

A02

F/TH/16/0370

PROPOSAL: Variation of condition 3 attached to planning permission F/TH/07/0479 to allow the opening hours of 5pm - 10pm Monday to Thursdays, 5pm - 11pm Fridays and Saturday and 5pm - 10:30pm on Sundays and Bank Holidays.

LOCATION: 162 King Street RAMSGATE Kent CT11 8PJ

WARD: Eastcliff

AGENT: No agent

APPLICANT: Mr O Buyukertas

RECOMMENDATION: Approve

Subject to the following conditions:

- 1 The premises forming the subject of this permission shall not be used for other than:
- (a) between the hours of 5pm and 10pm Monday to Thursday
 - (b) between the hours of 5pm and 11pm on Fridays and Saturday
 - (c) between the hours of 5pm and 10:30pm on Sundays and Bank Holidays

GROUND:

In the interest of the amenities of the occupiers of surrounding residential units, in accordance with Thanet Local Plan Policy D1.

SITE, LOCATION AND DESCRIPTION

The application site is located on a corner site the western side of King Street and southern side of Boundary Road, Ramsgate. The application site is within the confines of the Ramsgate Conservation Area. The site comprises a two storey pitched roof building which is used as a Chinese hot food takeaway at ground floor and residential above.

Surrounding Area

This part of King Street has a mixed character with both commercial (including estate agents opposite the site and Ukip office) and residential premises. This section of King Street has double yellow lines no waiting at any time. To the rear of the site and in Boundary Road is a three and four storey flat development known as St. Lukes Court.

RELEVANT PLANNING HISTORY

F/TH/07/0479 - Change of use application from retail (A1 use class) to hot food takeaway (A5 use class) together with the insertion of an extraction flue with brick enclosure to roof at rear. Granted 08/06/07.

PROPOSED DEVELOPMENT

A variation in condition 3 of F/TH/07/0479 is sought to alter the opening days/hours of the premises of a Chinese hot food takeaway. The applicant originally sought permission to relax the condition to permit opening seven days a week, including Sundays and bank holidays from 7am until 12 midnight. During the consideration of the application the applicant has agreed to amend these opening hours to the following:

5pm – 10pm Monday to Thursday
5pm – 11pm on Fridays and Saturday
5pm – 10:30pm on Sundays and Bank Holidays

DEVELOPMENT PLAN POLICIES

Thanet Local Plan Policy (2006) Saved Policies

D1 - Design principles
TC9 - Hot Food Takeaways

NOTIFICATIONS

ONE representation received. Concern is expressed in relation to the following:

- Concern about potential anti-social behaviour including noise, litter, public urination and damage to properties from increased opening hours
- If customers park illegally it could disrupt local bus services

CONSULTATIONS

Ramsgate Town Council: strongly objects to this application on the grounds of the impact on the neighbouring properties due to the potential increase in anti-social behaviour in this already Police designated anti-social behaviour hotspot.

Environment Health: The section of road between the town centre along King Street to the application site is mixed commercial and residential and wholly residential along Boundary Road and Hereson Road.

Although the takeaway has no history of noise complaint and is along a busy section of road, opening until midnight on a daily basis will attract customers to the vicinity when ambient noise has significantly reduced. It will entice people to the area from the town centre night economy increasing the impact on many properties along King Street.

Environmental Health are objecting to the proposed hours but if Members are of a mind to grant consent I would recommend only permitting a small increase in opening hours: 11pm on Fridays and Saturdays and opening until 10:30 on Sundays and Banks Holidays.

COMMENTS

The planning application has been called in to the Planning Committee by Cllr. Larkins on the grounds of anti-social behaviour.

Section 73 of the 1990 Town and Country Planning Act provides that application may be made for planning permission without complying with conditions applied to a previous permission. Local planning authorities may decide whether to grant permission subject to differing conditions, remove the conditions altogether or refuse to alter conditions. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation.

Section 73 makes it clear that in considering an application to remove or vary a condition or conditions a local planning authority may only consider the question of the conditions. However, just like the determination of any other application due regard must be paid to the development plan and other material considerations.

Planning permission was granted for the change of use from retail to hot food takeaway together with the insertion of an extraction flue with brick enclosure to the roof at the rear, under planning application number F/TH/07/0479.

The current application seeks to vary Condition 3 of permission F/TH/07/0479 to increase opening hours. All matters were considered and nothing has changed since the approval of the previous application other than the proposed increased opening hours.

Condition 3 states:

The premises forming the subject of this permission shall not be used for the purpose hereby approved other than:

- (a) between the hours of 5pm and 10pm Monday to Thursday
- (b) between the hours of 5pm and 10:30pm on any Friday and Saturday
- (c) nor shall the premises be used at any time on Sundays and Bank Holidays

The reason for the condition was:

In the interest of the amenities of the occupiers of surrounding dwellings, in accordance with Thanet Local Plan Policy D1.

The applicant seeks to change the hours of use as detailed in the Proposed Development section of this report.

Principle

The site lies within the urban confines, inside the Ramsgate Conservation Area, the principle of the change of use and associated development has previously been considered and found to be acceptable.

Character and Appearance

The proposed increased opening hours would not change the appearance of the building, or impact on the character of the area.

Living Conditions

The site is situated on the edge of Ramsgate town centre on the corner of King Street and Boundary Road. The area is mixed in character with both commercial and residential properties. The ground floor has had an established A5 use for a number of years.

Policy D1 of the Thanet Local Plan states that all new development will only be permitted if it "is compatible with neighbouring buildings and spaces and does not lead to unacceptable loss of amenity through overlooking, noise or vibration..." Policy TC9 says that takeaway should be judged against the character of the area and sensitivity of neighbouring uses.

Operating hours which are later than what was previously approved have the potential to negatively impact on the local residential amenity by way of customers entering and leaving the premises, congregating and loitering outside.

It is recognised that residents living within or close to commercial centres cannot be afforded the same level of quiet amenity as those living in a wholly residential area. A reasonable level of protection however should be in place to protect residents from disturbance when they would normally be expected to be sleeping.

Environmental Health consider that the increase in the operating hours and seven days a week would attract customers from the town centre to the area when noise from traffic is significantly reduced, on this basis they considered the hours originally requested as unacceptable. Amended hours of opening were suggested of:

5pm – 10pm Monday to Thursday
5pm – 11pm on Fridays and Saturday
5pm – 10:30pm on Sundays and Bank Holidays

These were agreed with the applicant. It is confirmed that these hours of opening are considered acceptable.

Other material considerations

A third party has raised issues about potential for illegal parking whilst food is being ordered/collected, however this would be covered under separate legislation if a customer were to park in a restricted location.

Conclusion

This site is within an area of both commercial and residential uses and therefore due regard needs to be paid to the impact upon living conditions of adjoining residential occupiers. The Council's Environmental Health officer has confirmed the days/hours initially sought by the applicant were not acceptable due to potential for material harm to adjoining residential occupiers. It is, however, considered that a slight relaxation in the opening hours, as detailed

above will not result in any significant adverse impacts with regard to the living conditions of neighbouring property occupiers. The proposal is therefore considered to meet the requirements of Policy D1 and TC9 of the Thanet Local Plan and the National Planning Policy Framework.

Case Officer

Gill Richardson

TITLE:

F/TH/16/0370

Project

162 King Street RAMSGATE Kent CT11 8PJ

Scale:



