



Delegated Report

Planning Application

Planning Application No: 20230924

Location: 3 Echo Square Gravesend Kent DA12 1NP

Description: Change of use of the ground floor shop unit to restaurant and takeaway use and installation of flue to the rear.

Applicant: Mr C Harding, Oaklands Property & Developments Limited

Site Visit Date: 21st November 2023

Submitted Documents/Plans

Application Form
23/409/01 – Survey Drawing
23/409/02 Rev A – Proposed Plans and Elevations Drawing
GK-10080-002 Rev - Proposed Side Elevation Proposed Floor Plans
Covering Letter
Design and Access Statement
The Local Shop Report 2021
Filtration and Maintenance Assessment
Noise Assessment
Odour Impact Assessment
Ventilation Assessment
Vibration Assessment
Extraction Flow Rate Calculation
Parking Survey Map
Parking Survey Notes
Parking Survey 3rd November
Parking Survey 4th November

Superseded Plans:

~~23/409/02 Rev A – Proposed Plans and Elevations Drawing~~

Relevant Planning History

Reference	Description	Decision	Decision Date
19910798	Use of premises as a hot food takeaway by removal of conditions (ii) and (iii), and variation of condition of (iv), (to extend the opening hours to midnight on Monday-Saturdays and 11.30pm on Sundays/Bank Holidays) attached to planning permission ref. no. Gr91/180.	Refused	26.02.1992
19910180	Change of use of the ground floor shop to a restaurant with take-away facilities.	Permitted	26.04.1991

19881227	Installation of a new shopfront.	Permitted	28.04.1989
19840903	Erection of single storey extension at the rear to form enlarged shop and erection of an external staircase at the rear to self contained flat	Permitted	17.12.1984

Relevant History at 5 Echo Square

Reference	Description	Decision	Decision Date
20100341	Change of use from A1 retail to A5 hot food takeaway and installation of extraction duct on the rear elevation.	Refused (Allowed on Appeal ref APP/K2230/A/10/2141160)	29.07.2010

Relevant Appeals for reference

Reference	Description	Decision	Decision Date
20070342 APP/K2230/A/07/2054416 (Included as Appendix A)	Site: 153 Whitehill Road, Gravesend Change of use from A1 retail to A5 hot food takeaway and installation of an extraction flue pipe at the rear.	Refused and Dismissed at appeal	16.07.2007 Appeal: 10.04.2008

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
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- S7 – Hot Food Shops and Restaurants and other A3 uses

Paragraph 33 of the NPPF (2023) 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 (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 6 – Building a strong, competitive economy
- Section 7 – Ensuring the vitality of town centres
- Section 12 – Achieving Well-designed Places

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006)

Consultations, Publicity and Representations

Consultees

Ward Councillors: No comments received.

GBC Highways Officer:

The proposal is interesting; however, I have doubts that there will be any restaurant use. The area in front of the counter is limited and there is no seating or anywhere to place food whilst it is eaten. I shall therefore consider the proposal as a takeaway only.

The parade already benefits from two takeaways and a convenience store, all of which will tend to generate short term parking and there are on street parking spaces in front of the shops and in a public car park nearby. The permitted use of the shop is more likely to have a car parking requirement that complements rather than competes with the other takeaway outlets. Takeaways being busiest during the evening and possibly lunch time, whilst a non-food retail shop in a local centre is more likely to be daytime only.

Considering the limited information provided by Google Street View, two instances can be seen of vehicles parking on the yellow lines despite there being spaces, which suggests at the time of arrival all the car parking spaces may have been in use.



Google Street View April 2017



Google Street View May 2014

It is noted the existing convenience store operates between 7am and 10pm, whilst Trip advisor suggests that Echo's Fish and Chips is open 11:30 am to 10pm whilst Wing Hing opens from 4pm to 11pm or midnight on Saturdays.

So much depends on the proposed opening hours of the takeaway, which according to the application form is 11am to 11pm seven days a week. This means there is a considerable overlap in operational times, with no data available on car parking capacity. Whilst there is a local public car park nearby, its use by takeaway customers is liable to be restricted, as it will involve a short walk and the crossing of a road.

To make an assessment of the situation, I would suggest the car parking in the area be surveyed between 5pm and 10pm, when the convenience store and fish and chip shop close on Friday and Saturday evenings. The car park should be surveyed at 15-minute intervals clearly indicating the number of cars parked and the number of spaces available, whilst the same data should be recorded at 5-minute intervals for the ten parking spaces in front of the shop parade. Also, any vehicles parked on the waiting restrictions outside the parade, on Sun Lane between the roundabout and entrance to the car park should also be recorded. The results should be presented in a simple tabulated form.

With the information currently available, I have concerns that there maybe some indiscriminate parking to the detriment of highway safety.

