



Delegated Report

Discharge of condition

Planning Application No: 20221290

Location: Stairways Express African Foods 9 Brewhouse Yard Gravesend Kent

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

Applicant: Mr Yusuf Samet Aydin

Site Visit Date: 19 January 2023

Submitted Documents/Plans

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).

Relevant Planning History

Reference	Description	Decision	Decision Date
20210189	_REVISED_ Application for the approval of condition 4 attached to planning permission reference no. 20200399 relating to the kitchen extraction and ventilation system.	Refused	17.06.2021
20200399	Change the use of the ground floor from A1 (Retail) to (A3), with installation of a ventilation and extractor flue to the side elevation.	Permitted	22.06.2020

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development

- CS05 – Gravesend Town Centre Opportunity Area
- CS08 – Retail, Leisure and Hierarchy of Centres
- CS18 – Climate Change
- CS19 - Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesend Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- TC3 – Development Affecting Conservation Areas

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 6 - Building a strong, competitive economy
- Section 7 - Ensuring vitality of town centres
- Section 12 – Achieving well-designed places
- Section 16 – Conserving and Enhancing Historic Environment

Supplementary Planning Guidance

- 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020;
- SPG 4 - KCC Parking Standards (2006);

Other documents

- High Street & Queen Street Conservation Area Character Appraisal (2009)
- King Street Conservation Area Character Appraisal (2009)

Consultations, Publicity and Representations

GBC – Environmental Protection Team (Regulatory Services)

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.

GBC – Commercial Team (Regulatory Services)

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.

- 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.
- 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.
- 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.

Natural England

Designated sites [European] – no objection subject to securing appropriate mitigation.

Neighbouring properties

There is no statutory requirement to consult neighbours on a discharge of condition application.

Officer's Analysis

Planning permission reference 20200399 was granted for the change of use of the ground floor of the application site from A1 (retail) to A3 (restaurant), with installation of a ventilation and extractor flue to the side elevation. This application seeks to discharge condition 4 of that permission.

Condition 4 reads as follows;

4. The use hereby approved shall not commence until the proposed kitchen extraction system has been installed in accordance with the details, which shall first have been submitted to and approved in writing by the Local Planning Authority. Those details shall include noise

attenuation measures relating to the fan motors, and abatement measure concerning the filtration/treatment of odours, which shall also ensure that the top of the proposed extraction flue is at least one metre above the existing windows of the building. In addition, the drainage serving the proposed kitchen shall be fitted with a grease separator or other means of grease removal prior to commencement of use hereby approved. All measures relating to this condition shall thereafter be maintained in accordance with the approved details.

Reason In the interests of amenities of the area in accordance with Policy CS19 of the Gravesham Local Plan Core Strategy (September 2014) and Section 12 of the National Planning Policy Framework.

It should be noted that following a previous refusal to discharge condition 4 (under application reference 20210189) the applicant was given comprehensive pre-application advice. The submitted details are different to those set out in the pre-application submission and as such, they have not been subject to consideration by the Borough Council until now.

The submitted details show an extraction system that would be located entirely within the building, with a louvered outlet point in the side elevation at a relatively low level. There are a number of reports in relation to ventilation, filtration, noise, vibration and odour.

Design, Character and Appearance

Due to the location of the application site, in close proximity to the High Street & Queen Street and King Street Conservation Areas, it is important to ensure that the detailed design of the extraction system does not detract from the visual amenities of the street scene.

The general design and location of an external extraction flue was considered acceptable as part of the determination of planning permission reference 20200399. However this proposal does not include an external flue, instead it has a louvered outlet and an internal flue arrangement. There are no colour/materials details for the proposed louver and had there not been a fundamental objection to the proposed extraction method by the GBC Environmental Protection Team (Regulatory Services), then these details would have been requested.

Overall it is likely that the proposal would be acceptable in terms of design and be in line with Policies CS19 and CS20 of the Gravesham Local Plan Core Strategy (September 2014) and Policy TC3 of the Gravesham Local Plan First Review (1994).

Neighbouring Amenity

The GBC Environmental Protection Team (Regulatory Services) has raised an objection to the proposed extraction system on the grounds that adverse odour impacts would occur to surrounding residential occupiers because the extraction outlet would be located at a low level rather than at a high level.

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).

Other Considerations

It should be noted that Natural England were consulted in error regarding this proposal. They would not normally comment on a discharge of condition application for a commercial development. The response received seeks the mitigation of impacts to European sites caused by recreational pressure. But the recreational pressure highlighted is associated with new dwellings. As such, there is no requirement for any mitigation in this instance.

Although not specifically a planning matter, it should be noted 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).

Conclusion & Recommendation

The submitted details are not acceptable and condition 4 of planning permission reference 20200399 cannot be discharged.

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Mrs Kelly Joyce	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	26th January 2023	Dated:	26 January 2023