



Delegated Report

Planning Application

Planning Application No: 20240080

Location: Former Room Forty Four 44 High Street Gravesend Kent

Description: Change of use from sui generis public house to sui generis takeaway.

Applicant: Mr Ali Rana

Site Visit Date: 23/02/2024

Submitted Documents/Plans

- Covering Letter;
- Application form;
- Drawing no. 001 Rev. A – Block Plan, Location Plan;
- Drawing no. 003 Rev. A – Proposed Elevations, Existing Elevations;
- Drawing no. 002 Rev. A – Existing Floor Plan, Proposed Ground Floor Plan;
- Heritage Statement.

Relevant Planning History

Reference	Description	Decision	Decision Date
20231157	Application for the Lawful Development Certificate for the proposed change of use from sui generis to Class E (b).	Certificate Refused	09.01.2024
20100904	Application for existing Lawful Development Certificate for conversion of upper levels into three self contained flats.	Certificate Granted	29.06.2012

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
- CS11 - Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- TC3 – Development Affecting Conservation Areas

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.

Other material considerations

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area

National Planning Policy Framework (2023)

- Section 2 – Achieving Sustainable Development
- Section 12 – Achieving well-designed and beautiful places
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- High Street & Queen Street Conservation Area Character Appraisal (2009)
- Management Plan Gravesend Town Centre Conservation Areas (2009)

Regulation 18 (Stage 2) Development Management Policies Document (2020)

- Proposed Policy RE 5 (Retention of Public Houses)

Consultations, Publicity and Representations

Consultees

GBC Environmental Protection

Although this premises has been in use as a pub, the use as a takeaway could have an impact on the flats above (and nearby) as a result of the requirement for a kitchen extract system to be installed. It's noted that the flue is to be located on the rear wall and then rises vertically to eaves level. Although this is acceptable in terms of odour/fume dispersal, it will be fixed to a wall that forms part of the flats (it's unclear what rooms are in this location), so noise and vibration transference could be an issue unless the flue is fixed properly using anti vibration mounts.

No details have been provided of the extract system and it has not been made clear of equipment such as fans, silencers etc are to be located internally inside the kitchen or externally. Either way, the applicant will need to ensure that the equipment does not cause a noise problem.

As no end user/type of cuisine has been provided, in terms of odour control, a high level of specification will be needed in order to ensure that it is adequate. An odour risk assessment should be undertaken.

Opening hours have been given on the application form and these are acceptable for this location.

Any external lighting or illuminated signs must comply with the relevant ILP guidance.

To address the above, the following is recommended.

Restaurant/Takeaway Odour

Prior to any works commencing on site, the applicant shall:

1) Submit a scheme in writing to the Local Planning Authority for approval in relation to cooking odour/fume control. The extraction system must be designed and installed in accordance with the "EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)". Full details of proposed extraction system to deal with grease and odour control should include:

- a) Plans and details of all duct work (internal and external) and equipment.
- b) Plans showing the location/position of the external flue/discharge stack, including its position in relation to neighbouring properties and window openings.
- c) Details of all grease filtration and odour control including the manufacturer's specification/data sheets. This includes the canopy.
- d) Details, including manufacturer's specification/data sheets of the fan.
- e) Details of proposed routine cleaning and maintenance of the system, and the service requirements of the installed odour control system, including details of system access panels and confirmation that they will be grease tight.
- f) Details of the type of food to be cooked, the cooking time per day; and the type of cooking appliances to be used.

Where the end user is not yet known, the extraction system shall be designed for a 'very high' grease content, a 'very high' level of odour potential and a 'very high' smoke content (EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)).

