

SECTION '2' – Applications meriting special consideration

Application No : 13/03889/FULL1

Ward:
Kelsey And Eden Park

Address : The Rising Sun 166 Upper Elmers End
Road Beckenham BR3 3DY

OS Grid Ref: E: 536584 N: 167677

Applicant : McCullochs

Objections : YES

Description of Development:

Demolition of existing buildings and erection of a 3 storey block with 400sqm of commercial floorspace (Class A1), 1 two bedroom and 1 one bedroom flats on the ground floor, 14 two bedroom flats above, revised vehicular access, 11 car parking spaces and servicing arrangements for the commercial use and 16 residential car parking spaces, commercial and residential cycle storage, refuse store for the residential units and associated landscaping

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding

Proposal

The scheme has been amended since its original validation and proposes the erection of a three storey block comprising 400 sq.m of (Class A1) retail floorspace on the ground floor together with 1 one bedroom and 1 two bedroom flats. On the upper floors 7 two bedroom flats are proposed per floor at first and second floor level.

In order to make way for the proposal an existing detached public house which is currently vacant would be demolished. The footprint of this building which dates from the early 1900's falls approximately in line with the neighbouring parade to the east and forward of the car dealership to the west.

The block would be roughly rectangular in shape with a staggered front building line. To the rear the building would project c 5.4m further closest to the boundary with the Renault car dealership. The building would be set back between c10.7m and c15m from the front boundary with the customer parking comprising 11 spaces positioned in front alongside a customer cycle and trolley park. Forward of this abutting the front boundary of the site is the area proposed as a vehicle loading bay when required.

The building would have a width of c 35.5m and would maintain a distance of c1.25m to the western boundary and c 5.4m to the eastern boundary.

Vehicular and pedestrian access to the residential elements of the scheme would be via the eastern side of the building with 16 residential parking spaces proposed to the rear. A communal amenity area of approx. 196 sqm would be located in the south western corner of the site with secure covered cycle storage also in this area. The refuse storage would be integral to the building, accessed via doors in the south-eastern corner of the building.

An existing crossover would be retained and a bus shelter relocated from in front of the site to make way for an additional crossover.

The design of the block is contemporary in nature and has a staggered frontage in order to allow transitional alignment of the proposed with buildings to either side. The façade features a number of elements which add interest including varied bespoke fenestration, cladding and incorporation of functional elements of the building into the design, such as façade terminating ducting for the mechanical ventilation system, roof based solar panels are also proposed.

A total of 18 windows would face a westerly direction towards the car dealership, of this total 12 would be contained within the flank wall, the remaining 6 would be corner windows within the staggered front section of the block. In the eastern flank facing toward the adjacent parade of shops 6 windows are proposed, 4 would be contained within the flank wall and the remaining 2 would also be corner windows set back from the boundary.

The southern rear elevation would contain a total of 25 windows comprising 5 ground floor, 10 first floor and 10 second floor windows. None of the windows are shown to be obscure glazed.

All of the flats meet with the Mayors minimum space standards for new residential development as set out in the London Plan. The site would be developed at a density of 261 habitable rooms per hectare (47 habitable rooms / size of site 0.18).

Location

Upper Elmers End Road (A214) is a London Distributor Road (LDR), that runs from Croydon Road in the north to Links Way in the south. The road winds from east to west and the site is located approx. half way down on the southern side of the road closest to the junction with Altyre Way. This section of Upper Elmers End Road has a 24 hour waiting restriction, in front of the site there is a bus stop clearing, zigzag lines and a pedestrian crossing. The site has Public Transport Accessibility Level (PTAL) rating of 2.

There are various shopping frontages along Uppers Elmers End Road interspersed by residential parts. That section closest to the application site is at Nos. 166-176 (e) and on the opposite side of the road at Nos. 293-331(o). The immediate locality of the site is commercial in character with residential elements

close by in the upper floors of the shopping frontages. The street leading off of the main Upper Elmers End Road are wholly residential in character.

