

- a) **DOV/19/00907 – Change of use to hot food takeaway (class A5), erection of extraction flue to rear, access ramp and hoop guards to front and external alterations to windows and doors - 65 Cornwallis Avenue, Aylesham**

Reason for report – Number of contrary views (13 Public and 1 Parish Council)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010)

CP1 – Settlement Hierarchy

DM1 – Settlement Boundaries

DM2 – Protection of Employment Land and Buildings

DM20 - Shopfronts

National Planning Policy Framework (NPPF) (2019)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Paragraph 8 identifies the three overarching objectives of the planning system in relation to the aim of achieving sustainable development; an economic, social and environmental objective.

Paragraph 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.

Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.

Kent Design Guide (2005)

The guide provides criteria and advice on providing well designed development, emphasising that context should form part of the decision making around design.

Kent and Medway Structure Plan (2006) - SPG4 Kent Vehicle Parking Standards

d) **Relevant Planning History**

There is no relevant planning history for the site.

e) **Consultee and Third Party Responses**

Representations can be found in full in the online planning file. A summary has been provided below:

Aylesham Parish Council – object to the application, stating “There will be major parking and traffic issues that will add to the already existing ones. There are no mention of the business hours in the application. Increase in litter. There are bins that do not get used, this area has always been mostly a residential apart from a few shops. Increase in noise from vehicles and customers. Increase in smell (food). The applicant has proposed for a ramp to be built. It is a public footpath (pavement) and a ramp would be an obstacle on the pavement”.

Environmental Health – The Environmental Protection Team has considered the documents submitted in support of the application. Though we have no objections to it, we note that there are flats immediately above the development that may be affected by noise, odour and vibrations from the kitchen extract system and from customers. We recommend, therefore that the following conditions are applied to any planning permission that may be granted:

A scheme should be provided showing that, when operating, the design and installation of new items of fixed plant shall be such that the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1 metre from the facade of the nearest noise sensitive premises, shall be a rating level 5dB (A) below the background noise level LAf90 Tbg.

Details showing how the extraction system will alleviate fumes and odour and how the extraction trunking will be isolated from the structure of the flat above the development (to prevent vibrations) shall be submitted to the local planning authority for approval. After the system has been approved in writing by the authority, it shall be implemented to the authority’s satisfaction before the development hereby approved first commences and shall thereafter be permanently maintained in efficient working order to the authority’s satisfaction.

The premises shall cease operating at 23.00 hours each evening.

Reason: To protect the amenity of the area.

Public Representations:

15 Representations of objection have been received (as of 30<sup>th</sup> September 2019) and the material considerations are summarised below. A number of non-material considerations were raised, including competition, which cannot be considered.

- Not justified by expansion of village
- No parking or delivery study undertaken – will result in additional journeys
- Parking and highways issues/ lack of parking
- No opening hours guide
- No potential mitigation of the smells coming from the ventilation to the flats above
- Impact on neighbours
- noise
- Smells
- Fire risk
- Rubbish/waste - No provisions for rubbish bins to the front of the shop – existing bins are often full leading to rubbish being left or blown about. Litter will attract vermin, rodents, foxes, blowflies etc
- Flue appears too small for proposed use
- Carbon footprint - Flue will add to pollution problem
- Other types of business could use property which would have much less of an impact on the current business already in Cornwallis Avenue and on neighbours of property
- Young people loitering & associated noise
- Crime & anti-social behaviour
- Ramp obstructs footpath

2 comments received neither supporting nor objecting:

- Object to another fast food shop - Aylesham already has a number of outlets Cornwallis avenue has a fish shop, a kebab shop and a tea shop, it will be between a funeral parlour and a tea shop
- Concern regarding parking in area

77 representations in support of the proposals have been received and are available to view in the online planning file and are summarised below;

- Commercial properties in Cornwallis Avenue are long established (appearing first on Ordnance Survey in 1956)
- Previous businesses in Cornwallis Avenue have included: fish & chip shop, hairdressers, barbers, funeral directors, gymnasium, fruit & vegetable shop, hardware store, bookmakers, tanning & beauty salon, ironmongery, florist, newsagents, Hill's Convenience Store, kebab shop, coffee shop/café, laundrette, Londis Mini-Market
- Change of use sought has already been sought by some of the neighbouring properties
- Unit is existing commercial property and parking is already catered for
- Noise and smells dealt with by flue and Environmental Health comment
- Bins and litter – waste is due to consumers who choose to discard their waste inappropriately – perhaps DDC and APC co-fund some new bins in the area
- Shops have been in existence for long time – before area became mostly residential

