



Delegated Report

Change of Use Application

Application No:	20220233
Location:	16 Windmill Street, Gravesend, Kent, DA12 1AS
Description:	Change of use from estate agents office to takeaway restaurant with existing first floor offices being retained.
Applicant:	Saucy Buns
Site Visit:	N/A Desktop Assessment

Submitted Documents/Plans

- Application Form - dated 17/03/2022;
- Supplementary Information - Email from Agent confirming no changes to external elevations (received 13/06/2022);
- Ordnance Survey Site Location Plan (scale - 1:1250);
- Drawing no. EX. LAYOUT - Existing Floor Plan/Layout;
- Drawing no. JM12311-A100 - Rev. C - Proposed Catering Facilities;
- Drawing no. JM12311-F100 - Rev. C - Proposed Flooring.
- ~~Ordnance Survey Site Location Plan (scale - 1:1250) - SUPERSEDED;~~
- ~~Drawing no. JM12311-E100 - Rev. C - Proposed Floor Plan and Elevation - SUPERSEDED;~~
- ~~Drawing no. JM12311-E100OPT - Rev. C - Proposed Floor Plan and Elevation (option) - SUPERSEDED.~~

Procedural Issues

The original redline plan was incorrect and included the application site along with the neighbour (no.17 Windmill Street). The agent was contracted regarding this error and a revised redline Site Location Plan was submitted and accepted by the Local Planning Authority (01/06/2022). Due to the reduction in the size of the redline, it did not require a full re-consultation. Furthermore, the revised redline Site Location Plan does not include the proposed seating area to the front of the property. The agent was contacted regarding this and informed that the outdoor seating area would not form part of this application as it is not within the redline plan.

Relevant Planning History

Reference	Description	Decision	Decision Date
20071097	External illumination to existing fascia sign.	REFUSED	12.02.2008
20050273	Amendments to the approved scheme to allow a first floor extension to provide enlarged shop on single storey rear extension previously permitted under planning permission reference number GR/04/304.	PERMITTED	26.05.2005

20040304	Erection of first floor extension to the rear of nos. 21 and 22 and single storey extension at the rear of no. 24 to provide enlarged retail areas and erection of an external fire escape staircase at the rear of no. 23.	PERMITTED	27.05.2004
19950648	Application for the approval of the 4 set back of the window and retention of the existing segmental brick arch as required by condition (ii) of planning permission ref. no. GR/95/511.	APPROVA OF DETAILS	13.10.1995
19950511	Alterations to first floor rear elevation to convert existing doorway into a window.	PERMITTED	02.10.1995
19940643	Erection of an external fire escape staircase at the rear.	REFUSED	15.02.1995
19940357	Display of an internally illuminated double sided projecting box sign at first floor level.	REFUSED	31.08.1994
19940345	Change of use of florists shop to an estate agents with ancillary offices at first floor level.	PERMITTED	02.08.1994
19930121	Change of use of ground floor from shop to class A3 (Food & drink) and installation of an external ventilation duct at the rear.	REFUSED	16.06.1993

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.

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 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 - amended June 2020
- Technical Housing Standards - Nationally Described Space Standard (2015)
- SPG 4 - KCC Parking Standards (2006)
- Upper Windmill Street Conservation Area Character Appraisal (2009)

Consultations, Publicity and Representations

External Consultees

KCC - Heritage - No comments to make on archaeological matters.

Local Ward Councillors - No comment received.

Internal Consultees

GBC Conservation Officer - No comment received.

GBC - Regulatory Services (Environmental Protection) - The following to be considered:

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

Extraction system - Having looked through the application it is not clear if an extraction system will be installed and if so, no details of the extraction system have been provided. We believe that the type of premises it has been applied to change into would reasonably require an extraction system for the following reasons:

- *Odour/Fumes* - We are also concerned about the potential for a nuisance to be caused by the odour arising from the proposed use. In order to be satisfied that it would be unlikely to cause a nuisance, details and plans of the ventilation extraction system, particularly regarding odour elimination abilities, residence time of the air within the filters and likely noise emissions should be submitted to and approved, in writing by the Local Planning Authority, prior to determination or commencement. The approved scheme shall then be installed prior to operation in accordance with the approved details.
- *Noise* - Before the development hereby permitted is first brought into use, a post installation BS4142:2014 assessment shall be carried out and submitted to the Local Planning Authority for approval, for the approved extraction system, to demonstrate impact on the nearest Noise

Sensitive Receptors. Any works identified as required to ensure the rating noise is at least 5dB below the LA90 background noise shall be carried out prior to the first commercial use of the extraction system.

Noise Control - Due to the above premises remaining residential. A noise impact assessment must take place and a consultant employed to recommend suitable insulation to prevent a nuisance being caused to the residents in the above premises.

Watching Brief - The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

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 two (2) water closets must be provided. The plans do not currently show any sanitary provision. 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.

Food Safety Comments - 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. Registration is via the Gravesham Borough Council website www.gravesham.gov.uk/food-safety

The proposed kitchen appears to fully comply with current food safety legislation. Structural and operational requirements are covered by the legislation notably EC Regulation 852/2004.

For further advice on starting a food business please visit the FSA website <https://www.food.gov.uk/business-guidance>

GBC - Highways Officer - I do not believe this is the best place for a takeaway.