The site itself which comprises the pub and car park / beer garden to the rear is roughly square in shape and is bounded to the east and on the opposite side of the road to the north by ground floor commercial frontages with residential upper floors (3 storeys), to the west there is the Renault car dealership which has a vehicle display forecourt in front of the main two storey building which has rear building line some 5m beyond the proposed block. To the rear of the site to the south are properties in Avimore Way, the closest of which are at Nos.3-8 (cons) to the south-eastern corner Nos. 2-14 Altyre Way and Nos. 2-4 (e) Altyre Close.

Between December 2013 and January 2104 trees which were shown on the topographical survey were removed from the site.

Comments from Local Residents

Nearby owners / occupiers were notified of the application and number of representations were received including comments from West Beckenham Residents Association (WBRA) and Campaign for Real Ale (CAMRA) which can be summarised as follows:

- no objections to the proposal as long as the height of the building does not exceed the height of the existing pub
- further to making an offer to purchase the application site I get the distinct impression that this marketing exercise is nothing more than to show evidence that the property has been marketed to gain planning permission for an alternative use
- the site is a dense residential area within close proximity of a primary school, traffic calming measures should be put in place to reduce the speed of cars entering and exiting the site
- the developer should be asked to plant a line of tall trees along the side and rear boundary to reduce noise and pollution
- the pub was badly run by the previous owners who did not support plans to turn the business around, hence its closure, the community has missed the pub ever since
- there is a tree on the site which is 100 years old referred to by locals as the lizard tree, this tree should be saved
- there is no need for yet another supermarket as the co-op is close by on the opposite side of the road
- proposal is contrary to London Plan Policy 3.5 and 7.4 which states that development should be of the highest quality and relate to the wider environment
- the proposed building is not in keeping with the buildings in the neighbouring parade and is therefore contrary to UDP Policy BE1
- proposal will harm residential amenities enjoyed by local residents in particular with regard to safe / available parking

- a few cosmetic changes have been made to the design of the block, concerns remain regarding its design
- proposal is lacking in adequate amenity space
- the primary amenity area of our garden (5 Aviemore Close) would be severely overlooked by the top 2 floors of the proposed block
- trees at the rear of our garden (5 Aviemore Close) were removed in 2013 as they had become dangerous to maintain, therefore we have no screening from the proposed development, this is not reflected in the design and access statement which was out dated when it was originally submitted
- proposal is contrary to Human Rights Protocol 1 Article 1 which states that a person has a right to the peaceful enjoyment of their home
- there is no public house within half a mile in any direction
- there is local support for this pub which was recently nominated as an asset of community value
- far too many pubs are closing and Bromley should promote healthy communities and social interaction by refusing permission of pubs that are a community facility
- there would be no visibility of cars exiting the car park, for safety reasons one exit/ entrance from the main road would be better than two
- other pubs in the area are over 500m away on the other hand there are several supermarkets within walking distance
- the design of the building encompasses views over my property (2 Altyre Way)
- proposal will result in an increase in noise from residents and vehicles
- parking has been a problem in the immediate vicinity and the proposal will exacerbate the problem
- as a business owner in this local parade I object to the flat and supermarket being built, ever since the pub closed the businesses and community has suffered immensely
- WBRA - Objections are raised in relation to the supermarket element of the scheme, the development is in the middle of a local shopping area the development should be entirely residential
- CAMRA - is an independent voluntary organisation campaigning for real ale, community pubs and consumer rights the following comments were raised:
 - proposal would result in the loss of a valuable community asset serving the area and fulfilling a valuable community function
 - the Rising Sun is the only pub in the locality and has the potential to be a thriving pub
 - current government policy supports the provision and retention of community facilities including pubs
 - NPPF (para 20) emphasises that planning decisions should plan positively for the provision and use of community facilities including pubs
 - whilst not yet adopted the Councils consultation on draft local plan policies including Policy 6.7 which specifically resists the unjustified loss of public houses reflects the NPPF and should therefore be given significant weight

- the submitted "Viability and Business Study" demonstrates that the pub has not been marketed properly for a reasonable length of time
- the study clearly shows that the pub was trading viably until 2011 when successful tenants left after which the business plummeted. It seems likely that the subsequent fall in sales was down to new management not providing the right offer
- the study appears to accept that the Rising Sun was a "community pub" that has thrived in the past. It also suggests that the pub probably deteriorated because of poor management and lack of investment
- the study makes great play of the Council's refusal to list the pub as an Asset of Community Value (ACV) as evidence that it did not fulfil a community function. However, it is generally accepted that all community pubs have social value as informal meeting places for the local community.