- Ramp will make premises more accessible to elderly and disabled residents of the community – hope other businesses will follow suit
- Has been vacant for unusually long time
- Good addition to/ supports community
- New job opportunities
- Variety of takeaways benefits village and those who do not drive
- More than enough people for all food businesses to have custom

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

- 1.1 The application site relates to an empty commercial unit at ground floor level in one half of a parade of shops located on the north western side of Cornwallis Avenue in Aylesham. The last use of the unit was as a hairdressers, although it is understood the premises has been empty for a number of years.
- 1.2 This half of the parade incorporates four commercial units, including a funeral directors, a café and a fish and chip shop. Opposite on the south eastern side of Cornwallis Avenue is the other half of the parade, with commercial ground floor units including a beauty salon, Londis supermarket and a pizza/kebab takeaway. Both sides of the parade have residential accommodation at first floor level and the parade is located within a village/suburban residential area.
- 1.3 There are approximately 10 parking spaces to the front of each half of the parade, with additional parking available on-street in the surrounding area.
- 1.4 This application seeks permission for the change of use of the ground floor unit to a hot food takeaway (class A5), the erection of an extraction flue to the rear, access ramp and hoop guards to the front and external alterations to windows and doors. The existing painted timber shopfront would be replaced with an aluminium glass shopfront, with the entrance door being relocated on the front elevation (rather than set back from the highway as existing). The windows and doors of the rear elevation (at ground floor level only) would be replaced with new windows and doors (of the same size and siting as existing). The flue would be located on the rear elevation and would have a height of approximately 7.3m from ground level (approximately the same height as the flue to the rear of the fish and chip shop at the end of this part of the parade).
- 1.5 The unit would have a customer area with a serving counter and the agent has clarified that several chairs would be provided within this area for customers to wait for their meal to be cooked, with two bins also provided internally.

**2. Main Issues**

- 2.1 The main issues for consideration are:
- The principle of the development
  - The impact on the character and appearance of the area
  - The impact on residential amenity

**Assessment**

Principle of Development

- 2.2 The site lies within the settlement confines identified in Policy DM1 and as such, the site is suitable for development in principle. It lies within a parade of commercial units which are well established. The parade includes two other A5 (takeaway) uses which have been operating successfully for several years.
- 2.3 It is therefore considered that the principle of the development is acceptable in this location, subject to site specific considerations.

#### Impact on the Character and Appearance of the Street Scene

- 2.4 The site is located within a parade of shops on the northwest side of Cornwallis Avenue. These commercial ground floor units have large glazed windows with signage above and a door to the side, set back from the main front elevation. The existing signage and surrounds of these shopfronts are a range of colours, however are all similar in design. On the opposite side of Cornwallis Avenue, the parade of shops has been altered externally, with a shutter installed to the front of the pizza/kebab shop and the two inner units combined to form one shop, with a central doorway, ramp and hoop guards and metal window/shopfront surround.
- 2.5 Policy DM20 states that permission for new shopfronts and alterations to existing shopfronts will only be given if the proposals respect the composition, materials and detailed design of the building and the context provided by the street in which they are located.
- 2.6 The proposals would result in the installation of a ramp and hoop guards for safety, similar to those to the front of the Londis store opposite. The existing timber framed shopfront window would be replaced with a new aluminium shopfront installed with a lower cil height. Furthermore, the existing door, which is set back from the front elevation would be repositioned to be in line with the shopfront window. Whilst this would differ from the other shopfronts on this half of the parade, the design would be similar to that of the Londis supermarket opposite. As such, it is considered that the proposals would accord with the objectives of Policy DM20. The development is considered to have a neutral impact on the character and appearance of the street scene, in accordance with Paragraph 127 of the NPPF.

#### Impact on Residential Amenity

- 2.7 The application site is located within a parade containing commercial uses at ground floor level and residential accommodation at first floor level. Furthermore, the site is within a predominantly residential area within Aylesham.
- 2.8 The proposals would result in changes to the existing shopfront and replacement of the windows and door on the rear elevation. In addition, a flue would be installed on the rear elevation. In keeping with an existing flue serving a neighbouring premises, this would extend to just above the eaves level at first floor. However, due to their siting and scale, these alterations are considered unlikely to result in significant harm to the residential amenities of surrounding residents in respect of overshadowing, overbearing or loss of privacy.
- 2.9 The opening hours for the adjacent funeral directors are not known, however 24hour access to the unit is required. The adjacent café Jam and Roses is open Monday to Saturday 9:30am to 3pm and Cornwallis Fish Bar is open from 11:30 to 2pm and 4:30 to 9pm Mondays to Saturdays. On the opposite side of the parade, the Londis supermarket is open every day from 6am until 11pm. The

