



Delegated Report

Variation of Condition Application

Planning Application No: 20240457

Location: Former Room Forty Four 44 High Street Gravesend Kent

Description: Application for variation of condition 2 attached to planning permission reference number 20240080 for change of use from sui generis public house to sui generis takeaway; to allow a change to the position of the proposed extractor.

Applicant: Ali Rana

Site Visit Date: 7 June 2024

Submitted Documents/Plans

- Application form;
- Drawing no. 002 Rev. B – Existing Floor Plan, Proposed Ground Floor Plan; and
- Drawing no. 003 Rev. B – Proposed Elevations, Existing Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20240080	Change of use from sui generis public house to sui generis takeaway.	Permitted	28.03.2024

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)

Consultations, Publicity and Representations

Consultees

GBC Environmental Protection

The revised location for the flue is not ideal, being next to a window. The applicant may find it difficult to install the flue and comply with the requirements of Conditions 3 and 4. In relation to Condition 4, an appropriate reduction in noise levels may be hard to achieve bearing in mind that the flue is so close to the window which is where the assessment will need to be undertaken.

The applicant is advised to seek the advice from a competent noise consultant and kitchen extract installer/designer with regards to this new location.

Neighbouring properties

22 surrounding properties were consulted plus site and press notices – overall consultation period expired on 28 June 2024 – no comments received.

Officer's Analysis

Planning permission was granted for change of use from sui generis public house to sui generis takeaway under application ref. 20240080 on 28 March 2024.

This was subject to a number of conditions including condition no. 2 which states:

The development hereby permitted shall be carried out in accordance with the following schedule of approved 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.

Reason: For the avoidance of doubt and in the interests of proper planning.

The applicant wishes to vary condition 2 in respect of the proposed extraction flue

In application ref. 20240080 the submitted existing and proposed rear elevations showed the extraction flue would be located on the rear of the building on the back of the out-rigger:



This current application to vary condition 2 is to instead install the extraction flue on the main part of the rear elevation as follows:



The reason for the change is said to be so that the extraction flue is within the applicant's ownership.

It is also prudent to note that condition 3 of application ref. 20240080 requests details of the scheme for cooking odour and fume control which includes plans showing the location/position of the external flue/discharge stack, including its position in relation to neighbouring properties and window openings.

The key principle considerations in the assessment of the application are design, character and appearance including heritage and neighbouring amenity.

Design, Character and Appearance including Heritage

The proposed extraction on the rear of the building is the only external alteration which is proposed in connection with the change of use from a public house to a takeaway. As noted in the original application ref. 20240080 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 flat roofed building which is situated at the rear of 44 High Street:



In the approval the extraction flue was shown to be situated on the two out-rigger on the rear of the building

extending above eaves level. Given that the rear elevation of the building is not highly visible from Princes Street due to the two storey flat roofed building to the rear and from most angles from Princes Street, the rear elevation of the building is obscured, it was considered that an extraction flue on the rear would be acceptable subject to conditioning further details of colour and finish etc. which were covered by condition 4. In this case, it is now proposed to locate the extraction flue on the main part of the rear elevation (not the out-rigger part). The flue is shown to be slightly thicker than in the approval but would be partly obscured behind a first floor projection element on the building. As before, as the flue would be located on the rear elevation of the building which is set a long way back from Princes Street and the rear elevation is largely obscured from view from most angles from Princes Street, it is considered that the flue in the new proposed location would still be acceptable and would be subject to the details on colour and finish of the extraction flue, it 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 therefore considered compliant with Policies CS19 and CS20 (LPCS) and saved Policy TC3 (LPFR).

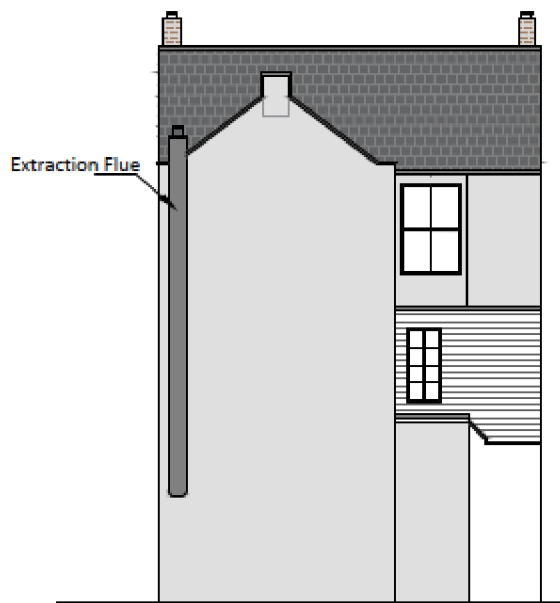
Neighbouring Amenity

As noted in the original application ref. 20240080 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 was shown on the proposed rear elevation drawing but no further details were given on the proposed extraction system. GBC Environmental Protection raised no objections to the proposal but advised 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 would be required which they advised could be conditioned with a timeframe of prior to works commencing.

