

<b>2.5 REFERENCE NO - 19/504399/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use to existing unused toilet block to retail premises (A1 Shop) for the sale of sporting goods.		
<b>ADDRESS</b> Red Lion London Road Dunkirk Faversham Kent ME13 9LL		
<b>RECOMMENDATION</b> - Approve		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary representations from local residents, and at the request of Cllr Tim Valentine		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Dunkirk	<b>APPLICANT</b> Mr Neil May <b>AGENT</b>
<b>DECISION DUE DATE</b> 04/11/19		<b>PUBLICITY EXPIRY DATE</b> 11/10/19

## 1. DESCRIPTION OF SITE

- 1.1 The site is a small outbuilding set to the front of The Red Lion public house in Dunkirk with external access. The structure in question is now used for storage for the pub, but it once formed the toilet block serving the pub. It is difficult to date this part of the building, but it seems likely that it dates from the late C19/early C20.
- 1.2 The unit is finished externally in painted brickwork and weatherboarding under a single ridged Kent peg tiled roof. There is an existing single rooflight on each plane of the roofslope. As such, the unit is a fairly conventional building of its type and age, albeit with modern rooflights.
- 1.3 The site is situated outside any established built up area boundary, in a small area of development which includes the pub, a farm shop and nursery, and a few residential dwellings. It is near to the access slip road to and from Dunkirk off the A2 Trunk Road and is very accessible to and from the Canterbury direction.
- 1.4 There is a large off-road parking area for the pub adjacent to the building

## 2. PROPOSAL

- 2.1 The proposal is to convert this small building to a retail unit selling sporting goods, which would include guns, ammunition, and associated products. No external changes to the building are proposed, and it is envisaged that all changes will be internal mostly relating to improving the security of the building.
- 2.2 The proposed hours of business for the shop are 09:00 to 17:30, Monday to Friday; 09:00 to 15:00 on Saturdays; with the shop closed on Sundays and Bank Holidays.
- 2.3 The business is currently located (without the benefit of planning permission) at the remote Cleve Hill Farm in Graveney. An application for a change of use of a former farm building at Graveney has been made under planning reference 19/502750/FULL, but this is not being proceeded with due to the applicant's desire to move the business to Dunkirk.
- 2.4 The applicant has submitted the following supporting statement:

*"To whom it may concern.*

*I Neil May Director and owner of Kent Gunsmiths Limited am applying for change of use to an outbuilding of The Red Lion and supply this cover letter to explain my intentions. I have previously submitted plans for change of use at my current location Cleve Farm, ME13 9EE and have since held off due to access problems and difficult to find location for my customers. This application would be more viable for my business to survive.*

*My Partner(Owners Daughter) and I currently live at the premises (not in the building purposed) change of use would enable better security and keep the business in the family with The Red Lion benefiting from the additional income. I feel the site purposed would make good use of a disused unfunctional building in danger of falling into a state of disrepair.*

*This application is submitted with the full intentions to help both Kent Gunsmiths and The Red Lion financially survive in difficult times, Change of use to the individual building purposed would have no affect on the existing premises or licences in the future. The Owner would be prepared to sign a declaration if required to insure that change of use if approved would remain for the sole use by the Current Owner for the purpose of Kent Gunsmiths Trading and could not be used to aid further change of use of a different nature or additional businesses trading.*

*The location currently has a high presence of agricultural and farming businesses local that would potentially benefit from the additional customers my business would bring to the area as they have similar interests.”*

### **3. PLANNING CONSTRAINTS**

- 3.1 Outside established built-up area boundary.

### **4. POLICY AND CONSIDERATIONS**

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST3 (the Swale Settlement Strategy); DM3 (The Rural Economy); DM7 (Vehicle Parking); and DM14 (General Development Criteria)
- 4.2 Policy DM3 in particular is relevant to this proposal. It encourages the sustainable growth and expansion of business and enterprise in the rural area, with a preference for re-use of rural buildings and the retention and enhancement of rural services.

