

ENFORCEMENT OF PLANNING CONTROL

The Grove Cafe, The Grove, Swanley BR8 8AJ

ITEM FOR DECISION

This matter has been referred to the Development Control Committee at the request of Councillor Searles, to consider the impact of the development on the surrounding area.

RECOMMENDATION:

That the authority is given to take no further action in respect of the extension and rear store to the café, on the grounds that enforcement action is not expedient.

FOR THE FOLLOWING REASONS:

The development is considered to have no adverse impact on the amenities of adjacent properties or the visual amenities of the area. As the Highway Officer has raised no objection to the development, it is considered that the proposal is acceptable on highway and parking grounds.

Background

- 1 In November, 2010, the Council received a complaint that the café at the above location had been extended by the erection of a conservatory type extension together with a small rear store, without the benefit of planning permission.
- 2 A retrospective planning application was submitted in August, 2011, and made valid in November, 2011 (SE/11/01572 refers).
- 3 This application was withdrawn on 29 January, 2014, as concerns were raised by the adjacent landowner that the development has encroached into land that he owns.
- 4 Land Registry plans from the adjacent landowner were submitted to the Council in an attempt to support the case for encroachment. It is however impossible from the information submitted to ascertain whether the extension to the café actually does encroach into the adjacent site. (It is however submitted that boundary lines on a typical Land Registry plan are a metre on the ground and are merely a guide to the actual legal boundary).
- 5 Legal advice has been sought, and the advice received is that the boundary of a site is a private law matter for the property owners and the exact boundary is rarely a material planning issue.

Description of Development

- 6 The extension at the front of the existing café measures 4.2 metres by 4.3 metres and is the same height as the existing café building, at 2.7 metres. The plans show that the extension accommodates up to 12 additional tables. The façade of the extension has been constructed from bricks and upvc units, to match the

existing. On the side elevation of the building that fronts the highway is an emergency door.

- 7 In addition to the extension, a rear store has also been built, which measures 1.6 metres by 3.1 metres in size and 2.7 metres in height.

Description of Site

- 8 The Grove, Swanley, is a newly completed Industrial Estate measuring 0.387 hectares. It comprises 9 new industrial units. Planning permission for the original café was granted in 2010 (SE/09/02637 refers).
- 9 The site is accessed via a concrete track located off Park Road. To the north of the site lies the railway and to the northeast lies Park Road Industrial Estate. To the east of the site lie a number of residential properties, within Sheridan Close.
- 10 The site is located within the built confines of Swanley.

Constraints

- 11 There are no constraints that affect this site

Policies

Sevenoaks District Local Plan

- 12 Policies – EN1, VP1,

Sevenoaks Core Strategy

- 13 Policy– SP1

Planning History

- 14 11/01572 – retention of an existing PVC purpose built room to front of café and store room to the rear. WITHDRAWN 29/1/14
- 15 09/02637/FUL - Retention of a PVC purpose built room to serve food to Units 1 - 9 + extract duct. Wall and gates at entrance of site. GRANT 07/07/2010
- 09/00520 - Retention of a PVC purpose built room to serve food to Units 1 - 9 and wall and gates at entrance of site. Additional parking & vehicle turning information received 27/08/09. WITHDRAWN
- 06/03301/FUL - Demolition of existing buildings and erection of new B1 use industrial units (As amended by revised plans received on 13 March 2007). GRANTED 29 March 2007
- 16 KCC Highways were consulted on the planning application for the conservatory and store and raised no objection.
- 17 The Environmental Health Officer also raised no objection.
- 18 Swanley Town Council objected to the application.

19 3 letters of objection were received in connection with the application. The main issues include the following:-

- Amenity
- Design, layout and appearance of the proposal
- No parking
- Blocking access to A,B,C and D parking areas
- Road safety
- Adequacy of infrastructure
- Economic impact on existing businesses on the estate

Chief Planning Officer's Appraisal

Principal Issues

20 The determining issues include the following:-

- The impact of the development on the amenities of neighbouring properties
- Highway Implications of the proposal
- Impact of the development on the character and amenity of the area
- Need
- Access implications

Impact on Amenity of Neighbouring Properties

21 Policy EN1 from the Sevenoaks District Local Plan states that proposed development, including any changes of use, should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements. The nearest residential properties are located to the east of the application site within Sheridan Close. At the closest point from the front of the proposed extension, the properties are approximately 40 metres away.

22 The previous applicant for the erection of the original café confirmed that the premises would be used as a café for staff working on the industrial estate, and involve serving simple meals (chips, bacon, eggs etc). However, the planning consent that was granted was for an A3 use, which allows use of the premises to trade to the wider public and sell a greater variety of food.

23 When the café was originally granted planning permission under application 09/02637/FUL, on 7 July 2010, a number of conditions were imposed to reduce the potential for the business to diversify/intensify its activities, including.

- The deliveries shall only take place between the hours of 08:00 and 17:00 on any day.

