

<b>Application Number:</b>	WP/20/00618/FUL
<b>Site address:</b>	THE GURKHA BARS AND BUFFET, SWANNERY WALK, WEYMOUTH, DT4 7TY
<b>Proposal:</b>	Change of use of A3 restaurant to a mixed A3 restaurant and A5 hot food take-away
<b>Applicant name:</b>	Mr. Gurung
<b>Case Officer:</b>	Thomas Whild
<b>Ward Member(s):</b>	Cllr Hope and Cllr Taylor

- 1.0** The application is being brought to committee for determination as it relates to land owned by the Council.
- 2.0 Summary of recommendation:** GRANT subject to conditions.
- 3.0 Reason for the recommendation:** The proposal is to make permanent a change of use to allow take-away sales, which is currently permitted development on a temporary basis. The principle of the change is considered acceptable with regard to local policies for town centre development and the national planning policy framework and it is not considered that the proposal would give rise to harmful impacts upon the amenity of neighbours or the public.
- 4.0 Key planning issues**

Issue	Conclusion
Principle of development	The proposal would make permanent a change which is currently permitted development on a temporary basis and would be acceptable in principle.
Impact on amenity	The proposal would not give rise to harmful impacts.

## **5.0 Description of Site**

- 5.1** The site is located on the waterfront at the western edge of Weymouth Town Centre, to the western side of Commercial Road. The site comprises a jetty which has been clad to give it the appearance of a moored boat and which comprises a simple single storey building with pitched roof and gable ends and an entrance hallway projecting from the north eastern elevation of the site. The building is in use as a restaurant.
- 5.2** The site is located on the edge of Weymouth town centre and its immediate context comprises a car park and a glasshouse to the north east of the site. There is a late twentieth century apartment block to the north and to the south is The Swannery, which comprises the southern end of Radipole lake. The site is within the Weymouth Town Centre Conservation Area.

## **6.0 Description of Development**

- 6.2 The proposal is for the change of use of the building from a restaurant to allow for takeaway sales in addition to the restaurant use. The application does not propose any physical changes to the building itself.

## 7.0 Relevant Planning History

Application Number	Proposal	Decision	Decision Date
WP/19/00396/FUL	Provision of sand bags to site decking area to south east of building	Withdrawn	14/01/2020
WP/18/00394/FUL	Formation of concreted areas to front & rear of building	Withdrawn	07/03/2019
01/00135/FUL	Kitchen extension to include storage	Withdrawn	15/05/2001
00/00587/FUL	Erection of pergola and canvas awning	Granted	05/02/2001
97/00563/FUL	Installation of calor gas tank	Withdrawn	11/08/1998
97/00573/ADV	Three floodlit signs	Granted	31/12/1997
94/00383/COU	Extensions and change of use to cafe restaurant and entertainment use plus provision of jetties and boating facilities	Granted	29/03/1995
94/00334/COU	Change of use from amusements to cafe/restaurant outlet (temporary)	Granted	21/06/1994
94/00118/DEMC	Demolition of timber amusement centre building	Granted	24/03/1994
91/00253/HIST	Amendment to condition 2 of planning permission reference 4/90/736T.	Granted	17/07/1991
90/00736/TEMP	Continued use as amusement arcade	Granted	30/05/1991
90/00527/TEMP	Continued use as amusement arcade	Granted	10/10/1990

## 8.0 List of Constraints

- Inside Defined Development Boundary
- Flood risk zone 2 and 3.
- Within the Weymouth Town Centre Conservation Area (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990)

## 9.0 Consultations

All consultee responses can be viewed in full on the website.

### Consultees

**Technical services** – No objection or further comment to make.

**Environmental Health** – No comment

**Highways** – No Objection

**Weymouth Town Council** - It was noted that the application is for a change of use from a restaurant to a restaurant and takeaway. Members voted unanimously in favour of submitting a comment of no objection subject to waste disposal and collection being available close to the location.

### Representations received

Total - Objections	Total - No Objections	Total - Comments
0	0	0

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

## 10.0 Relevant Policies

### **West Dorset Weymouth & Portland Neighbourhood Plan 2015**

10.1 So far as this application is concerned, the following policies are considered relevant;

- SUS2 – Distribution of Development
- ENV4 – Heritage assets
- ENV5 – Flood risk
- ENV16 – Amenity
- ECON4 – Retail and Town Centre Development
- WEY1 – Weymouth town centre strategy
- WEY2 – Town centre core and commercial road area

### **National planning policy framework**

10.2 So far as this application is concerned, the following sections and paragraphs are considered relevant.

- 6. Building a strong, competitive economy
- 7. Ensuring the vitality of town centres
- 14. Meeting the challenge of climate change, flooding and coastal change.
- 16. Conserving and enhancing the historic environment

10.3 Paragraph 38: Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

### **Other material considerations**

- Weymouth Town Centre Masterplan SPD
- Weymouth Town Centre Conservation Area Character Appraisal

## 11.0 Human rights

- Article 6 - Right to a fair trial.
- Article 8 - Right to respect for private and family life and home.
- The first protocol of Article 1 Protection of property.

11.1 This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## 12.0 Public Sector Equalities Duty

12.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

12.2 Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

### **13.0 Financial benefits**

Support for established business within Weymouth town centre.

### **14.0 Climate Implications**

None

### **15.0 Planning Assessment**

#### Principle of development

15.1 The proposal is for a change of use of the existing building to allow for take-away sales alongside the extant use as a restaurant. The proposed change of use is currently permitted development under Schedule 2, Part 3 Class DA of the Town and Country Planning (General Permitted Development)(England) Order 2015. The change of use under current permitted development rights is however only a temporary right which would expire on 23 March 2022.

15.2 This application would essentially allow for the change of use to occur on a permanent basis, in turn allowing flexibility for the business on an ongoing basis. It is considered that the proposal would be acceptable in accordance with the aims of policy WEY2 and ECON4 of the Local Plan and Paragraph 85 of the national planning policy framework.

#### Impact upon amenity

15.3 The proposal would not result in any additional impact from the site by way of odour or noise from extraction equipment as it would simply utilise the existing kitchen facilities.

15.4 While there is potential for the change to give rise to additional activity levels and vehicle movements, the site is adjacent to an existing large public carpark and a busy junction in a town centre location. The closest residential receptors are located over 70m from the site. A condition is proposed to control the hours of opening in order to prevent against the potential for late night noise and disturbance.

15.5 It is noted that the town council's support was given subject to waste disposal and collection being available close to the site. Waste bins are available in the vicinity of the site and the restaurant has commercial waste collection.

## **16.0 Conclusion**

- 16.1 The proposal is to make permanent a change of use to allow take-away sales, which is currently permitted development on a temporary basis. The principle of the change is considered acceptable with regard to local policies for town centre development and the national planning policy framework and it is not considered that the proposal would give rise to harmful impacts upon the amenity of neighbours or the public.

## **17.0 Recommendation**

Grant 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 of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - TQRQM20310105311949

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

3. The premises shall not be used for the purposes hereby permitted before 10:00 or after 23:59 on any day.

Reason: To safeguard the character and amenity of the area and living conditions of surrounding residential properties.

### **Informative Notes:**

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.