



Delegated Report

Householder Planning Application

Planning Application No: 20211061

Location: Keen Fork Ltd 148 Parrock Street Gravesend Kent

Description: Change of use of a shop (class E) to a hot food take away (Sui Generis) with installation of an extractor/vent system

Applicant: Mr Itayi Mandhiza

Site Visit Date: 4 January 2022

Submitted Documents/Plans

- Application form;
- Drawing no. 01 Rev. 1 – Location Plan;
- Drawing no. 02 Rev. 1 – Site Plan;
- Drawing no. 3 Rev. 1 – Proposed Floor Plan;
- Drawing no. 04 Rev. 2 – Front Elevations;
- Drawing no. 05 Rev. 1 – Rear Elevations;
- Drawing no. 06 Rev. – Existing Floor Plan;
- Planning, Design & Access Statement;
- Site Plan;
- Detail of the Proposed Extraction System;
- Noise Impact Assessment by Venta Acoustics; and
- Copy of Delegated Report Reference 20210175.

Relevant Planning History

Application No.	Description	Status	Decision
20210175	Application for a determination pursuant to Article 3 of and Class C(a) and (b) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use from Class E (retail) to Class E (restaurants).	Prior Approval Required & Refused	24.05.2021

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS05 – Gravesend Town Centre Opportunity Area
- CS11 - Transport
- 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 (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
- 8 – Promoting Healthy and Safe Communities
- 9 – Promoting Sustainable Transport
- 12 – Achieving sustainable development and well-designed places

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006)

Consultations, Publicity and Representations

Consultees

GBC Highways Officer

I note this is a resubmission of a previous application but this time as a pure takeaway unit.

As a hot food takeaway there are road safety issues. Will drivers use the car park or if they are just collecting instead park on Parrock Street ignoring the on street waiting restrictions as there is little prospect of being fined for illegal parking. This would restrict the free flow of traffic and be a potential safety hazard with vehicles exiting the Council public car park, being confronted with slowing or stopped vehicles. The issue is however complicated by the existing Pizza place next door.

Looking at the application for the Pizza takeaway I note my comments were;

“Application Number 20200615

Location;- I Love Pizza Ltd 147 Parrock Street Gravesend Kent DA12 1EY

This proposal gives some concern. Parrock Street is a major route into and out of Gravesend Town Centre and unfortunately customers using takeaway establishments do not always recognise on street parking controls giving the transient nature of their business. The risk of receiving a penalty notice is minimal. Against this has to be set that there is a very large public pay and display car park opposite.

In isolation, I do not see a highway recommendation for refusal on the grounds of the potential on street parking adversely affecting the free flow of traffic and creating a safety problem with parked vehicles blocking visibility for pedestrians crossing Parrock Street would be successful at appeal given the on street waiting restrictions and the large public car park opposite.

Ideally I would suggest a temporary permission to determine whether the proposed use would in fact create a problem."

Nothing has changed since then, so those comments equally apply here.

GBC Environmental Protection (Regulatory Services)

Following a review of the applicant's submissions we have the following comments;

Noise Control

The noise impact assessment report by Venta Acoustics, reference VA3730.210818.NIA1.1, recommends actions to mitigate noise nuisance. We advise that all these recommendations must be implemented and evidence of their implementation provided to the LPA.

Opening Hours

After reviewing the applicants Design and Access Statement, which advises only non-alcoholic drinks, such as coffee, and breakfast will be sold in the morning, and reviewing the nature of the locality, we now consider that an opening time of 7am Monday to Friday is acceptable and will not likely adversely affect local residents on those days. We therefore recommend that the following hours submitted by the applicant are conditioned;

Monday to Friday:
07:00 to 10:30
12 noon to 22:00

Saturday:
12 noon to 22:00

Sunday and Bank Holiday;
17:00 to 22:00

Odour/Fume Mitigation

The applicant has provided a list of parts, a manufacturer's brochure for an Airclean UV Ozone unit and plans of the floor and rear elevations with a basic outline of the unit and flue. The Airclean 'Odour Neutraliser' unit however would only be part of the extraction system. No details of filters have been provided, nor has a suitable diagram of the extraction system installation been provided. We are therefore unable to consider the applicant as having submitted sufficient information to make a determination as to the suitability of the extraction system.

The applicant should be advised to provide a detailed cross section showing the design of the entire extraction system intended to be installed, including details of the filtration system to be used, dimensions of ductwork, including height above roof level, and location of noise mitigation measures of the system as recommended in the noise impact assessment report. It is recommended that they employ an odour/fume mitigation consultant to design the system and provide suitable annotated plans of the intended installation.

Smoke Control Area

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

Drainage/sewerage

The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems.