Comments from Consultees

Housing

Affordable Housing Requirement

Affordable housing is sought on all sites capable of providing 10 dwellings or more or 0.4ha or larger in accordance with Policies H2 and H3 of the adopted UDP. The proposed scheme comprising 16 residential units triggers the Council's onsite affordable housing policy. The Council will seek the provision of 35% of habitable rooms for affordable housing in accordance with Policies H2 and H3 of the adopted UDP.

The application proposes 6 units for affordable housing - 1 no one bedroom flat and 5 no two bedroom flats, as follows:-

Affordable Rent:

Unit 1 - 2 bed wheelchair (83m²)

Unit 2 - 1 bed (50m²)

Unit 3 - 2 bed (71m²)

Unit 4 - 2 bed (71m²)

Shared Ownership:

Unit 5 - 2 bed (71m²)

Unit 6 - 2 bed (71m²)

This equates to affordable housing provision of 37% by floor-area and 36% by habitable rooms and therefore meets the 35% requirement.

Wheelchair Standard Housing

SPD 6.6. The Council will expect a minimum of 10% of all housing including the affordable housing to be wheelchair accessible.

The application includes 1no two bedroom wheelchair unit on the ground floor which is considered to have met this requirement. The applicant has confirmed that the unit will meet the SELHP wheelchair guide standard) - this should be required under a planning obligation as part of any planning consent. The Council's Housing Occupational Therapist has commented that whilst the floor-areas do meet the sizes expected of the aforementioned guide, space is limited and thus, if the scheme is granted consent, the applicant should consult with the Housing OT as detailed designs and specifications are developed

Amenity Space

The Council requires that all affordable housing residents have access to adequate onsite amenity space, where individual gardens are not provided then terraces, balconies or communal spaces should be accessible.

No private amenity space is provided for each flat which would be preferable for residents , however there is a communal amenity area at the rear of the block which is considered acceptable provision.

Environmental Health (Pollution)

Comments in relation to the most recent plan dated 13 July and updated technical report email dated 17 July No objections are raised in principle subject to the following conditions:

1. Details of the glazing and ventilation to be installed (to achieve compliance with BS8233:2014) shall be submitted to the Local Planning Authority for approval. Once approved the details shall be fully implemented prior to the use commencing and permanently maintained thereafter.
2. A scheme for protecting the residential dwellings from noise arising from activities within the commercial premises shall be submitted to and approved in writing by or on behalf of the Local Planning Authority. Before the development commences the scheme shall be fully implemented and sound transmission tests shall be carried out by a competent person to demonstrate compliance with the approved scheme. The results shall be submitted to the Local Planning Authority and the approved scheme shall be permanently maintained thereafter.
3. At any time the combined noise level from all fixed plant at this site in terms of dB(A) shall be 5 decibels below the relevant minimum background noise level, LA90(15mins) measured at any noise-sensitive location. If the plant has a distinctive tonal or intermittent nature the predicted noise level of the plant shall be increased by a further 5dBA. Thus if the predicted noise level is 40dB(A) from the plant alone and the plant has a tonal nature, the 40dB(A) shall be increased to 45dB(A) for comparison with the background level. The L90 spectra can be used to help determine whether the plant will be perceived as tonal.
4. The application site is located within an Air Quality Management Area declared for NOx: In order to minimise the impact of the development on

local air quality any gas boilers must meet a dry NOx emission rate of <40mg/kWh (To minimise the effect of the development on local air quality within an Air Quality Management Area in line with NPPF p124 and Policy 7.14 of the London Plan)

5. An electric car charging point shall be provided to a minimum of 20% of residential car parking spaces with passive provision of electric charging capacity provided to an additional 20% of spaces. (To minimise the effect of the development on local air quality within an Air Quality Management Area in line with NPPF p124 and Policy 7.14 of the London Plan and in line with Policy 6.13 of the London Plan)
6. Standard condition K09 would also need to be attached to cover an initial Contaminated Land Assessment Remediation study.

