sufficient space to accommodate the number of covers?
- Will reduce the rental income and value of adjacent properties.

6. Determining Issues:

- 6.1 The site lies within the urban confines of Snodland. Policy CP11 of the TMBCS 2007 seeks to concentrate development within the confines of the urban areas where there is the greatest potential for the re-use of previously developed land and the opportunity to minimise the need for travel.
- 6.2 Although the site does not lie within the defined retail centre of Snodland it does form part of a well established parade of shops. Paragraph 23 of the recently published NPPF 2012 seeks to ensure the vitality of town centres and supports the provision of a range of land uses - retail, leisure, commercial, office, tourism, cultural, community and residential.
- 6.3 The site has previously been used by a glazing business. The unit forms part of a small parade of shops comprising a taxi firm, dry cleaners, barbers, beauty salon and opticians. The application seeks the re-use of an existing unit and being sited

within the urban area occupies a sustainable location. The application therefore accords with the aims of CP11. Similarly the re-use of the existing unit will contribute to the overall vitality of the area and be of general economic and social benefit to the town. The application therefore also accords with the aims of Paragraph 23 of the NPPF. The application is therefore, *in principle*, acceptable.

- 6.4 A number of local residents have expressed concern regarding the potential for an increase in traffic congestion and associated parking problems. This is noted. However the site lies within the urban area. KHS, whilst noting the lack of on-site parking, has raised no objection to the application. KHS comments that in view of the accessible location of this site, the proximity to the car park and on street parking bays, the application would cause no detriment to highway safety.
- 6.5 The application must also be determined with regard to CP24 of the TMBCS 2007. This policy seeks to ensure that all new development is well designed and respects the character of the site and its surroundings. As stated the application is, in principle, compliant with planning policy. However the main issue in the determination of the application is the likely impact of the café upon the residential amenity of the surrounding area. This can be viewed in terms of the impact of the cooking smells and any associated extraction system and the general disturbance associated with the proposed hours of opening including the comings and goings of customers.
- 6.6 DHH supports the findings of the submitted Noise Impact Assessment. This concludes that the proposed mechanical ventilation system will not exceed the recommended noise levels at the nearest noise sensitive property. The proposed system will not therefore have an unacceptable impact on adjacent residential amenity in terms of associated noise. The siting of the mechanical ventilation system (extract riser) to the rear of the building seeks to minimise its impact upon the street scene. It is noted that the building occupies a corner plot however the proposed extract riser does not extend above the existing ridge of the rear outshot.
- 6.7 Additional information has been submitted (received 16.05.12) regarding the proposed mechanical ventilation system for the removal and treatment of cooking odours. This information seeks to demonstrate that the proposed system is suitable for the types of foods to be cooked on the premises. Comments regarding the suitability or otherwise of the system are awaited from DHH.
- 6.8 DHH also raised concern regarding the proposed opening hours originally submitted on the application form. DHH recommends that the morning hours of use be limited to 07.30 Mon-Sat and that Sunday/Bank Holiday hours of use be further limited to 08.30-16.00, both to protect the aural amenity of local residents. The Agent was made aware of this recommendation (by letter dated 09.05.12) and the application has subsequently been amended (by letter received 16.05.12).

The proposed hours of operation are now 07.30 - 17.00 Monday to Saturday and 08.30 - 16.00 Sunday and Bank Holidays. These hours accord with the recommendation made by DHH and can be ensured by planning condition.

- 6.9 The discrepancies on the submitted drawings are noted. Similarly I am aware that tables have been placed on the pavement. The positioning of tables outside cafes, providing they are moveable, would not normally constitute development in planning terms. However, as these appear to be on the highway KCC has been advised. The placing of the tables is therefore a matter for KCC to control.
- 6.10 Residents have raised issues relating to loss of property values, the potential for different operators, issues regarding internal space and lavatory requirements. However these issues are beyond the scope of the planning system.
- 6.11 Representations have also made reference to the historic operation of a kebab shop next door. I am aware of the planning history of the adjacent site. However it must be noted that the operation of a hot food takeaway (Use Class A5) generally raises additional and, to some extent, different planning issues to those associated with a restaurant/café use (Use Class A3). In particular an A5 use is likely to generate a greater level of general disturbance and a significantly higher number of traffic movements. It is therefore essential that the current application is judged strictly on its own merits.
- 6.12 The application is, in principle, acceptable meeting the underlying aims of CP11 and Paragraph 23 of the NPPF. The re-use of an existing shop/commercial unit within an urban setting is desirable. However the impact of the café on adjacent residential amenity must be mitigated and this can be achieved by the imposition of relevant planning conditions to control opening hours and ensure the system of mechanical ventilation is effective. The application is therefore acceptable and accordingly planning permission should be granted subject to planning conditions.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Block Plan dated 28.03.2012, Existing + Proposed Plans and Elevations SN-0610-001 dated 28.03.2012, Location Plan dated 28.03.2012, Design and Access Statement dated 28.03.2012, Noise Assessment dated 28.03.2012, Planning Statement dated 28.03.2012, subject to:

Conditions / Reasons

- 1 The use hereby permitted shall not be open to customers outside the hours 07.30 - 17.00 Monday to Saturday and 08.30 - 16.00 Sunday and Bank and Public Holidays.

Reason: In the interests of the residential amenity of nearby dwellings in accordance with Policy CP24 of the Tonbridge and Malling Core Strategy 2007,

policy SQ1 of the Managing Development and the Environment Development Plan Document and paragraph 17 of the National Planning Policy Framework 2012.

- 2 No hot food shall be prepared, cooked or served at the premises until full details of a scheme of mechanical ventilation for the removal and treatment of cooking odours is submitted to and approved in writing by the Local Planning Authority. The system must be suitable for those types of foods to be cooked on the premises and must draw reference from the requirements and recommendations of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and shall include a risk assessment for odour as detailed in Annex C. The approved scheme shall be fully installed before use of the kitchen commences and shall thereafter be maintained in strict accordance with the approved details. No food shall be cooked at the premises unless the mechanical ventilation system is in operation.

Reason: In the interests of the residential amenity of nearby dwellings in accordance with Policy CP24 of the Tonbridge and Malling Core Strategy 2007, policy SQ1 of the Managing Development and the Environment Development Plan Document and paragraphs 120 and 123 of the National Planning Policy Framework 2012.

Contact: Maria Brown