

2.6 REFERENCE NO - 16/500905/FULL			
APPLICATION PROPOSAL Change of use from A4 to A5 with installation of kitchen extractor duct at rear. Externally illuminated fascia sign with replacement of 1 x hanging sign.			
ADDRESS The Crown 148 High Street Sheerness Kent ME12 1UB			
RECOMMENDATION Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would bring back into use a vacant premises without causing harm to the social well being of the community; without harming the vitality or viability of the town centre; and without giving rise to significant harm to residential amenities.			
REASON FOR REFERRAL TO COMMITTEE Local Objections and called in by Councillors Ellen and Galvin			
WARD Sheerness	PARISH/TOWN COUNCIL	APPLICANT Mr Mustafa Sasmaz AGENT Enki Architectural Design	
DECISION DUE DATE 10/05/16	PUBLICITY EXPIRY DATE 10/05/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/500906/ADV	Advertisement Consent for 1 x Externally illuminated fascia sign, 1 x externally illuminated hanging sign.	Approved	24.03.2016
SW/12/1348	Change of use of rear part of building from nightclub to Islamic Cultural Centre and function room	Approved	03.12.2012

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 No.148 is a disused public house located in Sheerness High Street which is within both the built up area boundary and the Core Shopping Area.
- 1.02 The building is detached and two storey with rooms in the roofspace with a front projecting bay window at both ground and first floor.
- 1.03 The disused public house occupies the ground floor with existing residential use on the first and second floors.
- 1.04 The surrounding area includes a number of amenities that would be expected to be found in a High Street location such as retail units, public houses, cafes, restaurants and takeaways.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the change of use from A4 (Drinking Establishment) to A5 (Hot Food Takeaway) with the installation of an extractor duct to the rear.
- 2.02 The proposed internal layout will include storage areas, a kitchen / preparation area and a counter area.
- 2.03 A 450mm x 450mm steel extractor duct will be located on the rear of the building.
- 2.04 The proposed opening hours are 11.00 – Midnight, Monday to Friday, Sundays and Bank Holidays and 11.00 – 03.00 on Saturdays.

3.0 PLANNING CONSTRAINTS

- 3.01 Environment Agency Flood Zone 3

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF)

- 4.02 National Planning Practice Guidance (NPPG)

Swale Borough Local Plan 2008

- 4.03 Policy E1 (General Development Criteria) sets out standards applicable to all development, saying that it should be well sited and appropriate in scale, design and appearance, causes no demonstrable harm to residential amenity and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms;
- 4.04 Policy E24 (Alterations and Extensions) states that planning permission will be granted for alterations and extensions to existing buildings provided they maintain or enhance the character of the streetscene and protect residential amenity;
- 4.05 Policy B3 (Maintaining and Enhancing Vitality and Viability of the Town Centres) sets out that within the defined Core Shopping Areas, the Borough Council will only permit non retail uses that:
- a) enhance the primary retail function of the area by adding to the mix of uses in the town centre area as a whole and increase its overall vitality and viability;
 - b) provide a service or facility for residents or visitors currently lacking or under-represented in the town centre area;
 - c) could not otherwise successfully trade within the secondary shopping area;
 - d) do not result in a significant loss of retail floorspace;
 - e) do not lead to a concentration of non-retail frontage; and
 - f) do not result in the loss or erosion of a non-retail use that underpins the functioning, vitality and viability of the town centre.
- 4.06 Policy C1 (Existing and New Community Services and Services) states that the Borough Council will not permit proposals that involve the loss or change of use of a local community facility where this would be to the detriment to the social well being of the community unless a suitable replacement is to be provided. Furthermore,

before agreeing to the change of use, the Council will require evidence that the current use is no longer needed and is neither viable, nor likely to become viable.

5.0 LOCAL REPRESENTATIONS

5.01 I have received 10 letters of objection which raise the following summarised points:

- Too many takeaways in the High Street;
- Proposal will drive away potential tourists;
- Adversely impact upon local businesses in the High Street;
- The building should be used for affordable housing;
- The extractor fan will cause unacceptable levels of noise and smells from cooking is a concern;
- Will lead to more litter being dropped;
- Increase the chances of anti social behaviour;

5.02 A petition objecting to the application which includes 339 signatures has been submitted on the following grounds:

- Already too many takeaways;
- Will not attract shoppers during the day;
- Noise pollution and anti social behaviour for local residents;
- Add more litter to the High Street;
- Proposal would add to traffic congestion on the High Street and lead to a loss of parking spaces;

5.03 I have also received a petition with 181 signatures to the question of *“Would you like a kebab and pizza take away which provides full customer satisfactory service and works under hygienic conditions in Sheerness High Street?”*

6.0 CONSULTATIONS

6.01 **KCC Highways & Transportation** state that *“The proposed development is within the town centre in which there are parking controls with on–street public parking available. The development is unlikely to generate additional traffic movements, particularly when compared against the site’s extant use as a public house.”*

6.02 **KCC Archaeology** confirm that no archaeological measures are required in connection with the proposal.

6.03 The **Council’s Environmental Health Manager** has commented that the details regarding the extractor fan that have been submitted, namely the silencer box, anti vibration and acoustic foam will reduce the impact insofar as a noise nuisance is unlikely. However, the proposed open times are considered to be unacceptable and would give rise to an unacceptable impact upon neighbouring amenities, as such a condition is recommended limiting the opening hours to 23:00.

6.04 Cllr Ellen stated *“In fairness to all I would like it called in.”*

6.05 Cllr Galvin commented that *“This Application should be put to the Planning Committee on the grounds of Petitions for and against and 10 letters of objection so the application can be given a fair hearing from all concerned.”*

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 16/500905/FULL.