Code of Practice on Construction and Demolition

Please apply.

Neighbouring properties

16 surrounding properties were consulted plus site and press notice – overall consultation expiry date was 5 November – 15 responses received the comments of which can be summarised as follows:

- Existing takeaways in parade already impact badly – on residents in terms of noise, odours, anti-social behaviour – another takeaway will exacerbate all these issues;
- Will be a clustering of takeaways, already too many in parade;
- Trunking will be unsightly;
- Odour impacts from cooking smells;
- Noise and disturbance from use and extraction;
- Late night business creates dead frontage in day
- Litter
- Rat and fox problem will increase
- This is a residential area
- Area is regenerating with other business such as accountants, travel agents etc.
- On-street parking – pedestrians have already been hurt from cars pulling up on pavement for existing takeaways;
- The I Love Pizza at 147 recently approved has caused impact on them from cooking smells such that they had to keep their windows closed;
- Latino Afro cuisine is not unique in area there is one in Queen Street;
- Too many takeaways in area it is now economically unviable for them such as Parrock Grill which has been closed for months
- Loss of a viable business (travel agents) and replacement with another takeaway is not right when already have saturation of takeaways in parade including one which has been closed for a while;

Officer's Analysis

The application site relates to the ground floor of a two-storey building, which forms part of a terrace of Victorian properties in mixed residential and commercial use. The property is situated on the junction of Parrock Street and Edwin Street, in the Town Centre Opportunity Area, as defined in the Gravesham Local Plan Core Strategy (2014). The ground floor of the unit is currently vacant but was previously a travel agent; the upper floors contain a self-contained flat.

Appropriateness of the development in principle

The application site is located within the Town Centre Opportunity Area. Policy CS05 states that this area will be the principal focus of 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 though giving support to the provision of leisure uses and taking full advantage of its heritage and riverside setting. Within the Opportunity Area it states the Council will support and enhance retail, leisure, entertainment, cultural and tourism provision in accordance with the sequential approach.

Saved Policy S7 of the Gravesham Local Plan First Review November 1994 sets a number of criteria which must be met for changes of use of retail units to restaurants and takeaways to be considered acceptable. These include not clustering with similar uses to create a dead frontage, not being detrimental to residential amenity, having sufficient parking and for ventilation to be discreetly located.

The parade of shops of which the application site is situated includes:

- No. 149 - New Generation Hair Salon (Class E)
- No. 148 – (Application site) Gravesend Travel Ltd (Class E)
- No. 147 – I Love Pizza takeaway (sui generis)
- No. 146 - 5* Eastern European Mini Supermarket (Class E)
- No. 145 – Parrock Grill (sui generis)
- No. 144 - Medivet Vets (Class E)
- 142 – 143 - ATN Partnership (Class E)
- 141 – Residential (C3)

Therefore, out of the 8 units in the parade there are five Class E uses, two takeaways (sui generis) and one residential. The proposed takeaway use would be the third added to the parade. There would be two takeaways next to each other – the application site and I Love Pizza at no. 147 permitted under ref. 20200615. However, as there would be only two takeaways next to each other as opposed to three or more in a row for example this is not considered to amount to clustering and so the proposal would be compliant with criterion (i) of Saved Policy S7 and would not affect the vitality or viability of the Opportunity Area. Therefore, it is considered that the proposal would be in line with Policy CS05 of the Gravesham Local Plan Core Strategy (September 2014).

The following sections will consider the proposal against the other criteria in Saved Policy S7 of the Gravesham Local Plan First Review November 1994.

Character and Appearance

The proposed development would comprise of a change of use, with the only external alterations proposed being new signage (which is already there without consent) and extraction duct. As the signage is illuminated

The signage would consist of a new fascia sign – as this would be illuminated it would require Advertisement Consent and so cannot be assessed or dealt with in this application. The agent will be advised and an informative added to advise also. Description will need to be amended to remove reference to sign and also two drawings.

The ducting would be situated on the rear elevation, no details given of finish. Given the rear location and that there are other such ductwork on neighbouring premises it is considered no objections can be raised to the ductwork in terms of character and appearance subject to condition on its finish.

Therefore, subject to conditions it is considered the proposal would be acceptable in terms of character and appearance and therefore compliant with Policy CS19 of the Core Strategy.

Neighbouring Amenity

The majority of the units in the parade have flats above them and the surroundings of the site are predominantly residential to the rear.

Typically a takeaway use generates relatively high levels of vehicular and pedestrian activity and trades well into the evenings. On the application form it is stated that the use will open from 07:00 – 22:00 Monday – Friday; 12:00 – 22:00 on Saturdays and 17:00 – 22:00 on Sundays and Bank Holidays.