### **5. LOCAL REPRESENTATIONS**

- 5.1 Three objections have been received. Their comments may be summarised as follows:
- The description of sporting goods is misleading as it will be used for the sale and repairing of guns
  - Both the building and the surrounding area are unsuitable for the proposed use due to the remote location and security of the building
  - There is concern surrounding the lack of evidence which has been provided to surrounding residents
  - Concerns for residents' safety as there are Park Homes and other housing nearby

- The timber wall facing the car park could be a weak point for breaking in
- Where would customers try out a gun before buying?
- A gun shop and a public house is not a good combination
- Occasional stays by grandchildren is a great concern

5.2 One email of support has been received from an existing customer of the business. The comments may be summarised as follows:

- The current location of the business is remote and not very convenient for customers
- Good use of a vacant building in a rural area in an ideal location to cover the client base, which will support the local economy
- No need for concerns over security *‘due to the very high standards set by Kent Police for Registered Firearms Dealers’*
- Most of the business is by appointment

## 6. CONSULTATIONS

6.1 Dunkirk Parish Council does not object to the change of use to an A1 retail use, but does object to that use being for the sale of guns and ammunition. The Parish Council's comments in full are as follows:

*“Dunkirk Parish Council discussed the application and is not opposed to the change to A1 shop use in principle, but would attach a few caveats.*

*Because of the use, specifically a gun shop, with quantities of ammunition, there are concerns that it might be possible to control by conditions.*

*Storage & handling of hazardous materials (i.e. cartridges) is a material consideration.*

*We hope officers will also address this with Kent Police.*

*Because the building is not thought to be of the strongest construction, it would be prudent to condition the safety of the goods inside by ensuring the building is made secure and/or ensure the goods are all kept in tamper proof containers or cages.*

*Concerns were raised on the proximity of weapons to licensed premises, which could lead to civil disorder.*

*There is access to the A2 arterial roadway, only a few metres away, and the ease of escape (if raided) must be considered.*

*Thus far there has been no input from Kent Police and Dunkirk Council feels it is imperative that they are fully consulted, and the decision on this specific change of use, must be entirely guided by them.*

*The use for the sale of other products would not cause as much consternation in the local community.*

*If you are minded to consent the A1 use, we would ask for a condition to exclude the use applied for in this case unless it is subjected to a further application.”*

6.2 Kent Police’s Designing out Crime Officer has commented as follows:

*“We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).*

*Applicants/agents should consult us as local Designing out Crime Officers to address CPTED. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behavior (ASB), Nuisance and Conflict.*

*If this application is to be approved we strongly request a Condition be included to address this application and its additional security requirements and to show a clear audit trail for Design for Crime Prevention and Community Safety to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.*

*This information is provided by Kent Police DOCO’s and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.”*

6.3 Kent Highways and Transportation advises that the proposal does not meet their criteria to warrant a response.

6.4 The applicant has responded to the issues raised by the Parish Council and local residents. His response may be summarised as follows:

- a. Security issues are governed by Kent Police who apply strict policies, and require an inspection and sign off by them before trading can commence
- b. There are a number of established gun shops in Kent, some being close to houses, in High Streets or near to public houses
- c. Live firing ranges with a licensed bar on site haven’t had any problems
- d. The building concerned is a brick building with wooden cladding and steel bars preventing access via windows
- e. There are no plans to test firearms on the site

## 7. APPRAISAL

7.1 The main issues to consider in this case appear to be those of development in the countryside, effect on the rural economy, and the effect upon the amenities of local residents. In terms of the first issue above, the main issue is the impact of a new retail use on the character and functioning of the countryside. I do not consider that the nature of the goods to be sold is especially significant as it is the local impacts from the retail use itself (the sale and display of goods) or from customers arriving and departing that are important, and I do not see that these will vary much between different types of

sales; especially from such a small building. The use itself will not be noisy, and traffic to and from will be easily accommodated on the highways concerned. A countryside location seems sensible for this type of business, and I see no objection to a small scale retail use here as it can only add to the viability of the public house and support its rural trade, in accordance with policy DM3.

