

This plan has been produced for Planning Committee purposes only. No further copies may be made.



Not to scale

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Dover District Council Licence Number 100019780
published 2015

Note: This plan is provided for purposes of site identification only.

Application: DOV/15/00252

43/45 Cheery Tree Avenue

Dover

CT16 2NL

TR31054254



- a) **DOV/15/00252 – Change of use to restaurant/hot food takeaway and installation of a flue (mixed use A3 and A5), 43/45 Cherry Tree Avenue, Dover**

Reason for report: The number of third party representations.

- b) **Summary of Recommendation**

Planning permission be Granted

- c) **Planning Policy and Guidance**

National Planning Policy Framework (NPPF)

The NPPF sets out a presumption in favour of sustainable development and includes core planning principles which seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

- The NPPF has 12 core planning principles which amongst other things include the need to proactively drive and support sustainable economic development to deliver business needs. They also seek to secure high quality design and a good standard of amenity for all existing and future occupants and support economic growth
- Section 1 (Building a strong, competitive economy) states that significant weight should be placed on the need to support economic growth through the planning system
- Paragraph 6 of NPPF states that the purpose of the planning system is to contribute to achieving sustainable development. Further in paragraph 7 the NPPF goes on to state that there are three dimensions to sustainable development: economic, social and environmental
- Promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres

National Planning Practice Guidance (NPPG)

- On 6th March 2014 the Department for Communities and Local Government launched a planning practice guidance web-based resource. This contains a number of sections to enable users of the planning system to obtain information in a useable and accessible way. It is a material consideration when making decisions as it replaces the previous planning guidance documents which are now cancelled

Dover District Core Strategy (CS)

- Policy CP1 sets out the Government strategy which is to focus new development at urban areas, which amongst other things seeks to underpin urban revival. Dover is a Secondary Regional Centre which is the major focus for development in the District; suitable for the largest scale developments

- Policy DM13 requires that the provision of car parking be design-led approach based upon the characteristics of the site, the locality, the nature of the proposed development and its design objective.
- Policy DM17 sets out development which will not be permitted in groundwater protection zones unless adequate safeguards against possible contamination are provided.

d) **Relevant Planning History**

DO/80/01016 -	Change of use of ground floor from shop to takeaway food shop – Granted
DO/80/01030 -	Change of use from hairdresser's shop to wine bar and restaurant – Granted
DO/84/00970 -	Rear extension to shop premises at ground floor and alterations to form an access to flat including alterations to shopfront – Granted
DOV/96/000630 -	Erection of a front canopy - Granted

e) **Consultee and Third Party Responses**

Environmental Health – There is to be an extraction system for the kitchen, the type of extraction to be used should be adequate for the job and is dependant on the type of takeaway this is to be. Would advise that conditions for details of the extraction system be submitted to the LPA prior to installation and a scheme detailing the cumulative noise levels arising from the plant also be submitted

Dover Town Council: Support the application

Public Representations: Eight letters of objection have been received and their comments are summarised as follows:

- Already a takeaway in the street
- Late night noise and rowdiness
- Littering
- Increase in odour
- There is enough fast food outlets in the area
- Will effect other local businesses
- Problem with vermin in the area and this will add to it
- Close proximity to schools
- Additional traffic
- Would detract from local residents quality of life
- Problems with anti social hours and disturbances if a drinks license is also supplied

f) 1. **The Site and the Proposal**

1.1 The application site is an end of terrace property, which lies within the confines of Dover. It is understood that the ground floor of the property was last in use as a greengrocers although at present is empty. The property has a residential use at first floor and has a small courtyard area at the rear.

- 1.2 The building is within a mixed use area and is surrounded by both residential and commercial premises. To the immediate east of the site is Barton Junior School.
- 1.3 There is some residential above existing commercial uses in the immediate vicinity, although to the west of the site along the west side of Cherry Tree Avenue and to the east of Cherry Tree Avenue there are properties in use as single dwellinghouses.
- 1.4 Planning permission is sought for the change of use of the ground floor of the building to a mixed use as a restaurant (use class A3) and hot food takeaway (use class A5) and external flue. The first floor flat would be retained. The hours of use proposed are 10am to 10pm everyday and it is proposed to have two full time and one part time employees. The building has a staggered roof height, with the ridge height at No. 45 being 8.1m and No. 43 being 7.5m. The flue would extend approximately 1m above the ridge of No. 43 but would be no higher than the ridge height of No. 45. No external alterations to the front façade are proposed.
- 1.5 *Plans will be on display*

2. **Main Issues**

2.1 The main issues for consideration are:

- The principle of development
- Impact on amenity
- Impact on highway safety
- Impact on the street scene

2.2 Assessment

The principle of the development

2.3 The site lies within Dover Secondary Regional Centre which is the major focus for development in the District; suitable for the largest scale developments. Whilst the property lies within the confines it does not fall within either the town centre area or the primary or secondary shopping frontages and therefore there are no local plan policies. There are no specific policies that would preclude the principle of an A3/A5 use in this area. The acceptability of the proposal turns on the site specific impacts.

