

Ditton
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570973 158496 3 March 2015

TM/15/00713/FL

Proposal: Change of use from A1 (shop) to A5 (hot food takeaway)
Location: 592 London Road Ditton Aylesford Kent ME20 6BX
Applicant: Mr Mustafa Shakir

1. Description:

1.1 Planning permission is sought for the change of use of the existing shop (most recently used as a dry cleaners) to a hot food takeaway within use class A5. As part of the proposal permission is also sought for the installation of ventilation equipment.

2. Reason for reporting to Committee:

2.1 At the request of the Ward Member, Cllr Oakley.

3. The Site:

3.1 The application property is the ground floor of a mid-terrace Victorian premises which fronts onto the A20 (London Road). The site is currently in use as a dry cleaners with a residential dwelling above. To either side are residential dwellings, with a fish and chip shop located at the end of the terrace to the west at number 630-632 London Road and a hairdressers shop to the eastern end at number 586 London Road. As a result the character of the local area is generally residential but with commercial activity along the London Road.

3.2 The application site has no parking directly associated with it; to the front of the site is a parking bay on the highway which serves residents and visitors to the existing commercial unit on a first come, first served basis.

3.3 The local area is of no special landscape designations.

4. Planning History (relevant):

TM/91/11104/FUL Refuse 25 November 1991

Change of use from retail shop to hot food takeaway.

TM/92/00202/FL grant with conditions 29 December 1992

new shop front

TM/92/00203/AT grant with conditions 29 December 1992

double sided projecting sign, internally illuminated fascia sign and externally illuminated forecourt sign

TM/92/10309/FUL Refuse 7 July 1992

Change of use from shop to hot food home delivery service.

TM/92/10311/FUL grant with conditions 3 July 1992

First floor rear extension.

TM/05/01768/FL Section 73A Approved 8 August 2005

Retrospective application for a sun lounge

5. Consultees:

5.1 KCC (Highways): No comment.

5.2 PC: Raise objection to the application for the following reasons:

Original comments:

- Lack of parking - there are double yellow lines outside the premises and therefore problems would occur on the A20 and surrounding roads.
- Lack of waste disposal - there is no space for a commercial rubbish bin.
- Noise and disturbance by late night use.
- Anti-social behaviour if people congregate outside the property.
- Smells
- Over intensification of takeaway outlets.
- Amount of local objections to the proposal.

5.3 Private reps: 6/0S/0X/32R raising the following points:

- Smells from the proposed use.
- There are enough food outlets in the local area.
- Pressure on existing parking and people parking on double yellow lines.

- Impact upon the junction of Orchard Grove and difficulties exiting the junction.
- Anti-social behaviour.
- Waste disposal.
- Attraction of vermin.
- Encouragement of unhealthy eating leading to health issues.
- The unit should remain as a shop which is more in character with the local area.
- Devaluation of neighbouring properties.
- People sitting in their cars on the car park of 586 London Road and on the walling to the front causing damage.
- Impact upon drains if fats etc. are put down the drains as there is already an issue.
- Question where the bins are to be located.
- Loss of the dry cleaners.
- Hours and location of deliveries.

6. Determining Issues:

- 6.1 Paragraph 17 of the NPPF states that the overarching roles of the planning system are to proactively drive and support sustainable economic development to deliver homes, businesses and industrial units and to promote mixed use developments. Paragraph 19 advises that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth; and that planning should operate to encourage and not act as an impediment to sustainable growth. It directs that significant weight should be placed on the need to support economic growth through the planning system.
- 6.2 The application site is located in an area which, to the north, is primarily residential in character. The terrace in which the proposed takeaway is located has a more mixed character with a hairdressers and a fish and chip shop situated at either end. To the south is the busy A20 London Road and an Esso petrol filling station. Due to the road noise the site is located in an AQMA. The proposed development would allow the re-use of an existing commercial unit for a further commercial use

albeit in a different use class. The site is sustainably located and, providing there would be no material harm to the locality, the development would be acceptable in principle.

