

**REPORT SUMMARY**

<b>REFERENCE NO - 17/503919/FULL</b>			
<b>APPLICATION PROPOSAL -</b> Retrospective change of use from A1 to A3 use, replace two waste storage sheds with new cottage style storage shed.			
<b>ADDRESS -</b> The Bow Window Hair Designers (The Bow Window Coffee Shop and Café), The Square Lenham Maidstone Kent ME17 2PG			
<b>RECOMMENDATION -</b> GRANT PLANNING PERMISSION subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION -</b> The change of use from A1 to A3 is permitted change within the Use Classes Order and the permanent rather than temporary change to a use within Class A3 proposed complies with provisions of the development plan. The proposed replacement shed is acceptable with regards to the relevant provisions of the adopted Local Plan, the NPPF and all other material considerations such as are relevant. Therefore, planning permission is recommended subject to conditions.			
<b>REASON FOR REFERRAL TO COMMITTEE -</b> Cllr Janetta Sams have requested the application be determined by the planning committee if the case officer was minded to recommend approval on grounds that the proposed change would result in noise nuisance.			
<b>WARD</b> Harrietsham And Lenham	<b>PARISH/TOWN COUNCIL</b> Lenham	<b>APPLICANT</b> Mrs Sarah Danaher	
<b>DECISION DUE DATE</b> 27/11/17	<b>PUBLICITY EXPIRY DATE</b> 03/11/17	<b>OFFICER SITE VISIT DATE</b> 5/10/2017	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
MA/05/1785	Erection of single storey rear extension as shown on drawing numbers BW0514.02, BWO514.03 and BW0514.05 received on 31/08/05	PERMITTED	04/11/2005
MA/05/1784	An application for listed building consent for the erection of single storey rear extension as shown on drawing numbers BW0514.02, BWO514.03 and BW0514.05 received on 31/08/05	PERMITTED	04/11/2005

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application property is a grade II listed mid-terraced building located on the north west side of 'The Square' in centre of Lenham Village. The building is of 16<sup>th</sup> century origin and is considered to make an essential contribution to the character of the Lenham Conservation Area.
- 1.02 The ground floor of the building has a history of uses within Class A1 and is believed to have previously been used as hairdressing saloon which falls within that Class. The building has residential accommodation at first floor and the adjacent property 'Lurcocks' is a shop with residential accommodation to the rear. There is a pedestrian access between these two properties which passes underneath the building adjacent

to which is a wooden fence which runs along the shared boundary to the rear of the buildings.

- 1.03 Neighbouring uses within the vicinity of the site are mixed and comprise mainly of Class A and Class D uses to the west, south and east of the site, interspersed with residential accommodation which is mainly at first floor level. There are a number of hotel premises close to the site.

## **2.0 PROPOSAL**

- 2.01 The application seeks retrospective planning consent for the change of use of the ground floor of the building from A1 (Shop) to A3 (Food and Drink) for the establishment of a coffee shop/restaurant, together with replacement of the existing waste storage sheds with a larger cottage style storage shed.

- 2.02 The proposed shed is positioned close to the panel fencing running along the south eastern boundary to the rear of the site, approximately 3.3 metres from the rear elevation of the single storey rear extension approved under MA/05/1784. It has a width of approximately 2.5 metres and depth of 4.3 metres. The height is approximately 2.4 metres from the ground level to the highest part of the pitched roof. It is of timber construction with window openings on the north and east facing elevations.

- 2.03 The Town and Country Planning (Use Classes) Order allows for a change use from Class A1 (Shop) to A3 (Food and Drink) on a temporary basis for a period of two years, and a permanent change subject to prior approval. Therefore, the element for determination in this submission is the proposed permanent change of use, rather than a temporary change for a 2 year period. Also for determination is the proposed replacement cottage style waste storage shed which is significantly larger than the one replaced.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

- 3.01 Maidstone Borough Local Plan (2017) policies SP8, DM1, DM4, DM9 and DM17. National Planning Policy Framework (NPPF) Paragraph 23, 58 and 59.

## **4.0 LOCAL REPRESENTATIONS**

- 4.01 **Local Residents:** 3 representations received from local residents raising the following (summarised) issues

- Noise nuisance
- Food smells

- 4.02 4 further comments received expressing support for the proposals on the following (Summarised) grounds:

- Proposal contributes to the vitality of district centre
- Employment generation

## **5.0 CONSULTATIONS**

- 5.01 **Lenham Parish Council:** Comments that it wants to see this application approved.

- 5.02 **Environmental Health Officer:** No objection subject to conditions on noise mitigation and extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises.

## **6.0 APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration are:

- Principle of development  
Visual impact
- Residential amenity
- Highways impact

### **Principle of Development**

6.02 The application site is located within a designated district centre, where the Council's objectives set out in policy DM17 of the adopted local plan it to maintain and enhance the existing retail function and support community uses in the interest of securing a sustainable and well functioning communities.

6.03 Policy SP8 outlines the Council's aspiration to sustain thriving village centres and local businesses in general. Policies DM1 and DM4 provides clear guidelines about the need for development to be planned and designed in a manner which appropriately responds to the historic context, whilst positively enhancing the historic character of the locality. The National Planning Policy Framework NPPF identifies good design as a key objective in planning, setting out the need for development proposals to be of high quality and requiring development to respond to local character (paragraphs 58 and 59).