Drainage

Surface Water design needs to be carried out, SUDS measures need to be maximised on site. Soakage test as well as soakaway design need to be carried out. If minded to grant permission the following condition should be attached:

1. The development permitted by this planning permission shall not commence until a surface water drainage scheme for the site based on sustainable drainage principles, and an assessment of the hydrological and hydro geological context of the development has been submitted to, and approved by, the Local Planning Authority. The surface water drainage strategy should seek to implement a SUDS hierarchy that achieves reductions in surface water run-off rates to Greenfield rates in line with the Preferred Standard of the Mayor's London Plan. Reason: To reduce the impact of flooding both to and from the proposed development and third parties.

Highways

Comments are made with reference to the modified Transport Statement received on 11 August 2014, as previously stated:

Vehicular Access- the access is from Upper Elmers End Road leading to car parking spaces for the proposed Supermarket and residential units. However the applicant is proposing to construct a new vehicular access adjacent to Renault dealership, this would require relocation of the existing bus shelter and loss of two to three Pay & Display bays. The cost of relocation of the bus shelter must be at the applicant's expense. The relocation of two on street Pay & Display bays to the opposite side as indicated on drawing No.4 is not feasible as it would interfere with the residential units parking arrangements. The loss of revenue to the Council for the two on street Pay & Display bays would be £22231.50 which must be reimbursed and secured through legal agreement.

Parking- 16 residential parking is indicated on the submitted plans which is acceptable in principle subject to conditions. Also 16 cycle parking would be

provided; eleven customers parking spaces are shown on the revised plan, for the supermarket element of the development; although the number of car parking spaces is at lower end of the spectrum, it's not sufficient reason to sustain refusal on parking or highway grounds

Designing out Crime

Whilst there are security and crime prevention considerations in the design and access statement there is no reference within these documents to specific details for their plans to incorporate measures that will be employed to meet Secured By Design (SBD) standards to reduce and prevent criminality and provide a safe environment for the occupants.

The application therefore does not demonstrate how such measures are to be incorporated into the development especially given the guidance within NPPF paragraphs 58 and 69.

However the proposal should be able to gain Secured by Design accreditation for design and layout as well as part 2 physical security, with the guidance of Secured by Design literature and by incorporating accredited, tested certificated products.

The agreed 'Secure by Design' condition should therefore be attached to any permissions with the wording set out in order for the development to achieve certification and not merely seeking to achieve accreditation.

Thames Water

With regards to water and sewerage infrastructure capacity no objections are raised.

Planning Considerations

The development plan comprises the Bromley Unitary Development Plan (2006) and the London Plan (2011)

The development falls to be considered in accordance with the following Unitary Development Plan policies

- BE1 Design of New Development
- C1 Community Facilities
- ER5 Air Quality
- ER8 Noise Pollution
- NE7 Development and Trees
- H1 Housing Supply
- H2 Affordable Housing
- H7 Housing Density and Design
- H9 Side Space
- T1 Transport Demand
- T3 Parking
- T6 Pedestrians

- T7 Cyclists
- T11 New Accesses
- T18 Road Safety

Bromley Draft Policies and Designations

Section 3 - Visions and Objectives - Health and Wellbeing
Section 6 - Supporting Communities
Draft Policy 6.1 - Community Facilities
Draft Policy 6.7 - Public Houses

In strategic terms the most relevant London Plan policies are:

- 3.3 Increasing housing supply
- 3.4 Optimising housing supply
- 3.5 Quality and design of housing developments
- 3.8 Housing choice
- 3.16 Protection and Enhancement of Social Infrastructure
- 4.6 Support / Enhancement of Arts, Culture, Sport and Entertainment Provision
- 5.3 Sustainable design and construction
- 6.9 Cycling
- 6.13 Parking
- 7.3 Designing out Crime
- 7.4 Local Character
- 8.3 Community Infrastructure Levy

Draft Alterations to the London Plan - January 2014

Policy 4.8 - Supporting a successful and diverse retail sector and related facilities and services (in particular para 4.48A)

National guidance is included in the National Planning Policy Framework (NPPF) paragraph 2.16 highlights the importance of pubs as community facilities.

Planning History

Under planning ref. 00/02694, planning permission was granted for change of use of part of car park to beer garden and children's play area.

