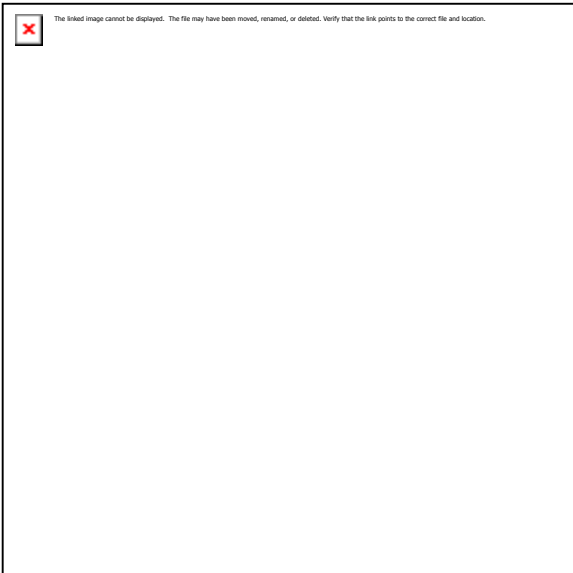




Delegated Report

Planning Application

Planning Application No: 20220843

Location: I Love Pizza Ltd 147 Parrock Street Gravesend Kent

Description: Application for the variation of condition 2 and 6 attached to planning permission ref. no. 20200615 for change of use from former Use Class A1 (shops), now within Class E (Commercial, Business and Service) to what was Use Class A5 (hot food takeaway), now a Sui Generis Use (Hot Food Takeaway); and changes to the front signage display; to allow the use to change from pizza takeaway and associated products to takeaway, and drawings and details added to condition 2.

Applicant: Mr Okkes Omalar

Site Visit Date: 12 August 2022

Submitted Documents/Plans

- Covering letter;
- Application form;
- Drawing no. 2022/33/01 – Proposed Site Location Plan and Existing Block Plan;
- Drawing no. 2022/33/02 – Ground Floor Plan;
- Drawing no. 2022/33/03 – Rear Elevation;
- Anti Vibration Mounts and Jet Cowl Details;
- Silencer Details;
- Site Safe Carbon Details;
- Helios Fan Details;
- Design & Access Statement;
- Appendix A – Equipment installed at the premises; and
- Appendix B – Typical Menu illustrating the proposed authentic cuisine to be sold as takeaway from the premises.

Relevant Planning History

Reference	Description	Decision	Decision Date
20200615	Application for change of use from formerly Use Class A1 (shops), now within Class E (Commercial, Business and Service) to what was Use Class A5 (hot food takeaway), now a Sui Generis Use (Hot Food Takeaway); and changes to the front signage display.	Permitted	11.09.2020

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
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- S7 – Hot Food Shops and Restaurants

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
- 6 – Building a strong, competitive economy
- 7 – Ensuring the vitality of town centres
- 12 – Achieving sustainable development and well-designed places

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006);

Consultations, Publicity and Representations

Consultees

GBC Environmental Protection

The information submitted is not sufficient to vary the conditions. It is not acceptable to use a noise impact assessment written for the old equipment and use of the premises as a pizzeria and apply the report's conclusions to new equipment and a change of use to more odorous foods. They need to submit a new noise and odour impact assessment for the change to more odorous foods and the extraction equipment which has been installed. As the equipment is already installed the assessment should be accurate as they

can turn on the equipment and take measurements instead of guessing based on manufacturers notes.

Until a suitable noise and odour impact assessment has been submitted to demonstrate that neighbouring occupiers will not be impacted the variation of the conditions cannot be supported.

GBC Highways Officer

I have no objections the use of the building as a Hot Food Takeaway has already been established under the previous permission application 20200615.

