

SECTION '2' – Applications meriting special consideration

Application No : 11/02072/FULL2

Ward:
Orpington

Address : 254 High Street Orpington BR6 0LZ

OS Grid Ref: E: 546185 N: 166173

Applicant : Mr F Irtelli

Objections : YES

Description of Development:

Change of use of ground floor premises from Class A1 (Shop) to Class A3 (Restaurant) with delicatessen area to the front of the premises.

Key designations:

Areas of Archaeological Significance
London Distributor Roads
Primary Shopping Frontage

Proposal

This proposal is for the change of use of ground floor premises from a retail unit (Class A1) to a restaurant (Class A3) with delicatessen area proposed to the front of the premises.

Location

The proposal site is located to the west of High Street, Orpington within a Primary Shopping Frontage, in close proximity to the junction with Homefield Rise and is a three storey end of terrace property. The proposal site is a ground floor unit, currently vacant, with residential accommodation above. Properties in the area are characterised by ground floor units which are primarily retail (Class A1), financial and professional services (Class A2) and restaurants and cafes (Class A3) with residential accommodation on the floors above.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- concerns from the proprietor of Primo Caffè (No. 320 High Street) as to why a 'A3 licence' for this proposal site would be granted when it had been previously refused for Primo Caffè.

- the proposal would take business away from existing local restaurants which are currently struggling due to the recession and increased running costs.
- the proposal would cause increased litter, drainage and sewerage and the smell of the extraction fan would cause problems for local residents.
- the selling of alcohol would cause anti-social behaviour which will affect public safety.
- there is no parking provided in an area which is already congested.
- no evidence of a proven community needs for a further restaurant at the location and there are in excess of 30 restaurant and cafes at present.
- would prefer to see more retail units in the High Street.
- the loss of a retail unit will be to the detriment of the high street which is struggling to bring in new customers.
- there are no long term issues in relation to this unit being empty.
- there are currently over 39 restaurants and cafes in the High Street and the loss of another A1 unit would not maintain a diversity of businesses within the town.
- there are at least three restaurant businesses for sale at present.
- it is unlikely that the change of use will generate significant pedestrian visits during shopping hours.
- another café/restaurant will not complement the shopping function of the town centre.
- the proposal to have a delicatessen is welcomed but there is no need to apply for an A3 use class for this.

A number of letters of support have also been received which state:

- the proposal would enliven and enhance the area as opposed to unoccupied units or existing multinational brands.
- it is a well planned operation which will encourage more visitors and shoppers to the area, generate extra footfall and will not diminish the profitability of other establishments.
- the proposal would create more jobs and provide customers with more choice.
- the vacant shop has been an eyesore for some time.

Comments from Consultees

No objections have been raised by the Council's Waste Advisors or Highways Division.

Transport for London raise no objections to the proposal nor do the Metropolitan Police Crime Prevention Design Advisor.

The Council's Environmental Health Division has been consulted who initially raised objections to the proposed ventilation duct. However, following submission of a revised scheme by the applicants on 23rd August 2011, the Environmental Health Division felt the proposed ventilation system would be satisfactory.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan and the London Plan:

BE1 Design of New Development
S1 Primary Frontages
S9 Food and Drink Premises
ER9 Ventilation

Planning History

In 1986 under planning ref. 86/03593, permission was granted for a shopfront and single storey rear extension.

In 1986 under planning ref. 86/03594, permission was granted for internally illuminated fascia letters.

In 1997 under planning ref. 97/00095, permission was granted for an internally illuminated fascia sign.

Conclusions

The main issues relating to the application are whether the use will have a positive impact on the retail centre and compliment surrounding uses, and the impact that it would have on the amenities of the occupants of surrounding residential properties.

Policy S1 which relates to primary frontages is a key consideration when determining such applications, it states:

“In primary retail frontages, as defined on the Proposals Map, the Council will only permit changes of use from retail (Class A1) to other uses where the proposal would:

- (i) not harm the retail character of the shopping frontage; and
- (ii) generate significant pedestrian visits during shopping hours; and
- (iii) complement the shopping function of the town centre; and
- (iv) not create a concentration of similar uses; and
- (v) have no adverse impact on residential amenity”.

It is not anticipated the change of use would be detrimental to the retail character of the shopping frontage. There exist a number of A1 uses in close proximity to the site and there is at present a wide range of shops to meet the needs of the local community. As part of this application an assessment was made as to the current use of properties in close proximity to the application site (in this instance from No. 216 – 286 on the Western side of the High Street and No. 187 to 269 on the Eastern side of High Street) and it was found that there are approximately 37 retail uses (Class A1) 69.81% of the overall uses, 9 financial and professional services (Class A2) or 16.98% of the overall uses, 4 restaurants and cafes (Class A3) 7.54% of overall uses, no drinking establishments (Class A4), 1 hot food takeaway (Class A5) 1.88% of the overall uses, and 2 vacant premises – 3.77% of overall uses.

In terms of the provision of food and drink premises within Orpington Town Centre, a number of such units do exist within the Primary Shopping Frontage of the Town Centre, in addition to a number of others located within the more peripheral Secondary Frontage, within the northern and southern parts of Orpington High Street. However, as outlined above, in this section of the High Street given the few existing A3 uses at present the proposal is not anticipated to result in an over-concentration of similar uses. The diversification of mixed uses within this shopping parade is considered appropriate to meet a wider range of needs of the local community without threatening the retailing function of the area, in line with Policy S1.

