

SECTION '2' – Applications meriting special consideration

Application No : 13/01416/FULL2

Ward:
Bromley Town

Address : 26 The Mall Bromley BR1 1TS

OS Grid Ref: E: 540360 N: 168958

Applicant : Mr Tim James

Objections : NO

Description of Development:

Change of use of units 26-32 from retail (class A1) to mixed retail restaurant (class A1/A3) use (including lower ground floor at No. 32 and first floors at Nos 26 - 30)

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
Bromley Town Centre Area
London City Airport Safeguarding
London City Airport Safeguarding Birds
Secondary Shopping Frontage

Proposal

The application is speculative and it is proposed to allow flexibility for each of the four units (2 singles 26 & 32 and 1 double, 28-30) to either change use to a Class A3 restaurant / café or remain in Class A1 retail use or be a mix of both. At one extreme this could potentially result in one very large restaurant / cafe, 4 individual restaurant / cafes or a mix of both. The more unlikely scenario is that of all the units would remain in Class A1 use.

Due to the speculative nature of the application there are no details submitted at this time with regards to proposed hours of operation or technical ventilation system details.

As well as the ground floor units of Nos. 26-32, the proposal also includes the basement floor of No.32 and the first floors of Nos. 26-30.

Location

The units fall within an area of Bromley Town Centre designated as secondary frontage. They are located towards the western end of The Mall just to the south of The Glades between the High Street and Elmfield Road. Nearby units include KFC, Argos and Poundland.

The planning application forms and accompanying documents indicate that Nos. 26 & 32 have been vacant since 1st April 2013 and that Nos. 28-30 are due to become vacant at the end of April. It is however noted that the double unit (Nos. 28-30) is currently occupied, the agent has advised that this is a short term lease.

The predominant uses in The Mall are retail with the closest food and drink uses being a café at No. 20-22 and KFC a double units which fronts No.73 High Street.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and no representations were received.

Comments from Consultees

Highways - The site is within the inner area of the Bromley Town Centre controlled parking zone Also the site is located within a high PTAL area. Furthermore there are public car parks at Simpsons Road and Elmfield Road which are within walking distance of the development.

It is considered that the development would not have a significant impact on the parking demand and traffic generation within the surrounding road network, consequently no objections are raised to the proposal.

No objections are raised from an Environmental Health point of view.

Planning Considerations

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

S2 Secondary Frontages
S9 Food and Drink Premises
ER9 Ventilation

Bromley Town Centre Area Action Plan

Policy S2 sets out that the Council will normally permit changes of use from retail (Class A1) to other uses provided that:

- (i) the use provides a service that complements the shopping function of the town centre;
- (ii) there is no adverse impact upon residential amenity

Proposals for Class A3, A4 or A5 will also have to comply with Policy S9.

Policy S9 will only allow additional restaurants and cafes where;

- (i) there is no adverse impact upon 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 overconcentration of food and drink establishments out of character with the retailing function of the area.

Policy ER9 requires the submission of details of a ventilation system where such a system would be necessary in order that the small, noise and visual impact of the system on its surroundings can be properly considered.

With regards to Town Centres The London Plan states that proposals should sustain and enhance their viability.

Amongst the core principles of the National Planning Policy Framework (NPPF) is:

- Promotion of mixed use developments
- Proactively drive and support sustainable economic development
- Promotion of the vitality of main urban areas

Planning History

Under planning ref. 00/02494, planning permission was refused for change of use of basement, ground and first floors from retail shop (Class A1) to food and drink (Class A3) at 24-32 The Mall. The grounds for refusal are as follows:

The proposal will result in an unacceptable break in the retail frontage and the loss of existing retail units contrary to Policies B/S5 and B/S2 of the Unitary Development Plan and as such would be harmful to the future vitality and viability of The Mall.

The proposal will result in an unacceptable impact of the residential amenities that adjacent residential properties situated in Elizabeth Wheeler House could reasonably expect to be able to continue to enjoy contrary to Policy S.6 of the Unitary Development Plan.

Conclusions

With regards to the previous refusal relating to this site, it should be noted that this application was prior to current Unitary Development Plan and also the 2005 changes to Use Classes Order which differentiated between Class A3 restaurants/ cafes, Class A4 Public House and Class A5 hot food takeaways. The refused proposal prospective occupier was a wine bar and the impact of a use of this kind is considered to be different to a smaller café / restaurant use.

The recent changes to Permitted Development rights which came into effect at the end of May 2013 allows for a change of use from Class A1 to Class A3 for up to 2 years without the need to apply for planning permission. However, this would not apply to the current application in its entirety as at 532 sq.m it exceeds the upper floorspace threshold of 150 sq. m. The single units at Nos. 26 & 32 could technically benefit from this change.

There are no technical objections to this proposal from a highways and Environmental Health point of view subject to a condition being attached requiring submission of ventilation details, although it is noted that no ventilation details were submitted.

Policies S2 and S9 are relevant. Part (iii) of Policy S9 states that the Council will only permit restaurants and cafes where the proposal would not be out of character with the retailing function of the area. A survey of units in The Mall shows that of the 32 units, 31 lie within Class A1 use whilst one is Class A3 (No.22 - Nicks Café) nearby KFC a double unit at No,73 High Street has its return frontage in The Mall and would bring the total number of non-retail units in this location to only two.

