



Application: 20221290

**TOWN AND COUNTRY PLANNING, ENGLAND
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015**

NOTICE OF REFUSAL TO APPROVE DETAILED PLANS AND PARTICULARS

To: **Mr Yusuf Samet Aydin**
C/O Mr Yusuf Aydin, Neoliydia Design & Construction
6 Jamestown Way
Flat 1 Wotton Court
London
E14 2DB

TAKE NOTICE that the **GRAVESHAM BOROUGH COUNCIL**, the Local Planning Authority under the Town and Country Planning Act 1990, has **REFUSED TO APPROVE** detailed plans and particulars submitted on 5th December 2022 in accordance with condition 4 of the Notification of Grant of Planning Permission reference 20200399 to Develop Land dated 22 June 2020 in respect of:-

Change the use of the ground floor from A1 (Retail) to (A3), with installation of a ventilation and extractor flue to the side elevation.

at: **Stairways Express African Foods**
9 Brewhouse Yard
Gravesend
Kent
DA12 2EJ

and being **Application for the approval of condition 4 attached to planning permission reference no. 20200399 relating to the kitchen extraction and ventilation system.**

And that the grounds for such refusal are:-

1. Insufficient information has been submitted to discharge planning condition 4 of planning permission reference 20200399. The proposed details do not entirely incorporate the recommendations and mitigation measures set out in the odour report. As such, it is considered that the proposed extraction system would be detrimental to the residential amenity of surrounding residential occupiers and contrary to Policy CS19 of the Gravesham Local Plan Core Strategy (September 2014).

INFORMATIVES:-

1 SUBMITTED DRAWINGS AND DOCUMENTS

For the avoidance of doubt the decision to refuse this application was taken in relation to the following submitted drawings and documents:

Application for approval of details reserved by condition form;
Red line site boundary plan (at 1:200);
Site location plan (at 1:1250);
Drawing no. 060100 Existing ground floor layouts;
Drawing no. 060101 Existing elevations;
Drawing no. 060102 Existing section A-A;
Drawing no. 060103 Existing and proposed ground floor layout;

Drawing no. 060104 Proposed elevations;
Drawing no. 060105 Proposed section A-A and canopy location;
Vibration assessment 17 November 2022 (ref. G0095);
Odour report 21 September 2022 (ref. G0080);
Noise impact assessment report 22 November 2022;
Letter dated 15 November 2022 for Goya Works;
Design Access & Statement dated 11 November 2022;
Filtration assessment dated 06 January 2022 (ref. G0046); and
Ventilation statement dated 21 September 2022 (ref. G0090).

2 STATEMENT OF POSITIVE AND PROACTIVE APPROACH TO DECISION-MAKING

In accordance with Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and paragraph 38 of the National Planning Policy Framework (NPPF) 2019, the Local Planning Authority has approached the assessment and determination of this application in a positive and creative way and, where appropriate, has worked pro-actively with the applicant to secure a development that is sustainable and that improves the economic, social and environmental conditions of the area, and that is in accordance with the Development Plan for the area. In this instance the application is not in accordance with the Development Plan for the area and cannot be supported.

3 GBC REGULATORY SERVICES ENVIRONMENTAL PROTECTION COMMENTS

The applicant is requested to note the following consultation response with regard to the submitted details;

Having reviewed the submitted information and the history relating to this premises, I'm afraid that I can't recommend that Condition 4 be discharged.

In respect of noise, the submitted report is accepted and noise from the extract system is predicted to be 10dB(A) below background noise levels as required with the fan and silencers specified.

Although the submitted information seems much more comprehensive than has been submitted previously, there are still a number of issues with regards to odour control. Both the submitted odour report and previous correspondence from Environmental Protection advises that high level flue termination (1m above the windows) is necessary due to the proximity of the system to neighbours, and the cooking type etc. The plans and report submitted with this application indicate that the flue will terminate at a low level horizontally. This is not acceptable in this location and with this type of cuisine/cooking.

In the 'Odour Report' from Goya Works (21st Sept 2022), reference is made to 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (January 2005, Defra). This report is no longer in use and has been superseded, so reference to guidance and methodologies should not be referred to. Instead, the report should refer to the updated guidance contained in 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' 2018.

4 GBC REGULATORY SERVICES COMMERCIAL COMMENTS

The applicant is requested to note the following consultation response with regard to the submitted details;

No objection in principle. The following comments are in addition to comments previously made (20210189 - 18 February 2021)

Health and Safety:

In these premises Gravesham Borough Council (GBC) Environmental Health will be the enforcing authority. The applicant must ensure that these premises comply fully with the Health and Safety at Work (etc) Act 1974 and all relevant regulations made there under. For information and advice on health and safety matters check out the HSE website www.hse.gov.uk or contact the Environmental Health team on commercialhealth.admin@gravesham.gov.uk or 01474 337 000.