8.0 APPRAISAL

- 8.01 The proposal would lead to the loss of the public house which has been vacant for some time (since 7th December 2009 according to the application form). As such, a key consideration is whether the permanent loss of this community facility would be to the detriment of the social well being of the community. In this case, I note that there are a number of public houses within close proximity of the application site. The closest public house, 'The Old House at Home' is approximately 20m away from the application site and in addition to this there are also a number of other public houses ('The Goat', 'The Belle and Lion' and 'The Castle Tavern') located in the High Street within 500m of the application site. As such, notwithstanding that the host premises has been vacant for a number of years I believe that due to the proximity and number of alternative public houses to the application site that the loss of the public house would not cause significant harm to the social well being of the community.
- 8.02 The site also lies within the Core Shopping Area where the vitality and viability of the town centre is sought to be maintained and enhanced. I am aware that this application has attracted a large amount of local interest in the form of the objections and petitions received. A large number of these have raised the issue that there is an over saturation of takeaways already operating within close proximity of the application site. I am aware that there are a number of takeaways within and close to Sheerness High Street. The health implications of hot food takeaways is a material planning consideration, especially where the application site is close to schools. The closest schools to the site are Rose Street Primary School and St Edwards Catholic Primary School located 300m and 430m away respectively. In this case, I do not consider that the site would be in such a prominent and convenient location in relation to these schools as to present a significant health risk to the younger population. In overall terms it is not the role of the planning system to restrict competition and therefore I take the view that based upon the assessment above the existence of other hot food takeaways should not substantiate a reason for refusal here. It is also important to note that the application site comprises a vacant ground floor use which makes no contribution to the vitality or viability of the town centre at present.
- 8.03 The details submitted with the application show that the upper levels of the building are in residential use and as such the impact upon residential amenities will require careful consideration. However, it must be taken into consideration that the premises has an extant use as a public house which would generate a similar if not greater level of activity compared to the proposed use in my view.
- 8.04 The drawings show that an extractor fan will be located on the rear of the building which would have the potential to create a noise nuisance. Due to this I have consulted with the Council's Environmental Health Manager who has commented that information relating to a silencer box, anti vibration and acoustic foam has been included and the result of this will be a reduction in the sound level of the fan. On this basis a noise nuisance is considered to be unlikely. However, serious concern was raised regarding the proposed opening hours of the premises. As such, a condition has been requested which limits the opening hours to 11pm. I consider this

to be acceptable, especially when compared to the extant use of the premises as set out above.

- 8.05 Local concern has also been raised regarding an increase in traffic, additional litter being dropped and antisocial behaviour. I have consulted KCC Highways & Transportation who have raised no objection and take the view there are existing parking controls, availability of on street parking and the proposed use is unlikely to generate additional traffic movements over and above the site's extant use. As such, I do not consider that the proposal would cause unacceptable harm to highway safety and amenity.
- 8.06 A takeaway use will have the potential to create litter, especially when food is able to be eaten 'out of the wrapper'. However, the High Street has litter bins provided at regular intervals including in locations close to the application site. As such, I do not feel it necessary to include a condition requiring an additional litter bin to be provided solely for the use proposed. However, there is the possibility that smells could be generated from food waste on site. As such I have recommended a condition in relation to on site refuse storage which I believe will address any concerns on this matter. In regards to the potential for anti social behaviour, I again refer to the extant use of the premises which is a public house. I do not consider that a takeaway would normally give rise to anti social behaviour levels over and above a public house. However, if any incidents were to occur then this would be a matter for the police and not something which Planning legislation would have any control over.
- 8.07 The site lies within Flood Zone 3 and a takeaway is classified by the Environment Agency as a less vulnerable use than a public house. Due to this the Environment Agency refer to their Standing Advice. There are no changes to the existing floor levels of the building and access is available via the external door to both the front and rear to leave the building if necessary and access higher ground. As such, I consider that the change of use would not give rise to significant risk to the future occupiers of the premises.

9.0 CONCLUSION

- 9.01 Overall I consider that the loss of the public house is acceptable on the grounds that there are a number of alternative facilities within close proximity of the application site and that the premises have been vacant for a number of years. Further to this, although there are undoubtedly a number of existing takeaways in the vicinity of the application site I do not believe that this would constitute a reason for refusing the application, especially considering the relative distance from schools in this built up context. The extractor fan and related apparatus along with the inclusion of a condition which restricts the opening hours to 11pm would in my view limit any harm that would be caused to residential amenities. Finally, I do not believe that the application would cause unacceptable harm to highway safety or amenity. I recommend that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the following 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.

Reasons: 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 development hereby approved shall be carried out in accordance with the following approved drawings: 14146-A-100-03; 14146-A-100-05; 14146-A-100-06; and 14146-A-100-07, received 15th March 2016.

Reasons: For the avoidance of doubt and in the interests of proper planning.

- 3) Prior to commencement of the approved development a scheme for the provision of on-site refuse storage facilities shall be submitted to and approved by the Local Planning Authority. The facilities shall be provided in accordance with the approved details before the use hereby permitted is first commenced, and shall thereafter be permanently retained. No refuse shall be stored outside the building otherwise than in accordance with the approved scheme.

Reasons: In the interests of the amenities of the area

- 4) The hot food takeaway hereby permitted shall not be used or open to the public, nor shall it generate deliveries to customers, except between the hours of 11:00 – 23:00hrs.

Reasons: In the interests of the amenities of the area

- 5) The extractor duct, noise attenuator, extract fan and acoustic fan shall be installed prior to the use commencing on site and shall be installed in accordance with the details submitted relating to this, received on 2nd February 2016.

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

- 6) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority

Reasons: In the interests of residential amenity

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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.