2.4 Government guidance seeks to promote economic growth. The NPPF also emphasises that the planning system plays an important role in creating healthy, inclusive communities.

3. Impact on amenity

3.1 Some of the surrounding properties are commercial in use with some residential at first floor although there are also individual dwellinghouses within the immediate vicinity. The use of the ground

floor as a takeaway and restaurant is not considered to be inappropriate in this location given the existing mixed use of the area.

- 3.2 The flat above the proposed restaurant and takeaway has a bedroom and bathroom, which would be located over the proposed kitchen. The reception room and kitchen to the flat are shown over the restaurant area. The flat has its own separate entrance.
- 3.3 Given the mixed character of the area, the proposed opening times from 10am to 10pm are not considered to be unreasonable here and Environmental Protection has raised no objection in this regard. Conditions could be attached which would limit hours of use and control activity, however this matter could also be controlled through licensing.

The erection of a flue would be required for the proposed use and details of this have been shown on the proposed plans with it being sited to the rear of the property. Environmental Protection have raised no objection subject to a condition being attached requiring details of the specification of the extraction system to be submitted to the Local Planning Authority, these details should include noise levels to ensure there would be no unacceptable noise nuisance to occupants of the first floor flat which can be controlled by condition.

- 3.4 There is potential for the flue to have an impact on outlook due to its proximity to rear windows in the first floor flat. However, on balance, given that the immediately affected window serves a bathroom (a non-habitable room) it is not considered to result in unacceptable harm.
- 3.5 An external area has been identified within the courtyard area of the site within which to store any rubbish or refuse. Conditions can be attached which would ensure that the refuse storage area is provided and maintained for such purposes at all times.

4. Impact on highway safety

- 4.1 The site by virtue of its location does not offer any off-road parking. However, there are on-street controlled parking spaces, which could be used by patrons to the site and the location of the site within close proximity to bus routes would encourage walking and the use of public transport.

5. Impact on street scene

- 5.1 The application does not propose any external alterations to the front façade. The proposed flue is to be located at the rear of the building and whilst it would be visible from the public footpath which runs from west to southeast immediately adjacent to the site, it is not considered that it would detract significantly from the public realm. A condition can be attached which requires the flue to be finished in a matt black paint which would further integrate it into the building.

Other Matters

- 5.2 Members will be aware that Government guidance essentially seeks to promote a drive towards healthy living. Officers are aware of one appeal decision (nationally) where the Inspector cited health concerns associated with the proximity of a takeaway to a school. In the particular circumstances the school in question had a 'healthy eating policy' the impact of which was judged to be material. No similar objections have been raised by third parties in respect of this application. The nearby school (Barton Junior School) also has no policy as such that would be comparable to the appeal case.
- 5.3 Dover District Council does not have a policy relating to negative health impacts of hot food shops. Furthermore, given the mixed use character of the area, it is not considered that the introduction of a further takeaway/restaurant, would by itself, demonstrably undermine the objectives of government policy relating to healthy communities, sufficient to justify withholding planning permission.

Conclusion

- 5.4 The National Planning Policy Framework (NPPF) reflects the government's commitment to building a strong and competitive economy.
- 5.5 The NPPF makes it clear that all decisions should be made in conformity with the Local Plan and equal weight should be given to economic, social and environmental factors. The development would comply with Core Strategy Policies CP1. The development makes good use of a currently empty shop unit, introduces activity and additional vitality to this street, but would do so in a low-key way with the last use of the unit being an A1 shop. The use of it for A3/A5 purposes introduces a level of vibrancy to this site, promoting activity and providing opportunity for business enhancement. It would also result in the creation of two full time and one part time job.
- 5.6 In conclusion, the development proposals are acceptable in terms of policy objectives and the aims and objectives of the NPPF and it is considered that planning permission can be granted
- 5.7 In respect of the Public Sector Equality Duty under the Equality Act, the recommendation is not considered to disproportionately affect any particular group.

g) Recommendation

- I PERMISSION BE GRANTED subject to conditions to include: i) Timescale of commencement of development, ii) A list of the approved plans iii) Details of the extraction system iv) Details of a scheme for sound insulation v) Refuse storage area to be provided and maintained, vi) Hours of opening shall not be outside of 10am – 10pm Monday to Friday and 10am – 10pm Saturday, Sunday and Bank Holidays
- II Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set

out in the recommendation and as resolved by the Planning Committee.

Case Officer

Kerri Bland