Under planning ref. 08/02882, retrospective planning permission was granted for part change of use of rear car park to car wash. The permission was temporary and limited to patrons of the public house.

Under 14/02577, an application was submitted for use of the car park as car wash, this application is currently being considered.

Conclusions

Without prejudice the applicant has agreed to enter in a Section 106 Legal Agreement to secure the following financial contributions:

- Highways - £22, 231.50 loss of revenue for the 2 pay and display bays that be displaced by the proposal
- Health - £16,096 (£1,006 per unit)
- Education - £44,360 (covers pre-school, primary, secondary and post 16)

Design, positioning and form

Policies BE1, H7 require new development to be of high standard of design, to be compatible with the scale and form of nearby buildings and to have regard to the relationship of neighbouring properties. The NPPF and the London Plan also encourage good design and emphasises the importance of developments being visually attractive as a result of good architecture and appropriate landscaping.

The design position and form of the proposed block has evolved since the original submission and whilst the staggered footprint results in part of the building being positioned further back in the site, this allows for the transitional alignment with the parade of shops and the car dealership to either side. The main staggered façade is conceived as a series of four linked elements and not as one large unrelieved block, this reduces the bulk of the building particularly when viewed from the more prominent vantage points such as just before the bend in Upper Elmers End Road to the west of the site. The block is unapologetically contemporary, however through the use of local brick this would allow the building to assimilate into the street scene whilst retaining its unique modern identity. The effective use of fenestration and cladding results in an imaginative and attractive façade.

Residential Amenity

Policy BE1 of the Unitary Development Plan states that development should respect the amenity of occupiers of neighbouring buildings and ensure they are not harmed by noise disturbance, inadequate daylight, sunlight, privacy or overshadowing. It is considered that the current level of amenity enjoyed by occupants of the closest properties will be altered to a lesser or greater degree by the proposal. The fundamental issue therefore is whether this impact is considered to be material and therefore undue. The closest properties are at Nos.1-9 (cons) Aviemore Close, Nos. 2-18 (e) Altyre Way, Nos.2-4 (e) Altyre Close and residential upper floors of 168-176 (e) Upper Elmers End Road. There are a total of 25 windows proposed in the rear elevation and most direct views would be towards properties in Aviemore Close. However these properties would be a minimum distance of c25m away. The closest properties in Altyre Way would be c20m away at an oblique angle with those in Altyre close further still at c 36m away. The upper residential floors of No. 176 to 168a directly to the east of the site would be a minimum of 12m away to the side with the main bulk of the block set back from these buildings, the impact would therefore be of a limited nature.

The scheme would undoubtedly alter the outlook for many of the residents in the surrounding properties this is not considered to cause material harm to existing residents outlook from the site.

Loss of Public House

The NPPF sets out clearly at paragraph 70, that public houses are considered by the government to be community facilities. It states:

To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

UDP Town Centres and Shopping chapter objectives 5 states:

- 5) To support local shopping areas by maintaining provision of local shops and services adequate to meet the day-to-day needs of all local users.
UDP Policy C1 resists the loss of community facilities. Whilst public houses not specifically mentioned the supporting text it does refer to "social needs" of communities or areas of the borough. The London Plan 2011 clarifies that the definition of social infrastructure (para 3.86) includes cultural and leisure facilities. In para 4.36 it highlights the importance of the night time economy and encourages a supportive approach to planning these diverse night time activities in appropriate locations.

Adopted London Plan

Policy 3.16 Protection and Enhancement of Social Infrastructure states in relation to planning decisions that proposals which would result in a loss of social infrastructure in areas of defined need for that type of social infrastructure without realistic proposals for re-provision should be resisted.

In considering areas of defined need Policy 4.8 of the London Plan addresses retail centres and the supporting text para 4.48 highlights public houses in stating that "The availability of accessible local shops and related uses meeting local needs for goods and services (including post offices and public houses) is also important in securing 'lifetime neighbourhoods'.

Given that there are no other public houses in this local district centre the Rising Sun site addresses a need identified in the London Plan to secure Lifetime Neighbourhoods.