Updated comments received 31/11/23:

Having looked at the parking survey, there would appear to be sufficient space to accommodate a take-away establishment and as such I have no objections.

GBC Environmental Protection:

Comprehensive details regarding the kitchen extract system have been submitted which covers noise, vibration and odour control. This information is satisfactory and demonstrates an appropriate kitchen extract/ventilation system for the proposal and complies with the current guidance and standards. Based on the submitted information, there is no objection to this application being granted. The following conditions are recommended:

Restaurant/Takeaway Odour:

Prior to the first operation of the development hereby approved, all equipment for the extraction and control of fumes and odours must be installed by competent persons in accordance with the submitted details and current guidance from DEFRA, the Heating and Ventilating Contractors' Association (HVCA) For Kitchen

Ventilation Systems and any current best practice or statutory guidance. The submitted documents are:

- Proposed Extraction Layouts – Drawing Ref GK-10080-002
- Proposed Plans and Elevations – Drawing Ref 23/409/02
- Ventilation Assessment by Goya Works Ltd – Doc Ref G0096-1
- Odour Impact Assessment by Goya Works Ltd – Doc Ref G0096-1

Maintenance and routine cleaning shall be undertaken in accordance with the details contained in the following document:

- Filtration and Maintenance Assessment by Goys Works Ltd – Doc Ref G0096-1

A commissioning report shall be provided to the LPA to verify the installation, ensuring minimum discharge rates are included. The extraction and odour/fume control equipment shall be maintained and operated in compliance with the approved scheme. After installation of the approved plant, no new plant or ducting system shall be used without the written consent of the Local Planning Authority.

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

Restaurant/Takeaway Noise and Vibration

Prior to the first operation of the development hereby approved, all equipment for the extraction system must be installed by competent persons in accordance with the details contained in the 'Noise Impact Assessment Report - Kitchen Extraction System' by Sound Licensing Ltd dated 15/08/2023 and the following documents:

- Proposed Extraction Layouts – Drawing Ref GK-10080-002
- Proposed Plans and Elevations – Drawing Ref 23/409/02
- Ventilation Assessment by Goya Works Ltd – Doc Ref G0096-1
- Vibration Assessment by Goys Works Ltd – Doc Ref G0096-1

submitted details and current guidance from DEFRA, the Heating and Ventilating Contractors' Association (HVCA) For Kitchen Ventilation Systems and any current best practice or statutory guidance. The submitted documents are:

- Proposed Extraction Layouts – Drawing Ref GK-10080-002
- Proposed Plans and Elevations – Drawing Ref 23/409/02
- Ventilation Assessment by Goya Works Ltd – Doc Ref G0096-1
- Odour Impact Assessment by Goya Works Ltd – Doc Ref G0096-1

Maintenance and routine cleaning shall be undertaken in accordance with the details contained in the following document:

- Filtration and Maintenance Assessment by Goys Works Ltd – Doc Ref G0096-1

A commissioning report shall be provided to the LPA to verify the installation, including post completion noise levels. The equipment shall be maintained and operated in a condition such that the requirements of BS4142:2014 continue to be met. After installation of the approved plant, no new plant or ducting system shall be used without the written consent of the Local Planning Authority.

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

Code of Practice on Construction and Demolition Please apply as appropriate.

Neighbouring properties

A site notice was placed near the site on 02.10.2023. The local authority was made aware that the site notice had disappeared during the consultation period. As a result, it was agreed with the appellant that a site notice provided by the Local Planning Authority, would be displayed inside the shop window for 21 days and photographs were provided to evidence this to ensure that correct notification was given for a minimum duration of 21 days. This was displayed on 13.11.23.

The final date to submit comments ended on 24.11.23.

14 surrounding properties were consulted, and 3 objections were received from members of the public. The objections are summarised as follows:

- There are 3 restaurants/takeaways currently on Echo Square.
- Each time a new takeaway has opened it has resulted in significant littering on the road.
- There is inadequate parking provision already with cars parking across driveways.
- Increased vehicular traffic causes disruption to a once quieter area of Gravesend.
- Vehicles stopping cause hazards on the busy roundabout approach.
- Parking issues are exacerbated by existing double yellow lines on the opposite side of the road.
- The site notice was removed within 24 hours of being placed. (It is noted that this comment relates to the first notice only, which was replaced and retained from within the shop windows for the minimum period of 21 days.).

Officer's Analysis

Principle of Development and Impact on the Local Centre

Policy CS08 (LPCS) states that the Council will seek to reinforce a sustainable network and hierarchy of centres which include maintaining the sub-regional role of Gravesend Town Centre. It states that Gravesend Town Centre will be maintained as the highest order centre within the Borough and the Primary Shopping Area will be the sequentially preferred location for new retail development.