- The use shall only take place between the hours of 08:00 and 17:00 Monday to Friday, between 08:00 and 14:00 Saturday and shall not be open on Sundays or Bank Holidays.

The reason for both of these conditions was to protect the amenity of adjacent properties. Both remain in force in respect of the original café.

- 24 Given the comments received from Environmental Health in respect of the proposed extension, the unit is considered to comply with policy EN1 of the Sevenoaks District Local Plan.
- 25 As previously identified with the original application approved under application SE/09/02637/FUL, the extension does have implications for the planning permission that was approved under SE/06/03301/FUL for the demolition of existing buildings on the site and erection of new B1 industrial units. Under this permission, the following condition was imposed:-

“The car parking, cycle stand and pedestrian route shown on the approved drawing S/1234/05/PL-03C shall be provided and kept available for such use at all times and no permanent development shall be carried out on the land so shown or in such a position as to preclude vehicular access to the car parking, cycle stand and pedestrian link”

The drawings that were approved on 13 March 2007 show the area at the front of the site (where the original café has been constructed) as an informal pedestrian area. This area was also proposed for landscaping. In this respect, the extension conflicts with that condition.

- 26 Although it is recognised that the unit erodes the informal concrete block paved pedestrian route that was shown on the drawing, this is not considered to be unacceptable, and was not indeed identified as an issue when the original café was approved. The Highway Officer has raised no objection to the loss of this feature. It is considered acceptable on highway safety grounds to share the vehicle entrance as proposed. On the other side of the access, a new informal path has been installed which accommodates some of the pedestrian movement.
- 27 The loss of the landscaping buffer zone is also considered acceptable given the commercial nature of the site.
- 28 The development raises no adverse highway/parking concerns. Any remaining breaches of existing conditions will be investigated as a separate matter by our Enforcement Team, and an assessment will be made as to whether it would be expedient to take any action.

Impact on the visual amenity of the area

- 29 Policy EN1 (from SDLP) states that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The site is located to the south of the industrial estate adjacent to the main access into the site. The PVC building and the wall/gates are visible from The Grove (the small access into the site) and from Park Road which is the main public highway.
- 30 As stated above the extension is constructed entirely from bricks with PVC framework and windows. Although the building with the addition of the extension

has the appearance of a residential conservatory extension, and is not a conventional commercial style building, it is not considered adversely to affect the character and appearance of the area. An objection on visual amenity grounds is not warranted, due to the small scale nature of the building being extended. Although the side elevation is visible from the street scene it is not considered to be visually harmful given the context of the site.

- 31 The store to the rear is not considered to be of any visual merit; however it is not considered unduly prominent or overbearing and does not warrant an objection on planning grounds.
- 32 The extension and store are therefore considered to have no adverse impact on the character and appearance of the area and are considered to comply with the aforementioned policies.

Other Issues

Need

- 33 The Town Council raised objection to the development on the grounds that there is no requirement for any more eateries in the town. Lack of need for additional facilities does not, however, constitute a justification for objection in planning terms. There is no requirement under planning policy for an applicant to demonstrate a need for the use.

Flooding

- 34 The Town Council has concerns regarding the increase of hardstanding at this site as currently there are flooding issues at nearby Sheridan Close caused by rainwater run off. It is not considered that this small unit has any flooding implications.

Access Issues

- 35 Accessibility is an important planning consideration that needs to be taken into consideration in the planning process. Policy EN1 of the Sevenoaks District Council states, “the proposed development provides appropriate facilities for those with disabilities”. In this case, this is a service facility that needs to be accessible for all. The main access doorway in the unit is considered large enough to accommodate disabled access. In addition the doorway is only marginally raised from the ground which is also considered to be acceptable and provides suitable disabled access into the premises.

Third Party Objections

- 36 The main issues raised by the objectors have been adequately addressed in the report in terms of amenity, design, layout and appearance, road safety, and the adequacy of infrastructure of the extension and store.
- 37 Other issues raised include blocking access to units A, B, C and D parking areas. These units are located to the south and south west of the application property. The extension does not obstruct access to these specific units. Given the position of the extension at the front of the unit, this new addition is not fixed or next to any of the above aforementioned units and does not affect the maintenance of the buildings.

- 38 The other issue raised by objectors was the fact that the extension has an adverse economic impact on the surrounding businesses due to the competition that the café places on parking. It is important to note that KCC Highways have raised no objection to the extension on parking grounds. Although it is not disputed that customers of the café do park in spaces other than the allocated parking spaces, this is a management issue of the site, and not an issue for planning to resolve.

Conclusion

- 39 In conclusion, the development is considered to have no adverse impact on the amenities of adjacent properties or the visual amenities of the area, despite the concerns raised by the Town Council. In addition to this as the Highway Officer has raised no objection to the development, it is considered that the extension and store are acceptable on highway and parking grounds. Accordingly, enforcement action is not expedient in this case.

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