2) Install and commission the extract system using a competent ventilation engineer in accordance with approved details. Provide a commissioning report 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

Prior to any works commencing on site, the applicant shall:

1) Submit a scheme in writing, including a noise survey, to the Local Planning Authority for approval in relation to noise control. The extraction system must be designed and installed in accordance with the "EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update)". The noise survey should assess the worst-case scenario noise impact from the proposed extract and ventilation system, on nearby residential properties and must:

- a) Assess the whole system and any tonal elements associated it; a 1/3 octave band analysis may be necessary.
- b) Assess structural transmission with the use of anti-vibration mounts where necessary, linings to ductwork to prevent noise transmission, any inline silencers and provide details of where they have been installed.
- c) Use the results of the noise survey to ensure that the noise generated at the boundary of any noise sensitive property meets the requirements laid down in BS4142:2014 "Method for Rating and Assessing Industrial and Commercial Sound".

2) Install and commission the extract system using a competent ventilation engineer in accordance with approved details. Provide a commissioning report to the Local Planning Authority 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

Lighting

Artificial lighting can cause a statutory nuisance under the Environmental Protection Act 1990. It is important that the applicants are not permitted to install external lighting or illuminated signs without first submitting a scheme to the LPA for approval. This is to ensure that the lighting does not cause a nuisance to other premises in the area (particularly the residential flats above).

GBC Highways Officer

I have no highway objection; the property is a town centre location with some similar units nearby, making a refusal on highway grounds highly unlikely to be sustainable at appeal.

It should however be noted that delivery drivers can access the High Street, between 8pm and 10am the following morning.

Neighbouring properties

22 surrounding properties were consulted plus site and press notices – overall consultation expiry date was 15.03.2024 – 4 responses received

- There are already various other restaurants nearby, will only saturate the restaurant market and their income would become less;
- Will aid unhealthy diets and impact on health services which are already struggling;
- Will impact air quality as the restaurant fumes are released from cooking and attract rodents from the waste;
- History of this building as a public house should be preserved as it's a very well known establishment;
- No good can arise from having another restaurant in Gravesend and converting a lovely building away from its history that is highly regarded in the local community;
- Don't need another takeaway
- Used for money laundering
- Will add more litter
- Will add more noise
- Lower quality of the area
- Original public house fascia will be replaced with unsightly neon lights and cheap aluminium and glass frontage
- We need to save what's left of the original High Street as much as possible;
- This is the Heritage Quarter, its already full of takeaways and nail bars, soon that's all there will be;
- Will mean another pub bites the dust, was always so busy when open;
- If market is turned into a food place how can this be justified as well;

Officer's Analysis

The application site consists of the ground floor of no. 44 which is a three storey building on the western side of the High Street. The premises has a lawful use as a public house at ground floor but is currently vacant and the upper floors are in use as three flats.

The proposal is for change of use from sui generis public house to sui generis takeaway.

The principle considerations in the assessment of this application are:

- Principle of development
- Design, Character and Appearance
- Neighbouring Amenity

Principle of Development

The application site is located within the Gravesend Town Centre Opportunity Area and the Primary Shopping Area. Policy CS05 (LPCS) states that the Opportunity Area will be the principal focus for town

centre related economic and social activity in the Borough and that this will be achieved by consolidating the existing retail area, encouraging a mix of employment and residential uses, improving its role as a transport hub by the creation of a public transport interchange, promoting an evening economy through giving support to the provision of leisure uses and taking full advantage of its heritage and riverside setting.

Policy CS08 (LPCS) states that the Council will seek to reinforce a sustainable network and hierarchy of centres which includes 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.

Within the northern part of the High Street up to Jury Street on the west and & the Town Hall on the east there are the following uses:

Western side:

Unit No.	Name	Use Class
40	Primark	E(a)
43	Subway	E(a)
44 (Application site)	Room Forty Four Public House	Sui generis
45	Demolished	N/A
46	Body & Sole	E(a)
47	Cult Salons	E (c) (iii)
48	725 (employment agency)	E (c) (ii)
49	Vacant (was previously Blu Dolls Beauty)	E (c) (iii)
50	House of Beauty Academy	E (c) (iii)
51-53	Mieszko European Food Supermarket	E (a)
54	Toxic Angel Fashion Boutique	E (a)

Eastern side:

Unit No.	Name	Use Class
1-2 King Street	Starbucks	E (c) (iii)
35	Blackwell Jewellers	E(a)
34	KT Nails	E (c) (iii)
33	TJ's E-Cigarettes & CBD	E(a)
31	Afro Beauty	E(a)
29-30	Vacant	Formally E(a)
27-28	Demolished	E (c) (ii)
25-26	New build currently vacant – approved plans show it to be two separate retail units	E(a) x2
24	Aslamtex	E (a)

Therefore, out of the 19 units (excluding the application site):
 12 are E(a) display or retail sale of goods other than hot food;
 2 are E (c) (ii)
 5 are E (c) (iii)
 The others are either demolished buildings.

In this case there is considered to be a healthy amount of retail uses and other appropriate services in a commercial, business or service locality in the units in this northern half of the High Street. There are no

other hot food takeaways and the proposal would be the first in this northern half of the High Street therefore there would be no over-predominance of takeaways.

It is considered the change of use of the application unit from a public house to a hot food takeaway would not harm the overall retail function of the town centre. The existing lawful use of the application unit is already non-retail and so there would be no loss of a retail unit in this primary shopping area. It is also bring an empty premises back into use.

Loss of public house

Paragraph 97 of the NPPF (2023) requires planning policies and decisions to plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

At a local level Policy CS10 (LPCS) states that support will be given to proposals and activities that protect, retain or enhance existing social infrastructure, or lead to the provision of additional infrastructure which improves community well-being. The policy also states that where there is the threat of loss of existing infrastructure, consideration will be given to viability and whether sufficient alternative provision is available.

There are no policies in the adopted Local Plan that specifically refer to the retention of public houses or community assets. However emerging Proposed Policy RE 5 (Retention of Public Houses) of the Regulation 18 (Stage 2) Development Management Policies Document (2020) states:

5.5.7. Planning permission will only be granted for development which results in the loss of an existing public house where:

- It has been demonstrated through the submission of evidence that the public house is no longer economically viable or capable of being made economically viable at a reasonable cost; and*
- The public house has been the subject of continuous effective marketing for a minimum period of 12 months in a lettable condition on reasonable terms, with no reasonable offer refused.*

5.5.8. In considering the acceptability or otherwise of a proposal which would result in the loss of a public house, the Council will also have regard to:

- The role the public house plays in the provision of space for community groups to meet and whether the loss of such space would contribute toward a shortfall in local provision*
- The design, character and heritage value of the public house and the significance of the contribution it makes to the streetscape, local distinctiveness and the historic environment of its location; and*
- The ability and appropriateness of the building and site to accommodate an alternative use or uses without the need for demolition or alterations that may detract from the character and appearance of the building*
- The appropriateness of the proposed alternative use in relation to the location of the site and neighbouring uses, together with the adequacy of parking and delivery arrangements to support the proposed use and potential impact on highway safety; and*
- Whether or not the proposal provides an alternative community service or function*

No evidence or marketing has been submitted with the application to demonstrate that the public house is no longer economically viable. However, given this is only an emerging policy and not yet adopted it carries minimal weight. There are therefore no policies in the adopted development plan which specifically restrict the proposed alternative use of the building as a hot food takeaway. Although ideally it would be useful to have had evidence that the public house is no longer economically viable along with the marketing evidence, there is no policy requirement for such an exercise.

In respect of the other criteria, it is not known whether the public house provided a place for community groups to meet, no information has been submitted in this respect. The proposed plans show there would

be no external changes to the front of the building; at the rear there would be the proposed extraction flue. The existing shopfront is being retained.

Policy CS05 (LPCS) does encourage a mix of employment uses and it would still be a commercial use at ground floor which would support the economic activity of the town centre including the night time economy.

The proposed development would bring an empty unit back into use and would provide employment for staff when operating although no details of specific numbers have been provided on the application form.

It is considered that on balance after considering all the issues the proposal would not lead to a predominance of hot food takeaways in the High Street and would not harm the retail function or sub-regional role of Gravesend town centre or its economic activity and that the change of use from a public house to a takeaway is an acceptable development in principle. As such in respect of principle of development the proposal is considered compliant with Policies CS05 and CS08 (LPCS).