- 7.2 The sale and use of firearms is understandably an emotive issue for many people, and I fully understand the concerns raised by local residents and the Parish Council. The Government website includes the following details with regard to becoming a Licensed Firearms Dealer:

*'Any business that manufactures, sells or transfers shotguns, firearms or ammunition, and anyone involved in the repairing, testing or proving of them, must register with the police.*

*In order to sell firearms, including air weapons, by way of trade or business, you must register as a firearms dealer with the local police.*

*You must:*

- *complete application form 116 from your local police*
- *return your application to your local chief officer of police with the correct fee*
- *provide information on all places in the area where your business will be carried out*

*You will be required to explain the nature of your business and show that you have an understanding of firearms legislation.*

### **Conditions**

*The chief officer of the police can attach any reasonable conditions to your licence, and may change these at any time with written notice.*

*As a registered firearms dealer, you must:*

- *keep firearms secure*
- *not sell firearms or ammunition to anyone under the age of 18, or anyone you believe to be drunk or unsound of mind*
- *not sell firearms or ammunition to anyone who is not authorised to own a firearm or shotgun*
- *not carry out your business in a place that may be a danger to the public*

*If you obtain new premises that are not entered in the register, you must notify the chief officer of the police as soon as possible. You must include all necessary information.*

*To renew your registration certificate, you must return your current certificate to the police and apply for a new certificate in the standard way. You must do this within or before 3 years from the granting of your original certificate.*

*You must keep a register of all firearms or ammunition transactions and you must record all transactions within 24 hours of their occurrence, in particular the quantities and descriptions of all firearms and ammunition:*

- *manufactured - including the dates for these*

- *purchased or acquired - including the names and addresses of the sellers or transferors and the dates of the transactions*
- *accepted for sale, repair, test, proof, cleaning, storage, destruction or other purpose*
- *sold or transferred - and the areas where the person's firearm certificates were issued*
- *in your possession for sale or transfer at the date of your last stocktake*

*When recording the above information you must include the names and addresses of all relevant parties, and the date these transactions occurred.*

*Details on the register must be kept for at least 5 years from the date of the transaction.*

*You must allow the police to inspect the register and your stock if requested.*

*If you sell, let or lend a shotgun to a holder of a visitor's shotgun permit, you must notify the police, in writing, of the transaction within 48 hours.'*

- 7.3 In the light of the above requirements I see no need for the Council to seek to impose additional or parallel requirements that we are not well versed in or equipped to enforce, and which may only reduce clarity about who is in charge of ensuring the security of the premises. I would prefer to leave security matters to the expertise of Kent Police and not the Borough Council.
- 7.4 With regard to the comments from the Police's Designing Out Crime Officer, I see no benefit in the Council asking for or seeing details of the security measures to be adopted as the Council's role is to consider the environmental impacts of a retail use. I do not think that such a condition is necessary or reasonably related to the development being proposed – both of which are tests of the need for a condition.
- 7.5 Put another way, if this building was already in retail use, no planning application would be necessary to sell firearms as opposed to, say, furniture or shoes, and if the Council were to include such a condition it could be considered to be unreasonable and might be successfully appealed. I have therefore not recommended such a condition, but I have instead suggested an informative, advising the applicant to consider the concerns raised by the Parish Council and local residents when applying to Kent Police for the appropriate licence.
- 7.6 When considered as a simple application for retail use of this small building attached to an existing commercial premises with extended opening hours, and opposite an established farm shop in a small nucleus of commercial activity, I see no likelihood of sales affecting the amenities of local residents.

## **8. CONCLUSION**

- 8.1 In conclusion, whilst I fully understand the safety concerns raised by the Parish Council and local residents, in this case safety issues will be fully addressed by Kent Police, and if Members are minded to grant permission, that permission cannot be implemented unless the applicant takes appropriate safety measures which will need to be approved by Kent Police. I see no valid reasons to refuse the proposal as submitted.

## **9. RECOMMENDATION - Approve subject to the following conditions:**

### **CONDITIONS**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The use of the premises hereby permitted shall be restricted to the hours of 9 am to 5:30pm on weekdays; and 9 am to 3 pm on Saturdays only, and it shall not be open to the public at any time on Sundays or Bank Holidays.

Reason: In the interests of the amenities of the area.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this case, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

### **INFORMATIVE**

- (1) The applicant is strongly advised to consider and act upon the security concerns raised by the Parish Council and local residents when applying to Kent Police for the appropriate Licenses.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