There are two existing hot food takeaways in the parade currently. Consequently, one would expect there to be a certain amount of noise and disturbance in the evenings already from customers congregating outside the premises and also possible vehicle movements and parking and indeed a number of the objections to the proposal raised the issue that there is already disturbance and odours from the existing takeaway and they would not wish for anymore. It is considered the presence of two existing takeaway uses does not mean that a third would be unnoticed. It would seem to be the case that a third hot food takeaway would be likely, at least to a degree, to add to general noise and disturbance occurring outside the premises in the evenings. However, the opening hours proposed are not particularly late (nothing past 22:00) and the proposed floor plan submitted shows a small front lobby area where customers would stand and wait suggesting there would not be a significant number of customers. Moreover, the residential nature of the surrounding area also means that it is reasonable to assume that many potential customers may live locally and would walk to the premises, or may have their purchase delivered. It is also the case that any excessive or undue noise that occurred from the proposed use that could lead to a detrimental effect on residential amenity or health would be subject to other regulatory legislation controlled by Environmental Health.

The application is accompanied by a Noise Impact Assessment Report by Venta Acoustics which includes details of the extraction system proposed and assesses the impact of noise from the system and also through floor to ceiling from use on flat above. Subject to mitigation measures the report considers the amenity of neighbouring residents would be protected in terms of noise. Regulatory Services also advise that all these recommendations must be implemented and evidence of their implementation provide to the LPA and subject to that raise no objections concerning noise matters. In terms of odours Regulatory Services advise that the applicant has not provided sufficient information of the ventilation extraction system and detail what is required. In terms of this matter it is considered that this can be conditioned that full details of a ventilation extraction system shall be submitted and approved. Subject to this it is considered the proposal would be acceptable with regards odour.

Regulatory Services advise the opening hours applied for which are Monday to Friday: 07:00 to 10:30 and 12 noon to 22:00; Saturday: 12 noon to 22:00 and Sunday and Bank Holiday; 17:00 to 22:00 are acceptable.

In terms of litter and vermin, which a number of objectors have raised as an issue, providing sufficient refuse storage could be provided which could be conditioned, then no adverse issues should occur. Littering by members of the public is subject to control by environmental legislation and is not a matter that the applicant can be made liable for.

Neighbours contend the use proposed could result in the customers congregating outside the premises, and that this may result in anti-social behaviour which already takes place with the existing takeaways. Given the town centre location with row of commercial uses at ground floor there will be some level of disturbance presumed and expected in such a location. Of more relevance is the view that subject to conditions restricting opening hours to those applied for, the proposed use would not be of significant undue harm in terms of anti-social behaviour

In respect of neighbour amenity, therefore subject to conditions it is considered the proposal would cause no undue harm on the amenity of neighbouring properties and in this regard the proposal is considered compliant with Policy CS19 (LPCS).

Parking and Highways

Despite the issues with takeaway uses and subsequent illegal parking on-street, the GBC Highways Officer does not consider a highway ground of refusal sustainable on the grounds of potential on-street parking given the on street waiting restrictions and large public car park opposite. A temporary permission is recommended but given the same comments were given for the application at no. 147 under ref. 20210615 and a full permission was given it is considered that a temporary permission would not be appropriate or consistent in this regard.

As such it is considered there are no issues regarding parking or highway safety and the proposal is compliant with Policy CS11 of the Core Strategy and saved Policy P3 of the Local Plan First Review.

Conclusion

Although the proposal is acceptable in terms of principle of use, character and appearance and parking, in respect of neighbour amenity, however, the proposed change of use would have a detrimental effect on the amenity of nearby residential accommodation. The use of the premises as a hot food takeaway would lead to noise and disturbance to local residents by reason of associated people noise as well as cooking odours and potential vehicle and parking movements. As such the proposal is therefore contrary to Policy CS19 of the Gravesham Local Plan Core Strategy, September 2014 and Policy S7 of the Gravesham Local Plan First Review 1994 which expects development to safeguard the amenity of neighbouring properties.

Suggested Conditions

Time Limit

Plans

Restriction on opening hours

Rating Level of noise emitted by extraction system

Restriction on use of odour extraction/ventilation system

Restriction on use of premises

Conclusion and Recommendation

Taking all the above into account, and subject to conditions it is considered the proposal given its scale would be acceptable in terms of principle use, character and appearance and would protect the amenity of neighbouring properties and be acceptable in terms of parking and highway safety.

Recommendation: Permission subject to conditions

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Ms Rebecca Harrison	Team Leader:	Richard Hart
Signed:	<i>Rebecca Harrison</i>	Signed:	<i>R Hart</i>
Dated:	10th January 2022	Dated:	11 th January 2022