Food Safety Comments:

The applicant must ensure that any food room fully complies with current food safety legislation to the satisfaction of the Regulatory Services Manager. Structural and operational requirements are covered by the legislation notably EC Regulation 852/2004.

The provision and location of sinks and wash hand basins is an important consideration in the design and planning of a food room. There appears to possibly be a bar located in the restaurant area. This must have a sink and a separate wash hand basin.

For further advice on starting a food business please visit the FSA website
<https://www.food.gov.uk/business-guidance>

20210189 comments:

No objection in principle. The following comments are made for the information of the applicant.

Health and Safety

In these premises Gravesham Borough Council (GBC) Environmental Health will be the enforcing authority. The applicant must ensure that these premises comply fully with the Health and Safety at Work (etc) Act 1974 and all relevant regulations made there under. For information and advice on health and safety matters check out the HSE website www.hse.gov.uk or contact the Environmental Health team on commercialhealth.admin@gravesham.gov.uk or 01474 337 000.

This workplace will be immediately subject to the requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. Particular attention should be made to the following requirements.

- o Regulation 6 requires that effective and suitable provision shall be made to ensure that every enclosed workplace is ventilated by a sufficient quantity of fresh or purified air.
- o Regulation 14 requires that every window or other transparent or translucent surface in a door or gate shall where necessary for reasons of safety be constructed of a safety material or be protected against breakage and also be appropriately marked.
- o Regulation 20 requires that suitable and sufficient sanitary conveniences shall be provided at readily accessible places. Where between 6 and 25 persons are employed a minimum of 2 water closets must be provided.

Food Safety Comments

I am unable to fully comment on the structure of the kitchen as the plans do not provide me with a detailed layout.

The applicant must ensure that the kitchen fully complies with current food safety legislation to the satisfaction of the Regulatory Services Manager. Structural and operational requirements are covered by the legislation notably EC Regulation 852/2004.

All internal structures to the kitchen must be impervious, non-absorbent and washable i.e. easy to clean and maintain in a clean condition.

Any floor drains which become part of the internal structure of the kitchen must be fitted with a close-fitting grill which is easy to clean.

The kitchen should be pest proofed as far as possible i.e. gaps and holes to external doors, windows, pipes and drains etc. must be filled or covered with a solid, durable material in order to minimise pest entry points in to food preparation and storage areas.

Lavatories must not lead directly into rooms in which food is handled, stored or prepared. There should be an intervening ventilated space between toilets and food rooms. Food should not be stored in that space.

The provision and location of sinks and wash hand basins is an important consideration in the design and planning of a commercial kitchen. A minimum of 1 wash hand basin and a double sink unit must be installed. A dish washer is also recommended. The current plan only appears to show 1 sink and no wash hand basin.

There also appears to possibly be a bar located in the restaurant area. This must also have a sink and a separate wash hand basin.

It is a requirement under Article 6(2) of Regulation 852/2004 that food business operators must register their establishments with the appropriate competent authority (in this case GBC Environmental Health) at least 28 days before food operations commence. Registration is via the Gravesham Borough Council website www.gravesham.gov.uk/food-safety

The layout and scale of the business operation is such that mechanical ventilation, with a balanced air intake and appropriate extract system, is likely to be required. This will need to achieve a minimum of 30 air changes per hour and a maximum ambient temperature of 25C within the working kitchen. I recommend that you contact a specialist contractor in this regard.

For further advice on starting a food business please visit the FSA website <https://www.food.gov.uk/business-guidance>

The Commercial Team do not insist on the installation of a grease trap as food business registration does not require this. Recommendations could be made however where we are aware of past issues with drainage at the location. As we have no known issues with drainage, we are happy for the condition to be removed.

5 HIGHWAYS ISSUES

The applicant is requested to note that any external flue would overhang the public highway, therefore the approval of the Highways Authority would be required. Similarly, the proposed waste storage bin would be located on the public highway. Again, the approval of the highway's authority would be required in order to locate it in this position. It cannot necessarily be assumed that such approval would be forthcoming and it is recommended that the applicant contact Kent County Council Highways & Transportation for advice in this regard (telephone no. 03000 41 81 81).

Dated: 26 January 2023

Civic Centre
Windmill Street
Gravesend
Kent
DA12 1AU

Wendy Lane MRTPI
Assistant Director (Planning)
Planning Service

Your attention is drawn to the following notes

NOTIFICATION TO APPLICANT

APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If this is a **householder application*** which has been refused and you want to appeal against your Local Planning Authority's decision then you must do so within **12 weeks of the date of this notice**.
- For **all other applications**, refused or permitted, if you want to appeal against your Local Planning Authority's decision then you must do so within **6 months of the date of this notice**.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

***Householder applications**

These are:

- (a) applications for planning permission for development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or
- (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development

but does **not** include –

- (i) an application for change of use;
- (ii) an application to change the number of dwellings in a building.

PURCHASE NOTICES

- If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor can he/she render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.