The agent has stated that the units at Nos. 26 & 32 have been vacant since April, the double unit (Nos. 28-30) was (during a site visit) seen to be occupied at the end of June. The applicant's agent has confirmed that Nos. 28-30 have been occupied again since the application was submitted but that this is on a short term lease at a non-competitive rent with a break clause after the Christmas period. It is also stated that the current retail occupation demonstrates that the applicant is trying to secure retail uses and that the units will not necessarily be lost to Class A3 use if the application is approved. However, no long term vacancy of the units has been clearly demonstrated other than the agent stating that "letting the units for A1 purposes has been difficult."

Changing the use to a flexible one could lead to all four units being turned into restaurants which may be considered to be out of character with the other units in The Mall but would also restrict pedestrian footfall and activity during the day. In this instance it is considered that the changes to a flexible Class A1 / A3 use could be to the detriment of the shopping function of the centre which would be contrary to Policy S9 (iii).

This approach needs to be assessed against:

- the recent changes to legislation which allow greater flexibility and permitted changes from Class A1 to Class A3 uses,
- the need to stimulate the current economic climate
- the fundamental objectives of the NPPF and the London Plan and emerging legislation which seek to promote and sustain vitality and viability of the town centres and encourage mixed uses.

On balance it is considered that the proposal could lead to an overconcentration of Class A3 Uses in this location particularly in light of the inclusion of some lower ground and first floor accommodation as a part of the proposal.

Background papers referred to during production of this report comprise all correspondence on file ref. 13/01416, excluding exempt information.

RECOMMENDATION: PERMISSION BE REFUSED

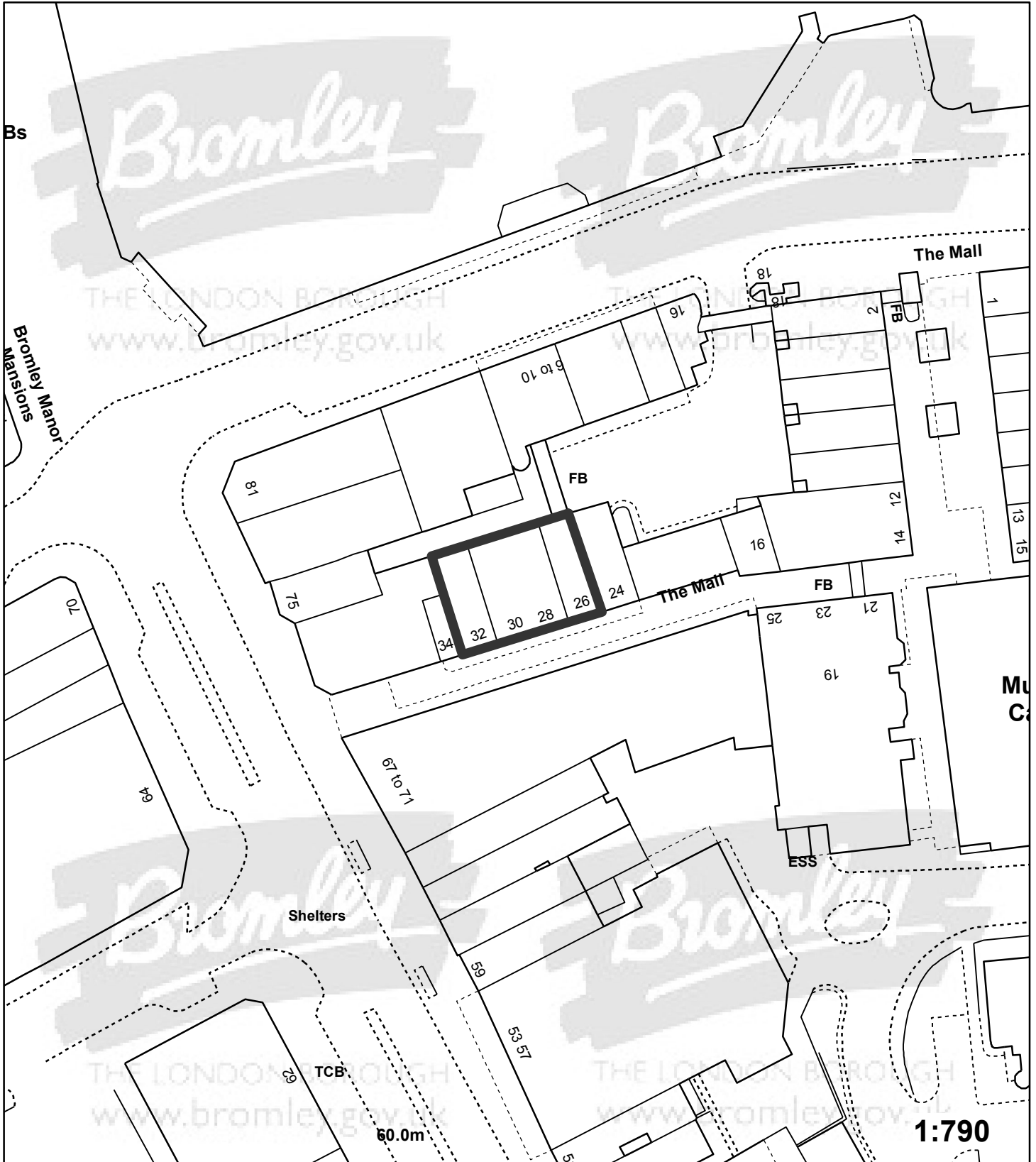
The reasons for refusal are:

- 1 The proposal could result in an overconcentration of food and drink establishments out of character with the retailing function of the area and therefore harmful to the vitality and viability of Bromley Town Centre and The Mall, contrary to Policy S9 (iii) of the Unitary Development Plan.

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"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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