

Delegated Report

Planning Application

Planning Application No: 20221303

Location: Wicked Wings Ltd 24 Perry Street Northfleet Gravesend

Description: Application for the variation of condition 4 attached to planning permission 20170013 relating to Change of use of sandwich bar (Class A1) to a mixed use of a hot food take-away (Class A5) and restaurant (Class A3); to allow trading on Sundays and Bank holidays

Applicant: Mr Geevan Binning

Site Visit Date: Desktop Assessment

Submitted Documents/Plans

- Application form
- Drawing No: JMD-1191-B020 (Existing/Proposed Block Plan)
- Drawing No: JMD-1191-B010 (Site Location Map)

Relevant Planning History

Reference	Description	Outcome	Decision Date
20170013	Change of use of sandwich bar (Class A1) to a mixed use of a hot food take-away (Class A5) and restaurant (Class A3).	Permitted	19.05.2017

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS08 – Retail, Leisure and the Hierarchy of Centres
- CS19 - Development & Design Principles

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)

- 2 – Achieving Sustainable Development

- 12 – Achieving sustainable development and well-designed places

Consultations, Publicity and Representations

Consultees

Local Ward Councillors

No comments received.

Environmental Protection Team

We have no objection to a variation of this condition to allow the premises to operate as a hot food take-away on Sundays and Bank holidays from 10:30 to 23:00.

This however is on provision that the operator ensures their ventilation and extraction system is appropriately serviced/maintained in accordance with the suppliers guidance and does not result in justified noise, odour, smoke or fumes complaints from local residents.

Neighbouring properties

The application was advertised by way of letter to 6 surrounding properties. The consultation period expired on 28th February 2023 and no comments were received.

Officer's Analysis

Procedural Matters

It is noted that the description of the proposal refers to the previous use classes of which some are now obsolete. The takeaway would now fall under Use Class Sui Generis and Use Class E.

Furthermore it is noted that the Environmental Protection Team have stated the below

We have no objection to a variation of this condition to allow the premises to operate as a hot food take-away on Sundays and Bank holidays from 10:30 to 23:00.

However the hours of operation are between 16:00pm and 22:00pm only on Sundays and Bank Holidays.

The application has been submitted as a section 73 application (to amend condition 4 of 20170013,) and the Local Planning Authority has judged the principle of the development to be acceptable with the approval of 20170013.

For the purposes of this section 73, only issues relating to the variation of condition 4 can be considered and no other matters pertaining to the original application (**20170013**) can be considered.

Paragraph 017 of the Planning Practice guidance states 'There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Proposal

The application site is a hot food takeaway which is proposing to increase its opening hours to allow trading on Sundays and Bank holidays between the hours of 16:00 and 22:00hrs.

Under the original planning consent granted under 20170013 Condition 4 as approved stated the following:

The premises hereby permitted shall only open for trading between the hours of:

*10.30am to 23.00pm Mondays to Fridays;
10.30am to 23.00pm on Saturdays; and
CLOSED Sundays and Bank Holidays,*

and no works or ancillary operations that are audible at the site boundary, or at any such other place as may be agreed with the Local Planning Authority, shall take place outside of the stated hours.

Reason: *To protect the amenities of occupiers of adjoining properties and in accordance with Policy CS19 of the Gravesham Local Plan: Core Strategy (September 2014).*

Design, Character and Appearance

The proposed variation of condition will involve no external alterations and therefore will have no detrimental impact on the character and appearance of the area. Likewise, the use remains the same and therefore there will be no detrimental impact.

The takeaway is located in a busy parade of shops which are open on Sundays and Bank Holidays and so the change to the takeaways opening hours would be similar to surrounding eateries within the Perry Street Area.

The proposal therefore accords with Policy CS19 of the Local Plan Core Strategy 2014.

Neighbouring Amenity

The application property is located on a corner plot and comprises two storeys of which ground floor is retail and first floor is residential. The proposed extension of opening hours for the takeaway is requested in line with other takeaways in the Perry Street area which is a busy centre populated with various commercial premises including several hot food takeaways.

The application site is surrounded by other takeaway shops and adjoins a commercial premises, Papa Johns is located within the same terrace as the application site, this premises is opening from 10am – 11pm every day. Across the road from the site there is another hot food takeaway called Bombay Tiffin which is operated between the hours of 17.00 p.m. and 23.00 p.m. Mondays to Sundays, including Bank Holidays and so it is evident that an amendment to condition 4 of planning application 20170013 would bring the current businesses' opening hours inline with similar eateries in the vicinity albeit with shorter opening hours compared to the surrounding businesses which are open for longer hours.

The proposal is considered acceptable and compliant with Policy CS19 of the Core Strategy 2014.

Parking and Highways

No additional impact on the highway.

Conclusion & Recommendation

The application has been fully considered and it is considered that the extended opening hours are acceptable.

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mrs Sharon Sahota	Team Leader:	Richard Hart
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Signed:		Signed:	<i>R Hart</i>
Dated:	1 st March 2023	Dated:	01 March 2023

Gravesham Borough Council