

Application: 20210876

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015 (AS AMENDED)**

NOTIFICATION OF REFUSAL OF PERMISSION TO DEVELOP LAND

To: **Mr U Aslam
C/O Mr Chudha, Tudor Agencies
First Floor
55 Green Street
Gillingham
Kent
ME7 1AE**

TAKE NOTICE that the **GRAVESHAM BOROUGH COUNCIL**, the Local Planning Authority under the Town and Country Planning Acts, has **REFUSED TO PERMIT** development of land situate at:

**21 Darnley Road
Gravesend
Kent
DA11 0RZ**

and being **Application for change of use from retail premises Class E(a) to a burger restaurant with ancillary takeaway Class E(b) and associated changes including an extraction fan to rear.**

Your application dated 12th October 2021 is refused on the following grounds:-

1. The proposed site is located on a busy road in close proximity to a signalled road junction in an area where there is no public off street parking available. The proposed hot food takeaway provisions are likely to result in illegal parking whilst customers visit the premises to collect their takeaways as well as delivery drivers collecting orders. As such the proposal due to its inappropriate location is likely to adversely impact on the safe and free flow of traffic to the detriment of highway safety, contrary to Policy CS11 of the Gravesham Local Plan Core Strategy (2014) and Saved Policy S7 of the Gravesham Local Plan First Review (1994). These policies seek to ensure that proposals mitigate their impact on the highway network and ensure that there is sufficient parking available to ensure that there will be no harm to highway safety.
2. The proposed change of use of the existing retail unit into a restaurant with hot food takeaway provisions will introduce an inappropriate use in close proximity to existing residential properties. It will detract from local residential amenity, and adversely affect the living conditions of the occupants surrounding properties, as a result of increased noise and disturbance from noise escaping from the commercial premises when people arrive and leave, the introduction of odour from cooking, and disturbance from vehicles potentially parking in front of the premises. As such the proposed introduction of the restaurant with hot food takeaway provisions is contrary to aims of Policy CS19 of the Gravesham Local Plan Core Strategy, (2014) and Saved Policy S7 of the Gravesham Local Plan First Review (1994), which seek to ensure that proposals, including those for restaurants and hot food takeaway outlets, safeguard the amenity of its occupants and

that of neighbouring properties and land, and avoid causing adverse environmental impacts from amongst things, noise and odour.

INFORMATIVES:-

1 STATEMENT OF POSITIVE AND PROACTIVE APPROACH TO DECISION-MAKING

In accordance with Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and paragraph 38 of the National Planning Policy Framework (NPPF) 2021, the Local Planning Authority has approached the assessment and determination of this application in a positive and creative way and, where appropriate, has worked pro-actively with the applicant to secure a development that is sustainable and that improves the economic, social and environmental conditions of the area, and that is in accordance with the Development Plan for the area.

In this instance, the application is contrary to local and national policy, in particular Policies CS11 and CS19 of the Gravesham Local Plan Core Strategy 2014, and Saved Policy S7 of the Gravesham Local Plan 1994.

2 DECISION PLANS

For the avoidance of doubt, the forms, plans and documents upon which this decision is made comprise:

Application Form;
Planning Application Form;
Design and Access Statement;
Heritage Statement;
Drawing No. 21DR E01 - Plan and Elevation As Existing;
Drawing No. 21DR SITE - Site Location Plan As Existing Block Plan As Proposed; and
Drawing No. 21DR P01 - Plan and Elevation As Proposed.

Dated: 12 November 2021

Civic Centre
Windmill Street
Gravesend
Kent
DA12 1AU

Wendy Lane MRTPI
Assistant Director (Planning)
Planning Service

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## **NOTIFICATION TO APPLICANT**

### **APPEALS TO THE SECRETARY OF STATE**

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If this is a **householder application\*** which has been refused and you want to appeal against your Local Planning Authority's decision then you must do so within **12 weeks of the date of this notice**.
- For all other applications, refused or permitted, if you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to

**obtain a paper copy of the appeal form on tel: 0303 444 5000.**

- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

#### **\*Householder applications**

These are:

- (a) applications for planning permission for development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or
- (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development

but does **not** include –

- (i) an application for change of use;
- (ii) an application to change the number of dwellings in a building.

#### **PURCHASE NOTICES**

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor can he/she render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

#### **COMPENSATION**

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.