

Delegated Report

Change of Use Planning Application

Planning Application No: 20221056

Location: The Thai Food Supermarket 18 Milton Road Gravesend Kent

Description: Change of use to a takeaway and installation of a canopy hood with new extractor flue to the rear.

Applicant: Mr Laurentiu Bogdan, Lamati Ltd

Site Visit Date: 22nd November 2022

Submitted Documents/Plans

- Planning Application Form;
- Supplementary Information – Design & Access Statement / Heritage Statement; and
- Drawing No. P02 Rev P1 – Existing and Proposed Floor Plans and Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
19890367	Retention of the shopfront.	Permission	07.09.1989
19890366	Continued display of the internally illuminated fascia sign and the double-sided projecting box sign at fascia level.	Consent	07.09.1989
19881035	Retention of illuminated sign.	Withdrawn	01.03.1989
19881034	Display of internally illuminated double sided projecting box sign and replacement internally illuminated fascia box sign	Withdrawn	01.03.1989
19830703	Display of internally illuminated double sided projecting box sign and replacement internally illuminated fascia box sign	Consent	01.11.1983
19770858	Display of an illuminated fascia sign	Consent	28.12.1977
19770303	Display of an illuminated box fascia sign	Refused	23.06.1977
19760627	Change of use of shop to restaurant	Permission	20.10.1976

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS05 - Gravesend Town Centre Opportunity Area

- CS07 - Economy, Employment and Skills
- CS08 - Retail, Leisure and the Hierarchy of Centres
- CS12 - Green Infrastructure
- CS18 - Climate Change
- CS19 - Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 - Vehicle Parking Standards
- S7 - Hot Food Shops and Restaurants
- 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.

Other Material Considerations

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Council has a statutory duty in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended 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 (2021)

- 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
- Section 16 – Conserving and Enhancing the Historic Environment

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006)
- Milton Place Conservation Area Character Appraisal (2009)

Consultations, Publicity and Representations

Local Ward Councillors - No comment received.

Internal Consultees

GBC Conservation Officer - No comment received.

GBC - Regulatory Services (Environmental Protection)

Very little information has been submitted with this application so it's difficult to make an informed response. In this respect, there are concerns regarding odour and noise control in relation to the proposed takeaway. There are no details of the type of cuisine proposed or hours of use of the takeaway. Although the plans show an extraction canopy, ducting and flue location, there are no details regarding the layout of the kitchen, type of equipment to be used or the extract ventilation (fan, filtration etc). All of these can have a bearing on any impact to nearby premises (there appear to be some residential properties above this parade of shops/businesses).

A kitchen extract system will be needed and this must be designed and installed in accordance with the EMAQ/Defra Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018 update). To be compliant with the guidance, a high-level discharge flue will be needed, and it has been indicated on the plans that this will be above eaves level. The applicant is advised to seek guidance from a specialist kitchen ventilation designer/installer to see whether this height of flue will be sufficient for odour dispersal as the area to the rear is quite built up which can have an impact on fume dispersal.

With regards to hours of use, it will be important to ensure that the hours do not result in disturbance to any local residents from customers or food collection/delivery vehicles (Uber Eats etc). It is not known whether the flat above is in the same ownership, so it will be important to ensure that any noise generated within the takeaway kitchen or serving area does not result in a nuisance to the residents above. It is noted that other takeaway/food premises in this parade of shops close at 11/11.30pm, so this may be appropriate.

In respect of this and other matters, it is recommended that the following be considered and conditioned as necessary:

Odour/Fumes: 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

Noise: 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

Hours of use/Opening hours: It is advised that appropriate opening hours are placed on any permission in order to protect the local amenity. Environmental Protection would consider the following as reasonable opening hours in this location:

Monday to Saturday: 11am to 11:30pm

Sundays and Bank Holidays: No opening

Smoke Control Informative: The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991

shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions, and they can only be used for the fuel for which they are designed. When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk

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 (including any illuminated advertising signage) that illuminate anything other than the ground within the curtilage of the new properties in order to assist in preventing a nuisance from occurring (which would be most likely if the bedrooms on neighbouring properties are illuminated). Illuminated advertising signage should comply with ILP Lighting Guide 05: The Brightness of Illuminated Advertisements.

Code of Practice on Construction and Demolition: Please apply to prevent nuisance from noise and dust during demolition and construction occurring to nearby residential and commercial premises.