Design, Character and Appearance including Heritage

The proposed development would comprise of a change of use, with the only external alteration being associated with the installation of the extraction flue on the rear elevation of the building. The current shopfront is being retained. The rear elevation of the building is visible from Princes Street to the west although it is largely obscured from view from most angles by the two storey building which is situated at the rear of 44 High Street. The extraction flue would follow the rear wall and extend slightly above eaves level. The flue is shown as black on the proposed elevation drawing although it is not clear if this is the exact proposed colour or not. The rear of the building is stone coloured render. There are waste water pipes which are grey. Given that the rear elevation of the building is visible from Princes Street it is considered that should permission be forthcoming a condition should be attached to request details of the exact appearance and colour finish of the extraction flue. Subject to this, it is considered that the proposal would not cause harm to the character of the building or the streetscene and would preserve the character and appearance of the High Street & Queen Street Conservation Area. In respect of design, character and appearance including heritage the proposal is considered compliant with Policies CS19 and CS20 (LPCS) and saved Policy TC3 (LPFR).

It should be noted that no changes are proposed to the current shopfront. No details regarding signage or advertisements have been submitted as part of this application. Separate advertisement consent would be required for any illuminated signage which will be determined on its own merits. For the avoidance of doubt, an informative will be add to the decision notice informing the applicant of this.

Neighbouring Amenity

There is residential use on the upper floors of the application site and on the upper floors of nearby neighbouring buildings. The introduction of a takeaway at the application site has the potential to cause adverse odour and noise/disturbance impacts to the occupiers of any surrounding residential properties from cooking/odour extraction activities and customer visits/activities. An extraction flue is shown on the proposed rear elevation drawing but no further details are given on the proposed extraction system. GBC Environmental Protection raise no objections to the proposal but advise that an appropriate kitchen ventilation system will need to be installed to ensure that odour and noise are dealt with. To this end they advise that an Odour assessment and a Noise Assessment will be required which they advise can be conditioned with a timeframe of prior to works commencing. These pre-commencement conditions have been agreed with agent, should permission be forthcoming. It is stated on the application form that the opening hours would be 12:00 – 22:00 Monday – Friday; 12:00 – 23:00 on Saturdays and 12:00 – 22:00 on Sundays and Bank Holidays. GBC Environmental Protection raise no objections to these and the hours are in line with other such uses in the town centre; they are therefore considered acceptable and would need to be conditioned. GBC Environmental Protection advise that in order to protect the residential use on the upper floors it should be conditioned that details of any lighting shall be submitted. Any illuminated signage would require Advertisement Consent which can be added as an informative. No details of refuse provision have been provided and therefore should permission be forthcoming details would need to be conditioned.

As the existing use is a public house it is considered there should be sufficient refuse provision possible.

Overall, it is considered that subject to conditions the proposed development would have no significant adverse impacts on the residential amenity of any surrounding neighbouring premises and in respect of neighbouring amenity the proposal would be compliant with Policy CS19 (LPCS).

Parking and Highways

The proposal is for a takeaway however, the site is located in the High Street which is a pedestrianised street and closed to all traffic between the hours of 10:00 – 20:00. The GBC Highways Officer advises that there are no objections to the proposed change of use to a takeaway as it is situated in the town centre with other similar units nearby and so a highway ground of refusal would be highly unlikely to be sustainable at appeal. As such in respect of parking and highway safety the proposal is considered acceptable and compliant with Policy CS11 (LPCS) and saved Policy P3 (LPFR).

Any Other Material Planning Considerations

Conclusion & Recommendation

Subject to conditions (the applicant has agreed the pre-commencement conditions) the proposal is considered acceptable in respect of the principle of development, design, character and appearance including heritage, neighbouring amenity and parking and highway safety.

Recommendation: Permission subject to conditions.

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Ms Rebecca Harrison	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	28th March 2024	Dated:	28 March 2024