



Delegated Report

Variation of Condition Application

Planning Application No: 20240838

Location: DEHA Mortgages 66 - 68 Singlewell Road Gravesend Kent

Description: Application for variation of condition 2 attached to planning permission reference number 20240277 for application for variation of condition 6 attached to planning permission reference number 20200131 for works to refurbish and subdivide the existing ground floor A1 Unit, to form part Change of Use to A5 (Hot Food Takeaway) and remaining unit to A1/A2 accommodation including changes to the existing shop front and hard standing. To allow; opening of the premises between 08:00 to 21:00 Monday to Sunday; to allow for delivery services within the permitted operation hours as approved in the aforementioned planning application.

Applicant: Mrs Navkiran Dhinsa

Submitted Documents/Plans

Planning Application Form;
Planning Statement (JMD-1230-M-01-Planning Support Statement-Rev 2; and
Drawing No. JMD-1230-E-01 Drawings-01 Rev P1 – Existing Layout / Areas.

Relevant Planning History

Reference	Description	Decision	Decision Date
20240277	Application for variation of condition 6 attached to planning permission reference number 20200131 for works to refurbish and subdivide the existing ground floor A1 Unit, to form part Change of Use to A5 (Hot Food Takeaway) and remaining unit to A1/A2 accommodation including changes to the existing shop front and hard standing. To allow; opening of the premises between 08:00 to 21:00 Monday to Sunday.	Permission	21.05.2024
20200131	Works to refurbish and subdivide the existing ground floor A1 Unit, to form part Change of Use to A5 (Hot Food Takeaway) and remaining unit to A1/A2. Accommodation including changes to the existing shop front and hard standing.	Permission	06.05.2020
20190695	Works to refurbish and subdivide the existing ground floor A1 Unit to form part change of use to A5 (Hot Food Takeaway) and remaining unit to A1/A2 accommodation including changes to the existing shop front and hard standing.	Refused Appeal Dismissed	13.09.2019 03.02.2020

20180121	Works to refurbish and subdivide the existing ground floor A1 unit, to form part change of use to A5 (hot food takeaway) and remaining unit to A1/A2 accommodation including changes to the existing shop front and hard standing.	Refused Appeal Dismissed	31.08.2018 26.04.2019
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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
- CS11 – Transport
- CS18 – Climate Change
- CS19 – Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- S7 – Policy for 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 7 – Ensuring the vitality of town centres
- Section 9 – Promoting healthy and safe communities
- Section 12 – Achieving well-designed and beautiful places

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006).

Consultations, Publicity and Representations

Consultees

KCC Highways and Transportation

The variation of condition proposes to provide a delivery service, alongside the existing hot food takeaway, within the permitted operational hours.

A Planning Support Statement has been submitted, which clarifies that there will be a directly employed single rider, who will provide local deliveries only, using a push bike, electric cycle or on foot.

Consequently, this would not have any significant impact on the local highway network and I would raise no objection to the proposals.

I would advise the applicant to provide secure, covered cycle storage.

It is important to note that Local Planning Authority (LPA) permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because LPA planning permission has been granted.

GBC – Environmental Protection

The Planning Statement submitted with this application advises that delivery will be by push bike, electric bike or on foot. Noise and parking problems generally tend to occur when delivery drivers use mopeds, cars etc and gather round outside the premises waiting for orders to be ready. If the delivery method can be restricted to that detailed in the application, then there is no objection to this.

Neighbouring properties

Twelve surrounding properties were consulted with an overall expiry date of 22nd October 2024. Twenty letters of support were received and thirteen letters of objection were received, however five of these were from the same address. Therefore as only letter can be accepted from each address, only 9 letters of objection making the following summarised comments:

- Fumes
- Noise
- Additional Traffic
- Lack of delivery vehicle storage details
- Pedestrian Safety
- Odour
- Waste

A significant amount of the comments made refer to the existing takeaway use, which already has permission.

