
Aylesford Aylesford	572176 158481	25.02.2005	TM/05/00608/FL
Proposal:	Change of Use from A1 (Retail) to A5 (Sale of Hot Food)		
Location:	5 Premier Parade Aylesford Kent ME20 7LN		
Applicant:	Premier Stores UK		

1. Description:

1.1 The planning application, as submitted, sought to change the use of number 5 from Use Class A1 (retail) to Use Class A3 (sale of hot food). At the time of receipt of the application the A3 category under the Use Classes Order 1987 covered all forms of the sale of hot food including restaurants, take-aways, pubs, wine bars etc. From 21st April 2005 as a result of a change in the legislation, the former A3 uses have been subdivided into:

- A3-restaurants, snack bars, café
- A4-pubs and bars
- A5-take-aways

1.2 It is therefore clear that, under the amended legislation, the correct description should now be for change of use from Use Class A1 (retail) to Use Class A5 (hot food take-away) of the Use Classes Order 2005.

1.3 The application was received following a report to the enforcement team that a double unit had been sub-divided with the intention of using number 5 as a hot food take-away. It is understood that numbers 4 & 5 were previously in use as one retail shop. Number 4 remains in retail use. Numbers 3 & 6 are in use as take-away hot food premises. Number 1 is used as a vets whilst number 2 is a hairdressers. In association with the change of use it has been indicated that a flue would be constructed at the rear of the property.

2. The Site:

2.1 The site lies within an Urban Local Centre identified under policy P5/23 of the TMBLP. Number 5 is a mid terrace unit in a purpose built parade of shops within an established residential area. Above the shops are residential units accessed via the rear. The agent states that there is allocated parking for units 4,5 & 6 within a council-owned car park to the side of the parade. It is stated that a further 3 spaces are available but not allocated at the front of the premises. At the rear it is stated that further parking spaces are available within the curtilage of the site.

3. Planning History:

- 3.1 The parade was constructed in the 1960s. No further applications appear to have been made specifically in respect of number 5. The agents state that number 5 was formerly used as a supermarket which also occupied units 3 & 4. It is stated that unit 5 was used for a hot food take-away section within the supermarket and that the kitchen is still in place. This appears to have been an ancillary use involving the sale of heated food, rather than an independent hot food take-away operation.

4. Consultees:

- 4.1 PC: Initially raised no objections but mentioned concerns about increase of noise and pollution from additional customers

Revised comments-strong objection in view of local residents' concerns. Reference is made to the proposed use being a threat to the two existing hot food businesses and that there is no need for a third such outlet.

- 4.2 KCC (Highways): The proposed use would attract a requirement for 6 parking spaces. Noted the parking areas identified appear to be on a casual communal basis and raised no objections but required the provision of a plan showing off street parking. No objections raised to the submitted plan subject to a parking condition.
- 4.3 DHH: The Environmental Health issue raised by this application is one of noise and odour. The plans do not contain sufficient details as to the size of the canopy or the retention time of the grease filters. The installation of a quality mechanical extraction system incorporating filtration and odour treatment is essential to minimise cooking odours. There should be sufficient spatial separation between the discharge outlet and adjoining premises with the discharge point at sufficient height to allow for adequate odour dispersal.

If permission is granted, I recommend the following conditions:

The use shall not commence until full details of a scheme of mechanical air extraction from the kitchen, including arrangements for the continuing maintenance of this equipment and any noise attenuation measures required in connection with the equipment, have been submitted to and approved in writing by the Local Planning Authority. 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 cooking of food shall take place unless the approved extraction system shall be operated.

Noise emissions from the extraction system shall at no time exceed 35dB(A) at the façade of adjacent premises.

The premises shall not be open for the preparation and sale of food after 2230hrs Monday - Saturday and 2130hrs on Sunday.

Reference should be made to the new Guidance – Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2005).

4.4 Private Reps: 26/0X/28R/0S. At the time of preparing the report 28 individual letters from 22 households had been received in addition to a petition containing 171 signatures. Objections have been raised on the following grounds:

- Increased car movements and lack of designated parking spaces.
- Late opening hours.
- Odour pollution.
- Noise and disturbance.
- Internal works may not meet fire regulations.
- Litter.
- Vandalism.
- Inadequacy of drainage system.

Reference is also made to there already being 2 existing take-aways in the parade, lack of demand for more and change in property values.

5. Determining Issues:

- 5.1 The main issues are whether the proposed change of use from A1 to A5 can operate without undue harm to the amenities of nearby residents in terms of associated activity, hours of operation and odour control, and whether there is adequate parking available.
- 5.2 This parade is identified under policy P5/23e as being suitable for providing a range of local services and retail uses to meet local needs. Within these Urban Local Centres, changes of use to a use which does not require a shopping centre location or does not provide an appropriate service for the day-to-day needs of the local community will not be permitted. The policy does not specifically state that A3 uses will be supported or discouraged. An A3, A4 or A5 use can however be considered to be a local service falling within the range of uses acceptable under this policy.

- 5.3 The parade of shops serves a large residential area and provides a limited range of local facilities for the immediate community. It is noted that there are already 2 other take-away units in the parade. The planning system is not designed however to regulate the market. It is my view that a take-away use in an urban area would not be inappropriate use provided it is capable of being operated to satisfactory standards such as to avoid harm to residential amenities.
- 5.4 When first submitted, no details had been provided of the ventilation arrangements for the food cooking area. Some details have been provided but these are still not to a sufficient level of details to satisfy DHH. It will therefore be necessary for the applicants to provide further satisfactory information prior to development commencing. This matter can be appropriately dealt with by a condition to ensure that cooking odours are controlled to a degree that will not cause nuisance to nearby residents. Conditions can also be used to regulate noise arising from the operation of this ventilation equipment.
- 5.5 In accordance with normal practice, DHH has also recommended a condition to limit opening hours to ensure that disturbance does not arise to local residents late at night. The recommended hours reflect those of other take-away premises nearby.
- 5.6 I have noted concerns about the amount of parking available to serve this use. The parade of shops is served by a number of parking spaces to the front of the premises and also a separate communal parking area to the eastern side, at the junction with Rowan Close. Both these areas are provided on a communal basis and KCC (Highways) are satisfied that this provision is adequate. I understand that the flats have their own separate garage and parking space provision.

6. Recommendation:

- 6.1 **Grant Planning Permission** as outlined in the submitted details as amended by letters dated 21st March and 12th April 2005 and flue details received 8th April 2005 subject to the following conditions.

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 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 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 parking space. (P004)

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

- 3 The development hereby approved shall only operate between the hours of 10.00 and 22.30 Mondays –Saturdays and 17.00 –21.30 on Sundays and shall not operate at any time on Public or Bank Holidays.

Reason: To protect the aural environment of nearby dwellings.

- 4 The use shall not commence until full details of a scheme of mechanical air extraction from the kitchen, including arrangements for the continuing maintenance of this equipment and any noise attenuation measures required in connection with the equipment, have been submitted to and approved in writing by the Local Planning Authority. 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 cooking of food shall take place unless the approved extraction system is being operated. (N014)

Reason: In the interests of the amenities of nearby properties.

- 5 Noise emissions from the extraction system shall at no time exceed 35dB(A) at the façade of the adjacent premises.

Reason: To protect the amenities of the occupants of nearby dwellings.

Informative:

- 1 With reference to condition 4 above, reference should be made to the new Guidance-Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2005).

Contact: Hilary Johnson