- 6.3 There are minor external changes proposed to the building which include the installation of an extraction flue to the rear elevation in order to remove cooking smells. The flue would be partially visible from Orchard Grove through oblique views of the rear of the property due to the open nature of the rear of the buildings which front onto London Road. The flue has been well designed to sit in a relatively discrete location, would be of a modest size, and would sit below the ridge line of the premises, reducing its visual impact. As a result of this, the external works to the rear would not have a harmful impact upon the visual amenity of the locality.
- 6.4 In order to extract cooking smells the applicant is proposing to install a flue on the rear of the premises. This equipment would be of a sufficient specification to prevent unacceptable smells being caused to the neighbouring residential dwellings to either side or above. The extraction equipment has the potential to cause noise and disturbance in its running, although it is possible to design in solutions to overcome any adverse impact caused by noise from the unit. As such, it would be reasonable to attach a condition to any planning permission to require the submission of a noise report prior to the commencement of the use of the premises as a takeaway. This would need to include any necessary measures to mitigate against noise should these be required in order to afford an adequate level of future control.
- 6.5 The proposed hours of use seek permission for the premises to be open for business between the hours of 12:00 and 23:00 Monday to Saturday and 17:00-22:00 on Sundays and Bank and Public Holidays. The fish and chip shop at 630 London Road is open between the hours of 11:00 and 23:00 every day of the week. The site is also located adjacent to the busy A20 which results in road noise to the existing residential properties. Although the 11pm closing is relatively late, it would be in accordance with the other A5 takeaway premises within the same row of terraced properties. The use would not cause a substantial augmentation in noise and disturbance to the closest residential neighbours.
- 6.6 The application site has no direct parking provision associated with it. Parking for this existing commercial premises along with the residential dwellings is on road. The fish and chip shop and the hairdressers have created additional off road parking in the rear gardens of their premises in order to reduce their impact upon highway parking. This was not a requirement of any planning permission but rather works undertaken by the owners of the businesses to improve the parking provision to serve their businesses.

- 6.7 In considering the acceptability of the parking provision at the site it is important to take into account the existing lawful situation. The existing A1 use has a requirement for 3 off road parking spaces, equating to 1 space per 25m². This compares to a requirement of 7 car parking spaces for the A5 use, equating to 1 space per 8m². This totals an additional requirement of 4 car parking spaces to serve the proposed use.
- 6.8 Although there is a lack of off road car parking provision to serve the unit the site is located in an area where there is ample opportunity for customers to walk or use alternative means of transport. As a result of the sustainable location and the fact that the existing commercial unit does not have any off road car parking, the lack of four additional spaces would not result in a considerable increase in on road parking to an extent which would have a significant impact upon highway safety. It may be that no other changes of use along this terrace to commercial uses would be acceptable due to the cumulative impact upon demand for on road parking.
- 6.9 Several letters of objection have raised issue with parking on double yellow lines in the local area which causes a hazard for vehicles exiting Orchard Grove. The local on road parking controls have been imposed to ensure highway safety in the locality. Any person parking in an illegal manner would have the potential for penalty by either the Police or the Council's Parking Enforcement Officers.
- 6.10 Letters of objection have raised other areas of concern such as devaluation of property, litter, anti-social behaviour, lack of need for the takeaway, potential for the development to result in obesity of patrons and loss of the dry cleaners. It is not the role of planning to examine the business case for the need for a takeaway/dry cleaners in the locality, or to influence patron's eating habits. In addition, devaluation is not a material planning consideration. With regard to litter, there is a litter bin outside the site and others along London Road in close proximity to the site. If litter is dropped from the premises this is a matter which is able to be investigated outside of this planning application if/when the matter occurs.
- 6.11 Matters of access to the bins/where the bins are to be stored are a private civil matter. To store the bins on the pavement to the front of the takeaway would be on highway land; access to the rear is an issue between owners of the land involved.
- 6.12 In light of the above assessment, I conclude that the proposal is acceptable in light of the requirements of the NPPF in terms of the principle of the proposed development given its location within the urban confines. It also accords with policy CP1 of the TMBCS and policies SQ1 and SQ8 of the MDE DPD. As such, the following recommendation is put forward:

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 05.05.2015, Email dated 26.04.2015, Email dated 23.04.2015, Email dated 06.05.2015, Existing Plans and Elevations A101 dated 06.05.2015, Proposed Plans and Elevations A102 dated 06.05.2015, Proposed Plans A103 dated 06.05.2015, Other A104 dated 06.05.2015, Other A105 dated 06.05.2015, Site Plan P747/2 dated 03.03.2015, Location Plan dated 03.03.2015, Floor Plan P747/1 Existing and proposed dated 03.03.2015 subject to:

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. Prior to the commencement of the use hereby approved the ventilation equipment as shown on drawing numbers A102, A103, A104 and A105 received 06.05.15 and detailed in e-mails from Martin Potts received 26.04.15 shall be installed and shall be retained and maintained in perpetuity.

Reason: To protect the residential amenity of the locality.

3. Prior to the commencement of development details of an acoustic assessment demonstrating noise levels from the approved ventilation unit to not exceed NR35 at the nearest noise sensitive premises/site boundary (including any flat above the proposed premises) shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall thereafter be implemented prior to the commencement of the use and maintained in perpetuity.

Reason: To protect the residential amenity of the locality

4. The premises shall not be open to the public other than between the hours of 12:00 and 23:00 Monday to Saturday and 17:00 and 22:00 on Sunday and Bank and Public Holidays;

Reason: To protect the residential amenity of the locality

Contact: Kathryn Holland