Officer's Analysis

The application site consists of an existing commercial unit located on the corner of Singlewell Road and Cross Lane East and forms part of a small parade of shops and other commercial units. The area is characterised by a mix of residential and commercial. Immediately to the north is Trokes News (newsagents), further along the parade of shops is a hairdressers, a hairdressers, an off licence and an autocentre.

Planning permission was granted under reference number 20200131 for 'Works to refurbish and subdivide the existing ground floor A1 (now Use Class E) Unit, to form part Change of Use to A5 (Hot Food Takeaway) (now Sui generis) and remaining unit to A1/A2 (now Use Class E) Accommodation including changes to the existing shop front and hard standing' on 6th May 2020 and which was subject to a number of conditions. (Use classes were revised on 1 September 2020 and Use Classes A1/A2 are now Use Class E and A5 is now Sui generis).

A subsequent application to vary condition 6 (App. Ref. 20240277) to allow for a change of the opening hours to 08:00 - 21:00 on any day, which was given planning permission on 21st May 2024 and was subject to two conditions:

Condition 2 states:

The A5 use hereby permitted, including any associated deliveries to the premises shall be restricted to between the hours of 08:00 and 21:00 daily. There shall be no deliveries to customers from the premises in association with this use at any time nor any collection of food to take away outside of these stated hours and all on site activity shall cease 60 minutes after closing to customers.

Reason: To safeguard the amenities of occupiers of adjoining and nearby properties and in accordance with saved Policy S7 of the Gravesham Local Plan First Review 1994 and Policy CS19 of the Gravesham Local Plan Core Strategy 2014.

It is only matters relating to condition 2 which can be considered in the assessment of this application and no others.

Design, Character and Appearance

The application site is located within a Local Centre. The proposal to allow for delivery services within the permitted operation hours will result in no external changes to the building. However if planning permission were to be forthcoming it would be necessary for a secure, covered cycle storage to be provided, which could be secured under an appropriate worded planning condition.

Therefore in terms of character and appearance, there would be no material change to the building itself. The proposal for a delivery service, this would have the potential to have additional activity but would not significantly alter the existing use.

As such and in relation to the assessment of the application as submitted, there would be no impact in terms of character and appearance. In respect of this, the proposal is therefore compliant with Policy CS19 (LPCS).

Neighbouring Amenity

Policy CS19 of the LPCS states that new development will be located, design and constructed to safeguard the amenity of its occupants and those of neighbouring properties and land and avoid adverse environmental impacts from pollution, including noise.

Paragraph 135(f) of the NPPF 2023 states that development should ensure to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

When the approved planning application (App. Ref. 20200131) was submitted, there was not considered to be any significant impact from the proposal in respect of neighbouring amenity. It was stated in the Delegated Report that there were no objections or concerns were expressed by Regulatory Services at the impact on nearby residential properties in terms of noise and disturbance.

The application to which this relates (App. Ref. 20240277) to allow the opening of the premises between 08:00 to 21:00 Monday to Sunday was approved and it was stated in the officer report that the proposed change to the closing time would not cause any undue impact on the neighbouring premises and would be in line the opening hours of surrounding commercial properties. However, this application was assessed without the inclusion of a delivery service and it was deemed necessary to include wording within condition 2 to this affect. Condition 6 of the original permission (App. Ref. 20200131) also stated that no deliveries would take place. No application to vary this condition has been submitted.

Whilst the premises already operate as a takeaway with customers arriving both on foot and vehicle, it is likely that adding a delivery service to the premises would increase the activity and comings and goings above what is already experienced, which would be up to 21:00 Monday to Sunday. Whilst the supporting Planning Statement has said that the service would be provided by push-bike only which would limit vehicle noise, the type of vehicle used for a delivery service would be very difficult to regularise and enforce, even through the use of planning conditions. It is therefore considered that if planning permission were given for a delivery service, the use of cars or mopeds is likely to be used as well as push bikes, which would add to the noise and disturbance, as well as the additional activity.

As such, it is considered that a delivery service operating up to 21:00 would result in additional noise and

disturbance to the surrounding residential properties, contrary to Policy CS19 (LPCS) and paragraph 135(f) of the NPPF (2023).