6.04 The application is for the change of use of the ground floor of the building from A1 (Shop) to A3 (Food and Drink) for the establishment of a coffee shop/restaurant, together with replacement of the waste storage shed within the rear garden of the site. The element of the proposal involving the change of use from A1 to A3 is permitted on temporary basis within the Town and Country Planning (Use Classes) Order. Therefore, councillors need to be determined whether the permanent rather than temporary change to a use falling within A3 (Food and Drink), together with the replacement waste storage shed proposed is acceptable.

6.05 Having regard to the development plan policies outlined above, the NPPF and the Town and Country Planning Use Classes Order, it is considered that the principle of the use proposed within the district centre has strong policy support and is acceptable as a consequence.

### **Visual Impact:**

6.06 The application property is a grade II listed mid-terraced building and the replacement waste storage shed is proposed within the rear garden of the building close to the panel fencing running along the south eastern boundary to the rear of the site. It is located approximately 3.3 metres from the rear elevation of the single storey rear extension approved under MA/05/1784.

6.07 Whilst significantly larger than the waste storage sheds replaced, it is of appropriate scale and design and would not appear prominent when viewed in the context of the site. The separating distance and choice of materials would ensure that it does not have a significant adverse impact on the historic architectural integrity of the Grade II listed building, its significance and its features of special interest.

**Residential amenity:**

- 6.08 In terms of neighbour amenity, the application building is located within a relatively busy district centre surrounded by uses generally falling within classes A and D. In considering the amenity impacts of the proposed use, councillors are reminded of the expectations of district centres to help secure sustainable and well-functioning communities in policy DM17 of the adopted Local Plan.
- 6.09 The uses within Classes A and D are favoured within district centres given their essential role in meeting the day to needs of the local communities and their general negligible impact on the amenities of neighbouring commercial uses and nearby residential dwellings.
- 6.10 The first floor of the application building and some neighbouring buildings are understood to be in use as almshouses and whilst objections have been raised on grounds of noise nuisance and food smells, these are matters that can be effectively controlled by environmental health legislation.
- 6.11 The A3 use proposed in this case falls within the type of uses considered as essential in securing the viability of district centres and sustainability of communities within designated Rural Service Centres. As a consequence, an objection to this proposal on amenity impact grounds would undermine the viability and vitality of district centres and the Council's objectives set out in policy DM17 of the new local plan.
- 6.12 In this case, whilst it is understood that due to the age of the building and its designation, there is limited scope for achieving satisfactory internal acoustic attenuation for the premises and flats above. The Environmental Health Officer does not raise any overriding objection to this proposal subject to conditions on noise mitigation and extraction and treatment of fumes and odours generated from cooking and other activity undertaken on the premises. The recommended conditions would ensure that any adverse impacts on the amenities of surrounding occupiers are adequately mitigated.

**7.0 CONCLUSION**

- 7.01 The proposal seeking retrospective planning consent for the change of use of the premises from Class A1 to Class A3 for the establishment of a coffee shop/restaurant, together with replacement of the existing waste storage sheds accords with provisions of the development plan and relevant material considerations within the NPPF. There are no overriding material considerations to indicate a refusal of planning permission. I therefore recommend approval with condition set out below.

**8.0 RECOMMENDATION**

GRANT planning permission subject to the following conditions:

1. Within three months of the date of this permission, a noise insulation scheme for the the party wall, ceiling and floor that separate the residential and commercial unit and a timetable of implementation shall be submitted to and approved in writing by the Local Planning Authority. The noise insulation shall be installed in line with the agreed timetable, in accordance with the approved details and maintained as such thereafter.

Reason: In the interest of residential amenity and to ensure adequate protection against noise.

2. Within three months of the date of this decision, noise insulation for all plant and equipment and a timetable of implementation shall be submitted to and approved in writing by the Local Planning Authority. The noise insulation shall be installed in line with the agreed timetable, in accordance with the approved details and maintained as such thereafter.

Reason: In the interest of the amenities of surrounding uses and neighbouring residential occupiers.

3. Within three months of the date of this decision, a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises and a timetable of implementation shall be submitted to and approved in writing by the Local Planning Authority. The use shall operate in accordance with the approved details and maintained as such thereafter.

Reason: In the interest of the amenities of surrounding uses and neighbouring residential occupiers.

#### Informatives

1. The applicant is advised that the information submitted in accordance with condition 1 shall have regard to the DEFRA publication Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems January 2005.
2. The applicant is advised that the information submitted in accordance with condition 2 should seek to resist the transmission of airborne sound such that the weighted standardised difference (DnT, W + Ctr) shall not be less than 53 decibels. The weighted standardized difference (DnT, W) a spectrum adaption term, Ctr, is quoted according to BS EN ISO 10140; 2011 Acoustics- Measurement of sound insulation in buildings and of building elements- Part 4: Field measurements of airborne sound insulation between rooms.
3. The applicant is advised in accordance with condition 3 that the rating level of noise emitted from the plant and equipment installed on the site (determined using the guidance of BS 4142: 2014 Rating for industrial noise affecting mixed residential and Industrial areas) shall be low as can be possible. In general this is expected to be 5dB below the existing measured background noise level LA90, T. In exceptional circumstances, such as areas with a very low background or where assessment penalties total above 5 the applicant's consultant should contact the Environmental Protection Team to agree a site specific target level.

Case Officer: Francis Amekor

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.