It also states that the Council will safeguard the retail character and function of existing and new centres by resisting development that would adversely affect their vitality and viability and protect lone village shops.

A similar application resulted in planning permission being refused in 2007 for change of use of no. 153 Whitehill Road, Gravesend, from A1 retail to A5 hot food takeaway and installation of an extraction flue pipe at the rear. This was dismissed on appeal because it would result in a cluster of three A5 (Hot food takeaways) units within a parade of 5 shops, adversely impacting on the retail character and functioning of the local centre. In addition, potential adverse impact on residential amenity was identified notwithstanding the presence of the two existing takeaways. Appeal ref APP/K2230/A/07/2054416 will be included as appendix 1.

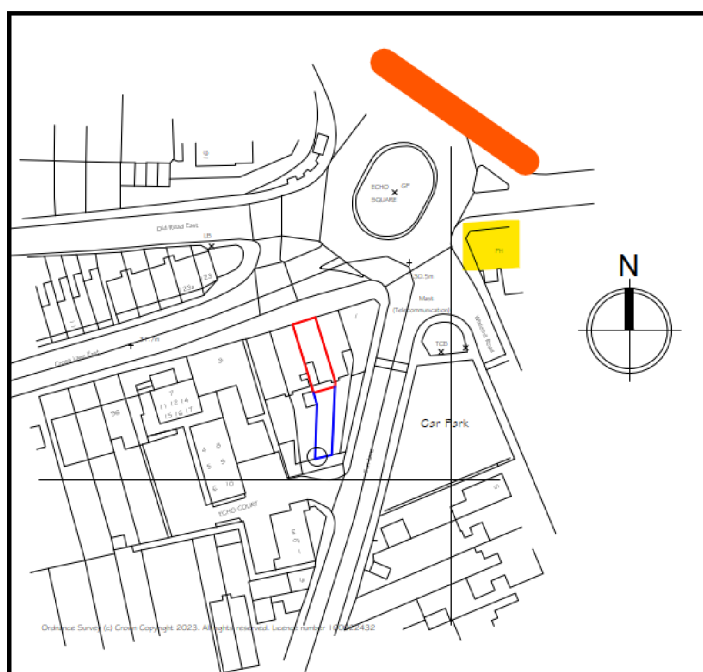
It is noted that the 2007 application and the related appeal were determined on the basis of policies S6 and S7 of the Gravesham Local Plan First Review (1994).

Whilst policy S7 was 'saved' and remains material in determining any application, with the weight accorded it dependent on its consistency with the NPPF, policy S6 was superseded by Local Plan Core Strategy (2014) policy CS08 on Retail, Leisure and the Hierarchy of Centres. This seeks to reinforce a sustainable network and hierarchy of centres and affords protection to existing local centres to safeguard their retail character and function. Development that would adversely affect their vitality and viability is to be resisted under the policy. Saved policy S7 (Hot Food Shops and Restaurants and other A3 units) states that such uses should not cluster with other similar uses to create a dead frontage, should not have a detrimental effect on the amenity of any nearby residential accommodation, should have adequate parking and

ventilation trunking should be as discreetly located on the building.

It is important to note that prior to this application, no. 3 Echo Square was a double unit with no. 4 Echo Square. The double unit was in use as a retail until. This application for a hot food takeaway relates to unit 3 only, and there is currently no application in for unit 4. As such, while the double unit is being separated, it was one business it means that there no loss of a retail unit, it is simply being downsized. An additional use is simply being proposed.

The application site forms part of a wider Local Centre situated on a busy roundabout and consists of shops and non-residential uses in the wider vicinity. Although not indicated in the provided location plan, the below image (not to scale) has been amended to show the position of other retail uses in orange and the public house in yellow.



The parade of shops directly relevant to this application consists of the following uses:

- 1 Echo Square – Wing Hing Chinese Restaurant and Takeaway (Sui Generis)
- 2 Echo Square – Echo Barbers (E(C))
- 3 Echo Square – The Sewing Shop(E(a) (CLOSED) (application site)
- 4 Echo Square – The Sewing Shop(E(a) (CLOSED)
- 5 Echo Square – Echo's Traditional Fish and Chips (Sui Generis)
- 6 Echo Square – Premier Echo Supermarket (E(a)

The proposed change of no.3 would result in three takeaways out of 6 retail units, in this shopping parade.

The proposal would result in the loss of a retail business, but as the business was across two units and this application only relates to one unit, a retail use will still remain within the parade. As such, there would not be a greater number of takeaway/restaurants uses in this parade than any other. It is noted that 50% is not ideal, but given that the site forms part of a wider local centre with no other hot food takeaway units, the clustering of uses on this section of parade would not be considered excessive. However, it should be noted that any additional takeaway use on this parade would be resisted. As such, it is considered that the proposed change of use from E(a) to Sui Generis takeaway would have not have a significant adverse effect on the retail character and function of the local centre in compliance with Policy CS08 of the Local Plan Core Strategy, September 2014 and Policy S7 of the Local Plan First Review, 1994.