Parking and Highways

The initial application for the change of use of these premises (App. Ref. 20180121) was refused by the local authority, was appealed and dismissed by the Inspector who made the following comments relating to highway safety:

“after 1830, when the number of people visiting the takeaway is likely to peak, the evidence before me indicates that the majority of the on-street spaces in the area are occupied and as such there is a high likelihood the spaces close to the appeal site on Cross Lane East would be occupied at peak times on many evenings. I consider it unlikely that all takeaway customers would visit the 3 other parking areas in order to find a space in such circumstances and therefore can envisage some customers choosing to park on the double yellow lines next to the road junction and the associated pedestrian crossings. Due to the relatively narrow width of the roads and high levels of traffic, the scope for accidents would in my view be unacceptably high.”

In 2019 a further application was submitted (App. Ref. 20190695, Appeal Ref. APP/K2230/W/19/3237591 attached Appendix 1) and refused by the local planning authority. This was also dismissed at appeal. The proposal included a delivery service and the Inspector made the following comments:

“In relation to the proposed home delivery service, drawing No D1.01 Rev B shows a parking area for 3 delivery scooters on the forecourt adjacent to Cross Lane East. This would be accessed via an existing narrow dropped kerb close to the traffic signal controlled junction. The Highway Authority considers that the dropped kerb is a redundant pedestrian crossing point rather than a vehicular crossover. I observed that there is a narrow dropped kerb on the opposite side of the road, which does not provide vehicular access to a property. Having regard to the narrow width of the dropped kerbs and their position opposite each other close to a junction, I agree with the Highway Authority. Given the narrow width of the dropped kerb, I do not consider that it would provide a safe access for delivery scooters.

Moreover, the forecourt to the front of the appeal property is narrow and therefore manoeuvring across the pavement would be required in order for delivery scooters to utilise the narrow dropped kerb. This would be likely to cause danger to pedestrians, particularly after dark.

I have had regard to the appellant's statement that a management strategy will include non-powered (pushed) movement across the pavement for pedestrian safety. Nevertheless, I cannot be certain that such a strategy would be followed by riders. Riders would be likely to be under pressure to deliver hot food orders quickly and therefore they are likely to look to enter and leave the premises as quickly as possible by riding across the pavement.”

In the application (ref. 20200131) the Highways Officer raised no objections and welcomed the use of bollards to car and vans driving over the footway.

The approved application (App. Ref. 20200131) proposal was therefore deemed to be acceptable in respect of parking and highway safety terms, however this was without a delivery service and with the inclusion of the pavement bollards to stop unauthorised parking/stopping of vehicles.

The supporting Planning Statement on this current application does state that the delivery service would be by pushbike only, however planning permission and conditions are tied to the use of the premises only and not to a vehicle type. It would therefore not meet the tests for the imposition of a condition restricting the type of delivery vehicle used and it would not be possible to constantly survey the premises to ensure that the condition is being met. As such the use of a condition of vehicle type could not be imposed or enforced as necessary.

Looking at the previous applications and the comments from the Appeal Inspector as previously laid out, a

delivery service at this premises, on the busy corner location, would be harmful to highway and pedestrian safety and interrupt the free flow of traffic along the highway.

In respect of parking and highways the proposal is therefore considered contrary to Policy CS11 (LPCS), saved Policy P3 (LPFR) and paragraphs 112 and 113 of the NPPF (2023).

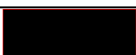
Conclusion

The proposal to allow for delivery services within the permitted operation hours as approved would result in additional noise and activity which would be harmful to the surrounding residents contrary to Policy CS19 (LPCS) and paragraph 135(f) of the NPPF (2023) and would be harmful to highway and pedestrian safety, contrary to Policy CS11 (LPCS), saved Policy P3 (LPFR) and paragraphs 112 and 113 of the NPPF (2023).

Recommendation

Refusal.

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

Case Officer:	Ms Amanda Cue	Team Leader:	Richard Hart
Signed:		Signed:	
Dated:	7 th November 2024	Dated:	8th November 2024