

APPLICATION: MA/13/1867 Date: 31 October 2013 Received: 31 October 2013

APPLICANT: Mr David John Evans, Riverside Restaurant

LOCATION: RIVERSIDE RESTAURANT, BOW BRIDGE, WATERINGBURY, KENT, ME18 5ED

PARISH: Nettlestead

PROPOSAL: Change of use of restaurant at ground floor level to domestic use in connection with the existing residential accommodation at first floor level as shown on drawing received on the 31st October 2013.

AGENDA DATE: 27th February 2014

CASE OFFICER: Graham Parkinson

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to views expressed by the Environment Agency

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV 28, ENV 30, H18
- Government Policy: NPPF

## **2. RELEVANT HISTORY**

2.1 None

## **3. CONSULTATIONS**

3.1 Nettlestead Parish Council: No objection

3.2 Environmental Health- No objection

3.3 Environment Agency: Objects and its comments are summarised below:

- The property lies within Flood Zone 3b and is land where water has to flow or be stored during times of flood.
- The applicant confirms that the restaurant to be converted to residential use, has flooded 24 times in the past 30 years. This will not improve and the home would continue to flood during a 1 in 20 year (5%) event.

- Residential use is classed as "more vulnerable" and therefore not permitted within flood zone 3b.
- Objections on flooding grounds could be overcome subject to demolition and rebuild the existing property, installation of a solid concrete base and that finished floor levels were at least 300mm above the design flood level (and 600mm above the design flood level for sleeping).

#### **4. REPRESENTATIONS**

4.1 Neighbours: 9 properties consulted- No representations received.

#### **5. CONSIDERATIONS**

##### **5.1 SITE DESCRIPTION:**

5.1.1 The application site is occupied by a two storey building sited abutting the northern bank of the River Medway and situated on a level area between the River Medway and the railway embankment set at a higher level to the north west. Abutting the site to the east is Bow Bridge.

5.1.2 Currently the property is in use as a restaurant at ground floor level with living accommodation used by the proprietors in connection with running the restaurant at 1<sup>st</sup> floor level.

##### **5.2 DESCRIPTION OF PROPOSAL**

5.2.1 The applicants advise that they ceased trading as a restaurant on the 31<sup>st</sup> October 2013 and wish to convert the restaurant to residential use in connection with their existing residential occupation of the 1<sup>st</sup> floor.

5.2.2 The following supporting information has been submitted:

- Have run the restaurant for the last 30 years.
- Applicants have now retired both being 74 years of age.
- Restaurant has been flooded 24 times in the last 30 years interrupting trade.
- There will be no change to the exterior of the premises, all restaurant furniture will be removed but the kitchen will be used as a domestic kitchen.

##### **5.3 DISCUSSION**

5.3.1 The key issues in relation to this proposal are considered to be (a) principle and (b) flooding concerns.

#### 5.4 **Principle:**

5.4.1 Given the prominent riverside setting and rural backdrop, the restaurant occupies a prestigious position in tourism terms. As such its loss from this purpose is regrettable and normally the Council require evidence of market testing before accepting an alternative use.

5.4.2 However given (a) the evidence of almost continual yearly flooding (which is not disputed by the Environment Agency) (b) the severe disruption to the business over the years due to flooding and (c) the significant investment required to make the building flood resistant building to meet the requirements of the EA, it is considered that there is no objection to the principle of residential use subject to the concerns of the Environment Agency (EA) being addressed.

#### 5.5 **Flooding considerations:**

5.5.1 The EA's response makes clear that residential is considered to be a vulnerable use which should not be permitted in flood zone 3b. The applicants have also confirmed that the ground floor of the premises has again been flooded in the protracted flooding event currently being experienced.

5.5.2 Clearly if an entirely new residential presence was being proposed at this location the EA's advice would be given great weight. The means of securing EA support for the proposed change of use involving demolition and rebuild of the property is not an option which the applicants can countenance.

5.5.3 It should be taken into account that the restaurant was run by the applicants who live on the first floor above it. In the circumstances, what is being proposed can be seen as an extension to an existing dwelling rather than the creation of an entirely new dwelling.

5.5.4 It would normally be the case that where extensions are proposed finished floor levels above known flooding levels are required along with flood 'hardening' measures to minimise damage in the event of flooding. In this case no new works are proposed with floor levels and external appearance of the building remaining the same. The applicants have already carried out flood damage minimisation works as part of their longstanding occupation of the restaurant which includes raising of power sockets and wall tiling.

5.5.5 Taking into account that the building already exists, the applicants long term experience of flooding and that they are already signed up to the various flood warning measures currently in operation, that subject to the residential use of the ground floor being tied to the first floor accommodation and that no sleeping

accommodation shall be provided at ground floor level, that on balance, this is considered to be a case where the EA's objections can be justifiably set aside.

- 5.5.6 Concerns have been raised regarding occupation of the premises by persons other than the applicants who may be unaware of the flooding risks in purchasing the property. However given the need for disclosure as part of the sales process and the high level of awareness to flood related issues it is not considered that this is likely.

## **6. CONCLUSIONS**

- 6.1 Notwithstanding that the proposal involves loss of a tourist attraction in a prominent popular riverside setting, that for the reasons set out above there is considered to be no objection to the principle of the proposed change of use subject to the EA's concerns being addressed.
- 6.2 That notwithstanding the EA's objection to the proposed change of use, it is considered that the circumstances justify setting aside its objections in this case and that, on balance, it is recommended that planning permission be granted.

## **7. RECOMMENDATION:**

GRANT PLANNING PERMISSION SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing received on the 31st October 2013.

Reason: To ensure the quality of the development is maintained and to prevent harm to amenity.

3. The ground floor accommodation hereby approved shall only be occupied in connection with the existing 1st floor accommodation and shall not be let or sold separately and shall not be used for sleeping accommodation.

Reason: To minimize the exposure to flood risk.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.