

SECTION '2' – Applications meriting special consideration

**Application No :** 13/03497/FULL3

**Ward:**  
**Mottingham And Chislehurst  
North**

**Address :** 41 Mottingham Road Mottingham  
London SE9 4QZ

**OS Grid Ref:** E: 542164 N: 172890

**Applicant :** Mr Sultan Mohamed

**Objections :** YES

**Description of Development:**

Change of use of ground floor from retail (Class A1) to hot food takeaway (Class A5) with ventilation ductwork at rear

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
London Distributor Roads  
Retail Shopping Frontage

**Proposal**

This application was deferred by Members at the 6th March meeting in order to request more accurate elevational and sectional drawings of the proposed ventilation system to show the relationship with the first floor flat. The applicant has declined to submit further drawings, and has now lodged an appeal against non-determination. Members therefore need to consider whether to contest the appeal, and if so, on what grounds.

The earlier report, suitably updated, is repeated below.

It is proposed to change the use of these vacant ground floor premises from retail (Class A1) use to a hot food takeaway (Class A5) which would open between 11.00 hours - Midnight on Mondays to Saturdays and 11.00 hours - 22.30 hours on Sundays and Bank Holidays.

Outline details of a ventilation system have been provided which show an external duct which would project vertically to eaves level on the rear elevation, and would then be angled away from the roof dormer to the flat occupying the upper floors.

The premises have been vacant since December 2007, and were previously occupied by a dry cleaners.

### **Location**

These premises are located at the northern end of Mottingham local shopping centre, close to the War Memorial, and has a residential flat above, as with most of the other shops in the parade. There are also residential properties to the front and rear (the latter falling within the neighbouring London Borough of Greenwich).

This shopping parade comprises 41 units, 16 of which lie within LB Greenwich.

### **Comments from Local Residents**

A large number of letters of objection and a petition have been received to the proposals from nearby residents and businesses, including Mottingham Residents' Association, and the main points raised are summarised as follows:

- there are already sufficient food and drink premises within this shopping parade
- proposals would not attract visitors during shopping hours as the premises would be open until midnight during the week
- would lead to traffic congestion and parking problems
- ventilation ducting would be detrimental to the amenities of the occupiers of the flats above the shops in this parade
- no details provided of waste storage and disposal
- likely problems with noise and disturbance late at night
- problems with litter and smell
- detrimental impact on trade to existing restaurants/takeaways (not a planning issue).

### **Comments from Consultees**

The Council's highway engineer raises no objections to the proposals.

Environmental Health raise concerns regarding inadequate and inaccurate information submitted for the ventilation ducting which does not give enough thought to the practicalities of erecting an extraction flue and attaching it to the rear wall and roof immediately above the bedroom of the first floor flat.

### **Planning Considerations**

The proposal falls to be considered primarily with regard to the following policies:

- BE1 Design of New Development
- S4 Local Centres
- S9 Food And Drink Premises

### **Planning History**

Permission was granted in May 2010 (ref. 09/03017) for the change of use of these premises from a retail shop (Class A1) to a hot food takeaway (Class A5) with ventilation ducting at the rear, subject to conditions requiring further details of the ventilation system, and restricting the opening hours to between 11.00-23.00 hours on Mondays to Saturdays, and between 11.00-22.30 hours on Sundays.

Further details of the ventilation ducting were approved, however, the hot food takeaway use was not implemented within 3 years, and the permission has now lapsed.

## **Conclusions**

The main issues relating to the application are the impact of the proposals on the retail character of the local shopping centre, and on the amenities of the occupants of surrounding residential properties.

Under Policy S4 of the UDP, the Council aims to protect the retail character of local shopping centres, but would permit a change of use from Class A1 retail so long as the retail character of the centre would not be harmed, it would have no adverse impact on residential amenity, it would not create a concentration of similar uses, it would attract visitors during shopping hours, and it would complement the shopping function of the centre.

The current level of Class A1 retail units within the Local Centre is 23 (56%), with 6 (15%) in food and drink use (Classes A3, A4 and A5). Of these, 3 are café/restaurants (A3) and 3 are hot food takeaways (A5).

In terms of the retail character of the shopping frontage, the loss of a Class A1 retail unit is not considered to significantly undermine the vitality and viability of the Local Centre, and furthermore, an adequate range of shops and services would still be provided to meet the needs of the local community. The current mix of uses are similar to those in 2009 when the previous application for a hot food takeaway was permitted.

The proposed hot food takeaway use would attract visitors during shopping hours, whilst the existing hot food takeaways and restaurants are spread out along Mottingham Road. The proposals would not therefore result in a concentration of similar uses such that it would undermine the retail character of the shopping frontage.

UDP Policies S4 and S9 also seek to protect the amenities of nearby residents in terms of the potential impact of traffic, smells, noise and general disturbance.

The Council's highway engineer raises no concerns regarding the impact on the free flow of traffic or conditions of safety in the highway.

It is proposed to open the premises until midnight on Mondays to Saturdays, and until 10.30pm on Sundays and Bank Holidays. However, opening later than 11pm on Mondays to Saturdays is considered to have a detrimental impact on the amenities of nearby residents.