Design, Character and Appearance

The proposed development would result in no external changes to the front elevation and so would have no impact on the streetscene. It is noted however with a change of use there may be a change of signage for which further advertisement consents may be required, if consent is granted for this application. To the rear there would be addition of an extraction flue. This would not be visible from the street and would be a minor addition of limited visual impact to the rear elevation, in this urban area.

On balance, the proposed development would comply with the requirements of Policy CS19 of the Core Strategy 2014 and paragraph 130 of the NPPF (2023) in terms of design, character and appearance.

Residential Amenity and Highways (Relevant to neighbouring appeal at 5 Echo Square)

Planning permission was refused at no. 5 Echo Square in 2010 for 'Change of use from A1 retail to A5 hot food takeaway and installation of extraction duct on the rear elevation.' It was refused for the following reason:

'The proposed change of use of the premises to a hot food take-away stands to be considered under policy S7 of the Gravesham Local Plan First Review and Policy EC13 of PPS 4 (Planning for Sustainable Economic Growth). This requires that the proposed use should not have a detrimental effect on the amenity of any nearby residential accommodation and that it should be possible for ventilation trunking to be discretely located on the building. The application site lies within a small parade of local shops within a residential area and with residential accommodation above adjoining shops and residential dwellings opposite in Cross Lane East. The use of the premises as a hot food take-away, would lead to noise and disturbance to local residents by reason of customers visiting the site, on-street parking around the roundabout of Echo Square and possible odour emissions associated with cooking. The proposal is therefore contrary to adopted development plan policies.'

The inspector overturned this decision at appeal, allowing the development under ref APP/K2230/A/10/2141160 (included as appendix 2). They reasoned that the living conditions of adjoining neighbours would not be harmed as the hours of use would be similar to other nearby takeaways and so would have low noise, the use of an extract duct would remove cooking odours and the rear access to the first floor flat would be retained. In terms of highway safety impacts the inspector concluded that the on-street parking, limiting parking to one hour in the daytime hours fronting the site along with nearby car park to the east would be adequate to provide parking, with no objection received from the highway authority. The inspector noted comments concerning illegal manoeuvres and parking highlighting that they could be controlled and placed little weight on that matter.

Similar concerns have been raised regarding harm to residential amenity of future occupiers at this site and parking provision. Given that similar were concerns raised and the consistency of that development with this, within the same context, this previous judgement on these matters is relevant here.

Neighbouring Amenity

It is important that any development safeguards the amenity of neighbouring properties and land. Following a period of consultation with neighbouring properties, 3 objections to the proposal was received.

The majority of comments related to parking and highways which will be discussed in the next section. The clustering of uses has been discussed in the Principle of Development and Impact on the Local Centre section of this report. The only concern raised with regard to residential amenity related to concerns regarding increase to littering. The dropping of litter is a material consideration as has been held in the courts. However, the likelihood of dropping litter is dependent on the type of food served by the takeaway. It is not clear what type of food would be served as that information has not been provided. In any case there are 2 public bins fronting the parade of shops, which would reduce the likelihood of littering. Upon visiting the site there was no evidence of littering despite two takeaways existing in this parade of shops. The GBC

Environmental Protection Team were consulted on this application and raised no objection to the development, subject to conditions related to odour, noise and vibration.

The proposal is therefore considered to safeguard the amenity of neighbouring properties in compliance with policy CS19 of the Core Strategy 2014.

Highways

The GBC Highways Officer initially raised concerns regarding the availability of parking provision for the takeaway which would open between 11AM to 11PM seven days a week as this would overlap other opening hours of units on the parade. However, the agent undertook and supplied a parking survey at the request of the GBC Highways Officer and based on this information, the concerns were alleviated. Upon the site visit some illegal parking was noted. However as the inspector concluded in the appeal for 5 Echo Square, illegal parking can be controlled and enforced outside of the planning process and again in this instance, there is no highway objection.

Adequate vehicle and cycle parking provision is therefore available in accordance with paragraphs 110 to 113 of the National Planning Policy Framework (2023), Saved Policies T1 and P3 of the Local Plan First Review (1994) and Policies CS11 and CS19 of the Core Strategy 2014 subject to further details of cycle parking provision.

Conclusion & Recommendation

The proposed development complies with all relevant national and local planning policies. The recommendation is therefore to approve.

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

Case Officer:	Ms Lisa Williams	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	6 th December 2023	Dated:	07 December 2023