GBC - Regulatory Services (Commercial Health)

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. Further detailed plans are therefore required.

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. **I note that this food business has already registered with the Council.**

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.

Where inspection chambers become part of the internal structure of the kitchen they must be closed with a secure, sealed, airtight cover.

Ensure that any waste pipes which become part of the internal structure of the kitchen terminate externally at an appropriate height.

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. **I note currently the plan shows the WC leading out directly into an office space. If this office is to become a food room than a intervening, ventilated space must be provided.**

The provision and location of sinks and wash hand basins is an important consideration in the design and planning of a kitchen. A minimum of 1 wash hand basin and a double sink unit suitably located in food preparation and serving areas must be installed. A dishwasher is also recommended. **The current plans do not show sufficient sinks and wash hand basins. Ideally, you would need a wash hand basin in the serving area and the rear kitchen.**

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>

GBC – Highways Officer

Ideally and under normal circumstances, I would recommend refusal for a takeaway on this section of the A226 as it is a major through route that also serves the town centre. However, there are several similar establishments in the row of shops and there are waiting and loading restrictions in place. If the restrictions are enforced it should prevent on street parking, accept for the collection of prepaid orders when loading restrictions do not apply. This in theory should minimise the disruption to the free flow of traffic, although in practice it is impossible to enforce all restrictions all of the time.



Google Street View.

Given the number of takeaways in the area I have no objections.

Neighbouring properties

The application was advertised by way of a site notice and individual letters sent to eight surrounding properties with an overall expiry date of 26th December 2022. No representations were received.

Officer's Analysis

This application is for the change of use to a takeaway and installation of a canopy hood with new extractor flue to the rear. The application does not propose any external alterations to the frontage, with the proposed flue being located to the rear which would not project above the ridge line and therefore not visible from the streetscene.

There have been no details submitted relating to the operation of the premises including type of food, hours of operation or details regarding the layout of the kitchen, type of equipment to be used or the extract ventilation (fan, filtration etc).

Site Context and Proposal

Policy CS08 of Gravesham Local Plan Core Strategy (LPCS) seeks to support development of a scale and type appropriate to the position of the centre in the hierarchy and their character and safeguard the retail character and function of existing centres. At a national level the NPPF (2021) states at paragraph 81 that significant weight should be placed on the need of supporting economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The application site is within the Gravesend Town Centre Opportunity Area (Policy CS05). Policy CS05 (LPCS) seeks to ensure that the competitiveness of the town centre is improved through economic and social activity, by supporting and enhancing; retail, leisure and entertainment, whilst maintaining a satisfactory living environment.

Saved Policy S7 of the Local Plan First Review (LPFR) (1994) states that hot food shops and takeaways 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 not interrupt the free flow of traffic and finally that ventilation trunking should be discreetly located.

The site forms part of the parade of shops and premises on Milton Road, which has a mixture of uses (see table below):

List of occupiers (November 2022)

Address	Occupier	Use Class
15 Milton Road	TJs Free House	Sui Generis
16 Milton Road	Day 1 Local Express Newagent	Class E
17 Milton Road	Bollywood Beauty Salon	Sui Generis
18 Milton Road	**Application Site** The Thai Food Supermarket	Class E
19 Milton Road	Aroma Restaurant and Takeaway	Class E
20 Milton Road	RT Dosa Restaurant	Class E
21 Milton Road	Kismet Kebab House	Sui Generis

As shown in the table, the units on this section of Milton Road are a mixture of Class E and Sui Generis usage. The application site has been used as a Thai Food Supermarket (Class E) which is now currently vacant. The Local Planning Authority considers the loss of a Class E unit and its replacement with a Sui Generis use to be acceptable in this location as it will not tip the balance of uses. Therefore, it is considered that the proposal safeguards the retail function in accordance with Policies CS05 and CS08 (LPCS), saved Policy S7 of the LPFR as well as paragraph 81 of the NPPF (2021).

Design, Character and Appearance

No external changes are proposed to the front elevation of the retail unit as part of this change of use application, however a canopy hood with new extractor flue is proposed to the rear. The flue would measure 4.29m in height and would not project above the roof ridge of the building and as such would not be visible from Milton Road. Due to the arrangement of the application and surrounding buildings and roads, minimal views of the rear of the site would be afforded from public vantage points. Given that the site is within the Milton Place Conservation Area, Policy CS20 (Heritage and the Historic Environment), any changes to the frontage of the property must be carefully considered and will be addressed at planning application stage. Moreover, alterations to the frontage of the property and changes to advertising would require a separate advertisement consent.