Countryside Kebab and Pizza takeaway is believed to be open 2pm to 10pm Monday to Saturday and 3pm to 10pm on Sundays. Tan N Tone opens Monday to Friday 10am to 7pm and 10am to 6pm on Saturdays. The proposed hours for the takeaway are 12:00 until 23:00 every day (including Sundays and Bank Holidays) and therefore the unit would be open no later than the Londis supermarket opposite. Due to the nature of the use, there would be visitors entering and exiting the building frequently during these hours. Whilst this would result in some associated noise and disturbance, the level is considered unlikely to result in significant harm to residential amenity and were this to become an issue, could be controlled through environmental health legislation.

- 2.10 Furthermore, conditions are recommended by Environmental Health relating to the operating hours and requiring details to be submitted of the noise levels of new fixed plant and showing how the extraction system will alleviate fumes and odour and will be isolated from the structure of the flat above the development (to prevent vibrations).
- 2.11 The full wording of the suggested conditions is included at the end of the committee report and subject to their imposition, the development is considered unlikely to result in unacceptable harm to the amenity of surrounding residents in accordance with Paragraph 127 of the NPPF.

#### Other Material Considerations

##### Impact on Parking/Highways

- 2.12 The application site forms part of a terrace of four units which have 10 unmarked spaces to the front, with an additional 10 unmarked spaces to the front of the units on the other side of the parade. Additional on-street parking is available along Cornwallis Avenue and given the intended 'takeaway' use of the business, it is likely customers would park their cars for short periods of time only. As such, the change of use is considered unlikely to result in significant increase in on-street parking demand or cause harm to the free flow of traffic in the street and is considered acceptable in respect of paragraph 109 of the NPPF.

##### Impact on Flood Risk

- 2.13 The application site is located in Flood Zone 1, which has the lowest risk from flooding. The proposals result in no increase to the scale or massing of the building and the proposed use would be non-habitable. The proposals are therefore considered acceptable in respect of risk from flooding.

##### Other Matters

- 2.14 Any new signage would require advertisement consent and would be subject to a separate application.
- 2.15 In respect of refuse storage and collection, the agent has clarified that the refuse would be stored in a lockable 1100L EuroBin to the rear of the property, adjacent to the back door. Nonetheless, a condition requiring details of refuse storage to be submitted is recommended, in order to ensure facilities are provided prior to the operation of the premises.

### **3. Conclusion**

- 3.1 The application site is located within the settlement confines and the proposed change of use to a hot food takeaway is considered acceptable in principle in this location. The proposed external alterations, which include replacement of the shopfront window and door, replacement rear windows and door and erection of an access ramp and hoop guards are considered to accord with Policy DM20 and would have a neutral impact on the character and appearance of the street scene. Subject to the conditions suggested below, the development should safeguard residential amenity in accordance with Paragraph 127 of the NPPF.

### **4. Recommendation**

I PERMISSION BE GRANTED subject to conditions which include:

- 1) The development hereby permitted shall only be carried out in accordance with the following approved plans/documents:  
19\_1147\_01, 19\_1147\_02, 19\_1147\_03, 19\_1147\_04, 19\_1147\_05, 19\_1147\_06, 19\_1147\_07 and Application Form received 29<sup>th</sup> July 2019.  
Reason: For the avoidance of doubt.
- 2) The premises shall not be open to the public other than between the hours of 12:00 to 23:00 hours on any day. The premises shall cease operating at 23:00 hours each evening.  
Reason: To protect the residential amenity of the adjoining properties.
- 3) Prior to the first use of the development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority showing that, when operating, the design and installation of new items of fixed plant shall be such that the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1 metre from the facade of the nearest noise sensitive premises, shall be a rating level 5dB (A) below the background noise level LAf90 Tbg. The development shall be carried out in accordance with the approved details.  
Reason: In the interests of residential amenity.
- 4) Prior to the first use of the development hereby permitted a scheme showing how the extraction system will alleviate fumes and odour and how the extraction trunking will be isolated from the structure of the flat above the development (to prevent vibrations) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development hereby approved first commences and shall thereafter be permanently maintained and operated when the premises are in use.  
Reason: In the interests of residential amenity.
- 5) Prior to the first use of the development hereby approved, a scheme for the storage of refuse shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and shall thereafter be retained in that form.

Reason: To facilitate the collection of refuse and preserve visual amenity

- II Powers to be delegated to the Head of Planning, 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

Rachel Morgan