Neighbouring properties

11 surrounding properties were consulted plus site notice – 26 contributors have commented – 8 in objection and 18 in support. The comments can be summarised as follows:

Objections

- New odour and noise reports should have been submitted with this application to reflect the new cooking type to be carried out (Turkish cuisine) which is higher odour than pizzas and the extraction equipment which has been installed which is more significant than the extraction system for the pizza takeaway - the information on the previous application with regards noise and odour is no longer relevant;
- They had issues from the pizza takeaway at no. 147 (recently closed) in terms of cooking odours of pizza and garlic; the proposed Turkish kebab takeaway will cause greater issues;
- The extractor fan machine for the pizza takeaway made a constant humming noise and with all of the takeaways together the noise from all the extractors is impacting on them;
- The other takeaway at Keen Fork had a number of detailed noise mitigation measures recommended in its noise report so find it hard to believe there would be none in this case;
- All the takeaways around here are disturbing their life with odour, noise, disturbance, rubbish – with one was not so bad but now with three takeaways the problems have been exacerbated;
- The extractor flue exits very close to their windows, odours will go directly into their flat;
- It is noted there will be filters but smells will still escape the extraction outlet and all filters get full up and need to be changed;
- As the takeaway has already changed to a Turkish kebab outlet without permission how can they trust that the unit will be serviced, filters will be used and changed regularly?
- Will be stuck with ever more takeaway smells in their home, disturbing their family life, not being able to open windows because of the combined noise of the extractors and ever more odour especially with the food proposed being high odour frying food;
- Odour impact from the existing neighbouring takeaways, one with high frying food will make it even worse;
- The hot air from the extractor makes it unbearable in summer months;
- The extraction system installed does not look fit for purpose – the flue needs to be at least double the width and the fan double the horse power, re-circulation unit will do little to reduce the charcoal filters, location of outlet will directly affect the neighbours;
- Risk to pedestrians from people parking on pavement to use the takeaways.

Support

- Can't wait for the opening;
- Excited for opening as rest of food in area isn't great, area lacks places with good quality food;
- Looks like a great takeaway that will be valuable to Gravesend, although there are many places along this road they are all very poor;
- Will be a great addition to the town and can see people being very happy with it;
- Great fit for the area, more choice is good, pizza did not work here at all;
- Looks very clean and a lot of effort has gone into it;

- Will be good for the area and support to local business;
- A new takeaway with a different cuisine would work well in area;
- Finally somewhere to get some food from.

Officer's Analysis

Procedural Note - It is considered the applicant should have also applied to vary condition no. 5 as this stipulates that the odour extraction/ventilation system shall be installed as set out in the Noise Impact Assessment and Planning Statement submitted, but this equipment has been removed and a new ventilation extraction system is proposed (already installed); as such condition 5 would also need to be varied. Had permission been forthcoming the LPA would have asked the applicant to include condition 5 but given that permission is not to be forthcoming this has not been asked to be added to the application.

Planning permission was granted for 'Application for change of use from formerly Use Class A1 (shops), now within Class E (Commercial, Business and Service) to what was Use Class A5 (hot food takeaway), now a Sui Generis Use (Hot Food Takeaway); and changes to the front signage display' on 11.09.2020 under ref. 20200615.

This was subject to a number of conditions including condition no. 6 which states:

6. The premises shall only be used as a hot food takeaway for the cooking and sale of pizza and products ordinarily associated with mainstream pizza takeaway menus and for no other takeaway use.

Given this condition planning permission is required for any other type of takeaway cooking.

The pizza takeaway which was operating has closed down and the applicant now wants to open a Turkish cuisine takeaway; a new extraction ventilation system has already been installed. At the time of the site visit the premises had a new fascia sign installed stating 'The Authentic Turkish Kitchen' and a sign in the window saying it was coming soon.

The principle consideration in the assessment of the planning application is the impact on neighbouring properties; also the impact on the character and appearance of the building and area.

Neighbouring Amenity

It is important to look back at the assessment of impact on neighbouring amenity in the original planning application. It can be seen that looking at application ref. 20200615 that the applicant submitted the following with the application in respect of noise and odour:

- A Noise Impact Assessment, ref. VA3240.200618.NIA by Venta Acoustics dated 18-06-20
- Details of the proposed odour extraction/ventilation system within the Planning Statement dated 29-06-20 from Planning Direct, ref. 0609-SB.

Environmental Protection (Regulatory Services) were consulted on the application and respectfully questioned some of the information that had been submitted but in order to move matters forwards whilst safeguarding local residents, Environmental Protection asked for conditions to be attached (if permission was to be forthcoming) to cover the following:

1. The rating level of the noise emitted from plant/machinery/equipment at the premises, shall not exceed the existing background noise level by more than -10dB at the nearest noise sensitive premises when measured and assessed in accordance with BS4142:2014.
2. The odour extraction/ventilation system shall be installed as set out within the Noise Impact Assessment, ref. VA3240.200618.NIA by Venta Acoustics dated 18-06-20 and Planning Statement dated 29-06-20 from Planning Direct, ref. 0609-SB. The system shall be maintained effectively

thereafter.