I accept there are many other takeaways and restaurants in the town centre, indeed there some further south in Windmill Street. However, they are not located in this unique position.

With the exception of buses, Windmill Street is the only exit from the roads that serve the actual town centre, it must be therefore capable of accommodating all vehicles legally on the road. This is reflected in the total no loading and no waiting restrictions which are in place outside the property.

Takeaways via the transient nature of the business and the potential for home deliveries often result in the abuse of any restrictions with limited risk of enforcement. Any on street parking in Windmill Street in this area, would be detrimental to the free flow of traffic and I can only recommend refusal.

Below is shown the situation in July 2012, prior to the alterations to the road network, which could make a HGV turn into Windmill Street from Railway Place impossible;



Google Street View

Neighbouring properties

An advert was published in the local paper and a notice was displayed on site 19th May 2022.

In addition, three surrounding properties were consulted and no representations were received. The consultation period expired 9th June 2022.

No representations have been received.

Officer's Analysis

This application is solely for the change of use of 16 Windmill Street from an estate agent (Class E) to a takeaway restaurant (Sui Generis). The application does not propose any external alterations to the frontage and other matters will be addressed in full at the planning application stage. This has been confirmed by the Agent who is intending to submit further application covering any external alterations.

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 on Upper Windmill Street, which has a mixture of uses (see table below):

List of occupiers (July 2021)

Address	Occupier	Use Class
15 Windmill St	NutriMax4U Natural Health Clinic	Class E
16 Windmill St	**Application Site** Estate Agent	Class E
17 Windmill St	Post & Packing Post Shop	Class E
18 Windmill St	TRI The Bike Shop	Class E
19 Windmill St	Regent Pharmacy	Class E
20 Windmill St	Urban Estates Estate Agent	Class E
21-24 Windmill St	Bennet and Brown Furniture Shop	Class E
25-26 Windmill St	Wards Estate Agents	Class E
27-28 Windmill St	On the Market Estate Agent	Class E
29 Windmill St	Mansion Property & Financial Advice	Class E
30 Windmill St	Aggarwal & Co Chartered Accountants	Class E
31 Windmill St	The Invicta Bar	Sui Generis
32 Windmill St	Alto Gusto Restaurant	Class E
33 Windmill St	China Garden Restaurant	Class E
34 Windmill St	Ambient Restaurant	Class E
35-36 Windmill St	Geoffrey Simmons Insurance Consultants and Brokers	Class E

As shown in the table, the majority of the units on this section of Windmill Street are Class E usage. The application site has been used as an estate agent since 1994 (Class E). 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).

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. Comments on these aspects are as follows:

Hours of Use

The application proposes opening hours of 7am-11pm Monday to Friday, with opening hours on Saturdays and Sundays/Bank Holidays to be determined at full planning application stage. These weekday hours are generally considered acceptable, the closing time is in line with other restaurants and Sui Generis uses. However, the opening time of 7am is earlier than any other use within the immediate street scene, but is similar to other food takeaways in the surrounding area such as ‘Jacobs’ catering on nearby Railway Place.

It is unclear when the operating hours of the takeaway will be on the weekends or if the 7am opening is relating to deliveries. However, there will be conditions attached to the decision notice to detail the delivery strategies that will clarify this matter, and the weekend hours will be clarified at the planning stage. Therefore, the Local Planning Authority are not concerned with the proposed opening hours of the takeaway.

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. The first floor level will be retained as office space, with no residential accommodation proposed 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 the one-way system. The site is close to the railway-bridge and corner of Railway Place and Windmill St, whereby Windmill St is an exit route for vehicles leaving the town centre. The introduction of a takeaway with its associated vehicle movements and waiting times is a concern for the Highways Officer, who stated that “via the transient nature of the business and the potential for home deliveries often result in the abuse of any restrictions with limited risk of enforcement. Any on street parking

in Windmill Street in this area, would be detrimental to the free flow of traffic”.

Although the concerns relating to traffic flow are a consideration, there is a layby for vehicles further up Windmill Street and there are restrictions in place to stop vehicles waiting outside the site. Therefore this is not considered to be sufficient grounds to refuse the change of use. It is also noted that the property benefits from rear access along Eden Place, which could be utilised for deliveries taking away concerns about deliveries on Windmill Street. 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.

Design, Character and Appearance

No external changes are proposed to the retail unit as part of this change of use application. The agent has confirmed this in 'Supplementary Information - Email from agent confirming no external changes (received 13/06/2022)'. Given that the site is within the Windmill Street 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).

Suggested Conditions

- Time Limit
- Approved Plans
- Restriction on Use
- Opening Hours
- Watching Brief - Contaminated Land
- 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
- For the avoidance of doubt, the seating area to the front of the building as shown in 'Drawing no. JM12311-A100 - Rev. C - Proposed Catering Facilities' is not considered part of this application as it is not included within the redline plan

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, the opening hours are not dissimilar from other units within the local area and subject to conditions will have no impact on amenity. The frontage of the property will not change as part of this proposal, there will be no changes to the advertising arrangement and the outdoor seating area is not approved – these issues will have to be addressed at a later planning stage.

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

Recommendation

Permission

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	8 th July 2022	Dated:	08 July 2022