The ventilation system submitted is not considered to be accurate or detailed enough to be able to make a proper assessment of the impact on neighbouring residents.

It is therefore considered that the appeal should be contested on the grounds that the details of the ventilation ducting are inadequate and the opening hours would be detrimental to residential amenity.

Background papers referred to during production of this report comprise all correspondence on the file ref(s) set out in the Planning History section above, excluding exempt information.

as amended by documents received on 27.01.2014

### **RECOMMENDATION: RESOLVE TO CONTEST APPEAL**

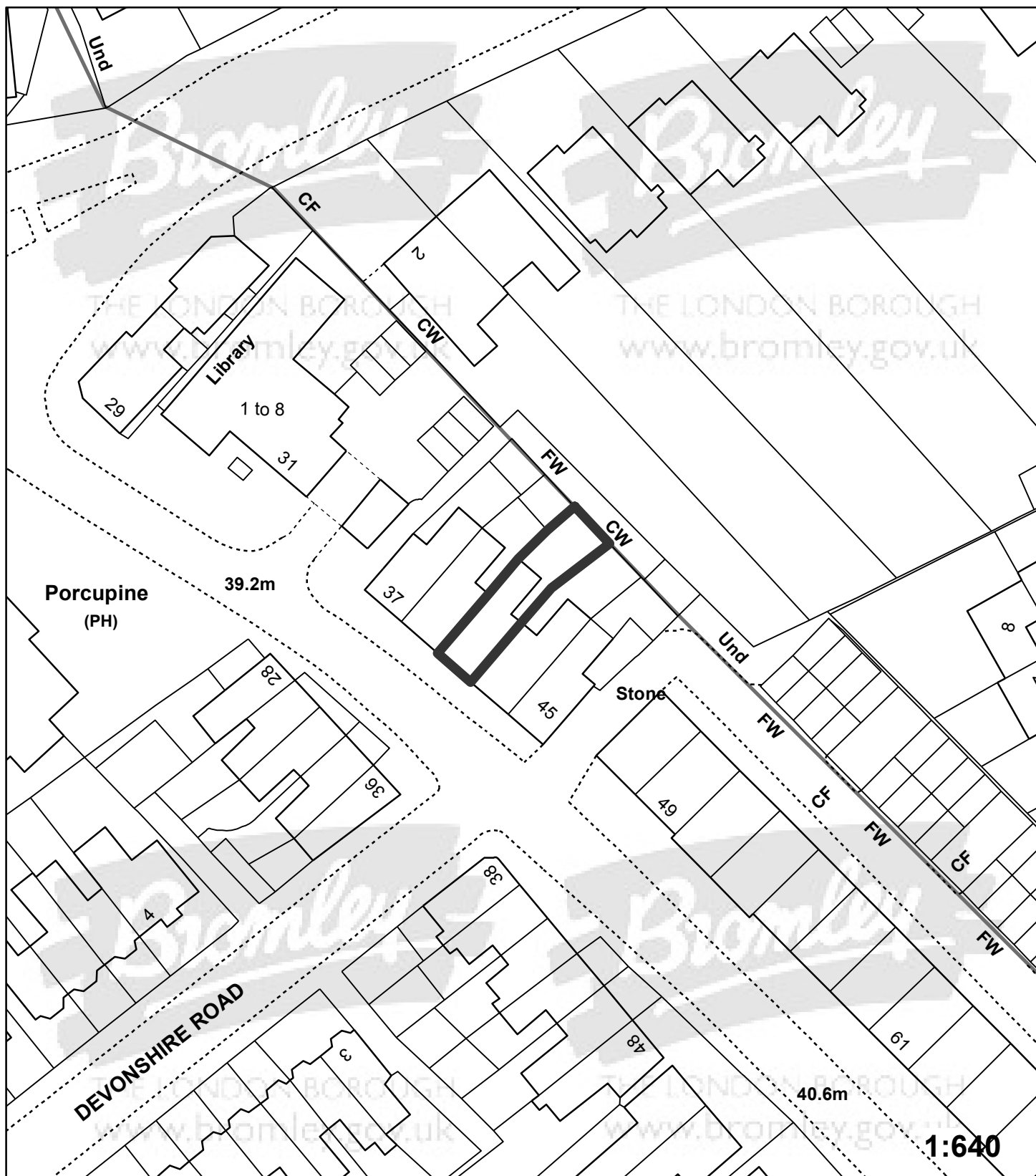
Grounds for contesting the Appeal are as follows:

- 1 In the absence of adequate information to demonstrate otherwise, the proposals would have inadequate means of ventilation ducting, which would be detrimental to the amenities of neighbouring properties by reason of smell effects and siting in relation to the neighbours' window, thereby contrary to Policy S9 of the Unitary Development Plan.
- 2 The proposed opening of the premises until midnight on Mondays to Saturdays would have a seriously detrimental impact on the amenities of neighbouring residential properties by reason of noise and general disturbance, thereby contrary to Policy S9 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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