3. The odour extraction/ventilation system must not function between 11pm and 10am (to allow one hour before opening for preparation, etc.)
4. The premises shall only be permitted to cook pizza (which is a hot food of lower potential adverse impact in terms of odour) and products ordinarily associated with mainstream pizza takeaway menus.

Subsequently, permission was granted and condition nos. 3, 4, 5 & 6 covered the above. Condition 3 covered hours of operation, condition 4 the rating level of noise, condition 5 the odour extraction/ventilation system to be installed as set out within the Noise Impact Assessment and condition 6 restricted that the premises shall be a pizza takeaway only.

The applicant now wishes to vary condition 6 and condition 2 (approved plans) in order that any takeaway cuisine can operate from the premises, as they wish to open a Turkish cuisine takeaway, and to regularise the new extraction equipment which has been installed.

Given that it is proposed to change the type of cooking that the takeaway would offer to any type of takeaway cooking and a new extraction system is proposed (already installed) it needs to be ensured that neighbouring amenity would be protected in terms of odour and would not be impacted on by noise from the ventilation extraction equipment. There are flats above the premises in this parade of units. With the original application for the pizza takeaway there was a Noise Impact Assessment and a Planning Statement addressing noise and odour issues and as such this current application should be accompanied by new versions of these documents to demonstrate there would be no harm to neighbouring amenity; they have not been submitted. The original documents do not reflect what is now required.

In the Design & Access Statement it is stated that a list of the proposed equipment to be installed can be found in Appendix A. It is said it will provide additional odour extract/ventilation system which is better than the previous system. The equipment is said to be very similar to those detailed in the Noise Impact Assessment and the Planning Statement in the original application ref. 20200615.

Appendix A entitled 'Equipment installed at the Premises' contains two photographs which are of the extractor which has been installed to the rear of the premises. Appendix A contains no information concerning the odour control capabilities of the system nor any details of its noise impact.

The submitted drawings detail that the system will have an acoustica silencer which along with the motor unit, will be installed on brackets with anti-vibration mounts. There are manufacturer details submitted regarding the anti-vibration mounts, the silencer, the carbon units and the centrifugal fans however, again there are no actual details regarding the odour elimination capabilities of the system nor its noise impact.

The information submitted with the application in terms of photographs of the extraction equipment installed and manufacturer details of components of the system with a statement that the equipment is better than the previous extraction system for the pizza takeaway is not sufficient to demonstrate that neighbouring amenity would be adequately protected from odour and noise from all types of takeaway cooking and the new extraction system proposed. This is simply outlining the specification of the equipment and not how effective it will work, nor the wider impact it may have on neighbouring amenity. As such a new Noise Impact Assessment is required and a new Planning Statement addressing odour is required for the new equipment and wider use, which has not been submitted. It therefore cannot be assessed whether the proposal to have any type of takeaway cooking would sufficiently safeguard neighbour amenity.

As such, in respect of neighbouring amenity the proposal is considered contrary to Policy CS19 (LPCS).

Other Matters

Design, Character and Appearance

The proposed ventilation extraction system is not visually attractive however, is common place for ventilation extraction system equipment and would be located at the rear of the premises and so would not be visible from Parrock Street and due to the buildings at the rear facing The Grove it would not be highly visible from there either. If permission was forthcoming it could be conditioned that the external flue is painted black to reduce the starkness of the metal material. In respect of design, character and appearance the proposal is considered compliant with Policy CS19 (LPCS).

Any Other Material Planning Considerations

None.

Conclusion & Recommendation

The proposal fails to provide sufficient evidence to ensure that neighbour amenity has been safeguarded in terms of noise impact and odour emissions regarding the new form of takeaway cooking and associated noise from the newly installed ventilation extraction system. As such the proposal is contrary to Policy CS19 (LPCS) and paragraph 130 (f) of the NPPF (2021); it is therefore considered conditions 2 & 6 should not be varied.

Recommendation: Refusal

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

Case Officer:	Ms Rebecca Harrison	Team Leader:	Miss Faye Hobbs
Signed:	<i>Rebecca Harrison</i>	Signed:	
Dated:	6th October 2022	Dated:	06 October 2022