In 2009 under planning ref. 09/00009, permission was refused for the change of use of No. 234 High Street from Class A1 to Class A3. This refusal was appealed against and subsequently granted by Appeal Decision dated 18th January 2010. While planning permission has now been obtained for this unit this has yet to be implemented and was not taken into consideration in the figures produced above. Even if this unit were to change from A1 to A3, approximately 67.9% of the overall uses within this section of the High Street would remain retail uses (Class A1) with 9.4% of the uses being restaurant/café which still represents a low proportion and is considered to be acceptable. The Planning Inspector noted “the appellant maintains it would incur the loss of just 1.59% of the Class A1 retail floorspace in the frontages extending between 214 – 228 High Street and add just one A3 Use to the one (Burger King) already in that stretch. This adds strength to the finding in the Design and Access statement that this section of the High Street has a concentration of A1 retail uses and a minimal offer of A3 restaurant units. Although the Council referred to a number of A3 Uses evident throughout the town centre, I noted these are broadly distributed. Moreover, I see that Orpington is the second largest centre in the Borough containing major stores and offices, with on-street and multi-storey car parking. It has a large catchment area and attracts significant numbers of people as shoppers and employees, many of whom can be expected to patronise restaurants”.

The proposed restaurant would operate within existing shopping hours from 07:00 – 23:00 on weekdays and Saturdays and from 10:00 to 22:00 on Sundays and Bank Holidays and were planning permission to be granted a condition would be attached to ensure adherence to these proposed opening hours. This proposal would therefore contribute to the vitality of the centre by providing a service and attracting visitors during shopping hours, in line with Policy S1.

The revised plans submitted by the applicant illustrate that the front section of the shop would be used for delicatessen purposes which would give the appearance of an A1 use when passing from the street, with the restaurant section reserved to the rear of the premises, which is considered to be preferable. This arrangement could be secured by way of a condition.

Policy S9 is also a key consideration when determining this application, it states:

“The Council will only permit proposals for additional restaurants and cafes (Class A3), drinking establishments (Class A4) and hot food takeaways (Class A5) where:

- (i) the proposal would have no adverse impact on residential amenity;
- (ii) the proposal would not cause undue traffic congestion or be detrimental to the safety of other road users and pedestrians;
- (iii) the proposal would not result in an over concentration of food and drink establishments, out of character with the retailing function of the area; and
- (iv) where appropriate, the proposal does not conflict with Policies S1, S2, S4 or S5.

No objections were raised by Environmental Health and as such is not anticipated the change of use will be unduly harmful to the residential amenity of neighbouring properties. No structural changes are proposed to the property and as such no additional loss of light or privacy or sense of overlooking are anticipated. Given that the proposed restaurant would cease trading at 23:00 the resulting impact on residential amenity is not anticipated to be of such an extent as to warrant refusal. No objections were raised from a highways perspective and as such the proposal is not anticipated to result in a significant impact in terms of traffic congestion in the area and is line with Policy S9.

While a number of objections received stated that the additional A3 use would impact detrimentally on the existing restaurants/cafes in the area, business competition is not a material planning consideration in the assessment of the application.

Although not required by Policies S1 or S9, information was provided by an external estate agent which states that since the property became vacant in November 2010 a “comprehensive marketing campaign was undertaken utilising the trade’s most subscribed to search engines and online databases. Despite this thorough marketing of the unit, we have received barely any enquiries for A1 retail use and of the few that have shown interest, none of them have progressed to making an offer”.

Having had regard to the above it was considered that the development in the manner proposed is acceptable in that it would not result in a significant loss of retailing services for local residents nor impact detrimentally on the retailing character of the shopping parade, but rather complement the existing shopping function of the area while providing local residents with a wider range of services, and thus is largely in line with Policies S1 and S9.

Background papers referred to during production of this report comprise all correspondence on file ref. 11/02072, excluding exempt information.

as amended by documents received on 02.09.11

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- | | | | |
|---|-----------------|--|------------|
| 1 | ACA01
ACA01R | Commencement of development within 3 yrs
A01 Reason 3 years | |
| 2 | ACJ11 | Soundp'fing. etc for rest./t-away (1 in) | restaurant |

- 3 ACJ11R J11 reason
ACJ10 Ventilation system for restaurant/take-a
ACJ10R J10 reason
4 ACJ25 No take-away/home delivery
ACJ25R J25 reason
5 ACK01 Compliance with submitted plan

Reason: In order to comply with Policy S1 of the Unitary Development Plan and in the interest of the amenities of the area.

- 6 The use hereby permitted shall not operate before 07:00 and after 23:00 Monday to Saturday and not before 10:00 and after 22:00 on Sunday or Bank Holidays.

Reason: In order to comply with Policies S1 and S9 of the Unitary Development Plan and in the interest of the amenities of the area.

Reasons for permission:

In granting permission the Local Planning Authority had regard to the following policies of the Unitary Development Plan:

- BE1 Design of New Development
S1 Primary Frontages
S9 Food and Drink Premises
ER9 Ventilation

The development is considered to be satisfactory in relation to the following:

- (a) the loss of a retail unit is acceptable in this instance;
(b) the relationship of the development to adjacent properties

and having regard to all other matters raised.

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