Therefore, without any alterations to the front being proposed in this application, there is no conflict with Policies CS19 or CS20 (LPCS).

Neighbouring Amenity

Policy CS19 (LPCS) seeks to protect amenity and ensure acceptable future living conditions, as well as saved Policy S7. The NPPF also assists and seeks to ensure developments will function well, do not undermine quality of life and create attractive and comfortable places to live, work and visit and seeks to “secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

Under this proposal the key issues that would affect neighbouring amenity relate to the hours of operation, noise, odours, traffic generation and car parking.

No details relating to operation of the premises, including hours of operation, together with type of cuisine

provided, kitchen layout and details relating to noise and odours that would result from the flue and ventilation system, have been submitted with this application, and as such it is not possible to sufficiently assess the impact on neighbouring amenity.

The GBC – Environmental Protection Officer has stated in their comments that without this information, it would not be possible to fully assess the impact of the proposal adequately to provide an informed response.

It will therefore be necessary to assess the application as submitted and impose any necessary conditions, as laid out in the relevant sections below.

Hours of Use

The application does not propose any opening hours. Taking into consideration the surrounding area and uses within the immediate vicinity, the GBC – Environmental Protection Officer has proposed the following hours of operation in order to protect the local amenity:

Monday to Saturday: 11am to 11:30pm
Sundays and Bank Holidays: No opening

These hours are considered reasonable opening hours in this location and will be added as a condition on any forthcoming decision.

Noise

The application has not been supported by any information relating to noise and no noise impact assessment has been provided. GBC Regulatory Services (Environmental Protection) are concerned about the potential for a nuisance to be caused by noise, and have requested a planning condition to ensure that a noise impact assessment is submitted and approved in writing by the Local Planning Authority. The first floor level will be retained as office space, with no residential accommodation proposed as part of this application.

Odours

The application has not been supported by any information relating to the extraction systems to eliminate odours. GBC Regulatory Services (Environmental Protection) are concerned about the potential for a nuisance to be caused by the odour, and have requested a planning condition to ensure that details of the ventilation extraction system, particularly regarding odour elimination abilities, should be submitted for the approval of the Local Planning Authority.

No first floor plans have been submitted with this application and therefore there are no changes proposed at first floor level as part of this application.

Parking and Highways

Policy CS11 (LPCS) seeks to ensure that new developments mitigate their impact on the highway and provide sufficient parking in accordance with adopted parking standards.

The Highway's Officer has raised concern with the location of the proposed takeaway and its potential impact on the flow of traffic through this major through route. However, there are several similar establishments in the row of shops and there are waiting and loading restrictions in place.

Although the concerns relating to traffic flow are a consideration, the loading restrictions in place, together with other similar establishments being within the immediate area, it not considered there to be sufficient grounds to refuse the change of use. A condition will be attached to the decision notice to ensure that prior to first operation, details of deliveries, the location of deliveries and any potential vehicles associated with

delivering food to customers will be submitted to the Local Planning Authority.

Suggested Conditions

- Time Limit
- Approved Plans
- Restriction on Use
- Opening Hours
- Details of the Extraction System
- Noise Impact Assessment
- Details of deliveries, location of deliveries and any potential vehicles associate with delivering hot food to customers

In addition to the suggested conditions, there will be informatives attached to the decision notices relating to:

- For the avoidance of doubt no alterations to the frontage
- For the avoidance of doubt alterations to the frontage and changes to the advertisement consent required

Conclusion

The application has been fully considered and is in accordance with local and national planning policy.

The proposed change of use of the property to a hot food takeaway is considered be acceptable in this location. The new Sui Generis use will not impact the function or variety of the street scene and subject to conditions will have no impact on amenity. The frontage of the property will not change as part of this proposal and there will be no changes to the advertising arrangement.

Overall it is recommended that planning approval is granted, subject to conditions.

Recommendation

Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:	<i>A Grout</i>	Signed:	<i>R Hart</i>
Dated:	21 st December 2022	Dated:	21st December 2022