As stated, in the approval the extraction flue was shown to be situated on the two out-rigger on the rear of the building extending above eaves level. It is now proposed to locate the extraction flue on the main rear part of the building (i.e. not the out-rigger.) In the out-rigger there are no windows in the rear elevation but in the main rear part of the building there are windows on the first and second floor levels serving the upper residential units. Where it is now proposed to install the extraction flue, i.e. as below then it will be located near to a number of windows whereas on the out-rigger it would have not been located next to any:



Rear Elevation



Rear Elevation

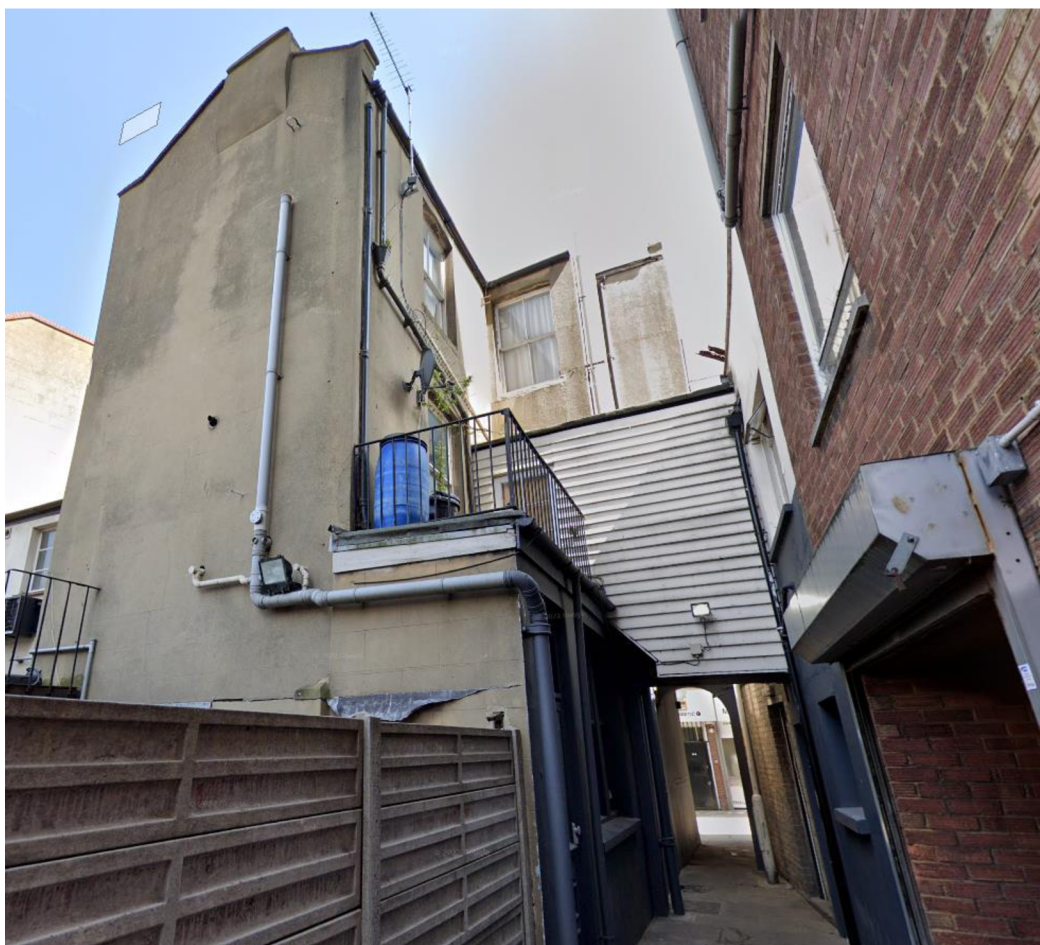


Proposed West-Rear Elevation



Proposed South Elevation

The views below shows the various windows in the area where the extraction flue is proposed:



Due to the proposed change in location of the extraction flue, GBC Environmental Health have been consulted and they advise that the revised location for the flue is not ideal, being next to a window and that the applicant may find it difficult to install the flue and comply with the requirements of conditions 3 and 4. These conditions require full details of the proposed extraction system in order to ensure neighbouring properties would not be impacted on by cooking odour/fumes (condition 3) and a noise survey in order to ensure neighbouring properties would not be impacted on by noise from the extraction system (condition 4). GBC Environmental Protection advise specifically that in relation to condition 4, an appropriate reduction in

noise levels may be hard to achieve bearing in mind that the flue is so close to the window which is where the assessment will need to be undertaken.

As such, it is considered that the proposal to move the proposed extraction flue from the rear elevation of the out-rigger to the rear of the main building where it would be closer to a number of windows serving the upper residential floors of the building would not be acceptable. It would be unlikely that the requirements of conditions 3 and 4 of application ref. 20240080 would be able to be met in terms of ensuring neighbouring properties would not be impacted on from cooking odours and noise from the extraction system given its proposed new location. No information has been submitted with the application to demonstrate that this would not be the case.

As such in respect of neighbouring amenity the proposal is considered contrary to Policy CS19 (LPCS) and paragraph 135(f) of the NPPF (2023).

Any Other Material Planning Considerations

None.

Conclusion & Recommendation

The proposed change in location of the proposed extraction flue from the rear elevation of the out-rigger to the rear of the main building where it would be closer to a number of windows serving the upper residential floors of the building would be unacceptable as it would be unlikely that the requirements of conditions 3 and 4 of application ref. 20240080 would be able to be met in terms of ensuring neighbouring properties would not be impacted on from cooking odours and noise from the extraction system in the new proposed new location. No information has been submitted with the application to demonstrate that this would not be the case. As such in respect of neighbouring amenity the proposal is considered contrary to Policy CS19 (LPCS) and paragraph 135(f) of the NPPF (2023).

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	16th July 2024	Dated:	16 July 2024