Emerging Bromley Local Plan

The Local Plan - Draft Policies and Designations (Feb 2014) underwent public consultation in early 2014 and includes a new draft Community Facilities policy and a specific draft pubs policy

Community Facilities Policy

The Council will promote the quality of life and the health and wellbeing of those living and working in the Borough and engage with providers and agencies to ensure the provision, enhancement and retention of a wide range of appropriate social infrastructure, including facilities for health and education; recreation, sports and play facilities, places of worship and venues for cultural and social activities, as well as the provision of community safety infrastructure such as police facilities, ambulance and fire stations.

Development which meets an identified need for such facilities will be encouraged to locate to maximise accessibility and will normally be permitted provided that it is accessible to the members of the community it is intended to serve by a full range of transport modes.

Planning permission will not be granted for proposals that would lead to the loss of community facilities, unless alternative enhanced provision is to be made in an equally accessible location for the community it serves, or it can be demonstrated that there is no longer a need for them or other forms of social infrastructure.

Additionally, in respect of facilities identified by local communities as having significant value, planning permission for alternative uses will only be considered where it can be demonstrated that no prospective purchasers exist that would be willing to pay both a suitable price and maintain the existing use.

Public Houses Policy:

The loss of public houses will be resisted by the Council except where :

- (i) there is an alternative public house within a 500 metre walking distance of the site and, if the public house is located within a local parade or town centre, the diverse offer of that parade or town centre is not significantly affected by the loss, and,
- (ii) where it can be demonstrated that the business is no longer financially viable as a public house, including the submission of evidence of active marketing as a pub for a substantial period of time.

Where the above criteria are met any change of use must be sympathetic to the design, character and heritage value original building if it is considered to be a positive contribution to local character.

The draft supporting text advises that the Council seeks to prevent the unnecessary loss of public houses unless alternative facilities are locally available and there is no adverse effect on local commercial centres or parades and it can be demonstrated that the use as a Public House is no longer financially viable. This would involve demonstrating evidence of 18 months' suitable marketing activity and proof that the public house is no longer financially viable through the

submission of trading accounts, or other similar financial evidence, whilst the pub was operating as a full time business.

The draft alterations to the London Plan 2011 includes amendments to Policy 4.8, which includes a requirement for Councils to:

provide a policy framework for maintaining, managing and enhancing local and neighbourhood shopping and facilities which provide local goods and services, and develop policies to prevent the loss of retail and related facilities that provide essential convenience and specialist shopping or valued local community assets justified by robust evidence.

New paragraph 4.48A states:

The Mayor recognises the important role that London's public houses can play in the social fabric of communities and recent research highlights the rapid rate of closures over the past decade and the factors behind these. To address these concerns, where there is sufficient evidence of need, community asset value and viability in pub use, boroughs are encouraged to bring forward policies to retain, manage and enhance public houses.

The Mayor has recently published the Schedule of suggested changes to the FALP (Draft Further Alterations to the London Plan) The GLA have clarified that formal listing as an "Asset of Community Value" is one way but not the only way to demonstrate community asset value.

Viability report and Business Study

The applicants have submitted a "Viability Report and Business Study" to support their application, however, it does not fulfil the requirements of the draft policy.

For example:

- It indicates a 6 month period of "internal marketing" but demonstrates only a period of 43 days between marketing through the specialist pub agents (who also assist with strategic advice for pubcos "in particular highlighting the gold bricks - pubs with potentially higher value for alternative uses") and exchange of contracts for this retail and residential application
- It illustrates a "Fair Maintainable Trade Calculation" setting out a profitable scenario that "the business should, when professionally operated, achieve". Acknowledging that it does not have the historic audited trading accounts it then illustrates the past failure to achieve profitability by reconstituting a profit & loss account for the year 2012 on the basis of wet 80%. They appear to have discounted an alternative potentially more profitable food led model on the basis that the current Rising Sun building is too small to become a food led managed house.

The assessment makes a number of generalised statements about how other pubco's and brewers might consider "pubs like" The Rising Sun, but no detail of any feedback on the marketing of this specific pub.

The viability assessment falls well short of an assessment considering what could be achieved on the site given a management dedicated to it, and with full discretion over stocking policy and type of operation.

Conclusions

The technical aspects of the scheme have been considered and no substantive objections have been raised. Subject to compliance with the recommended conditions the scheme is considered to be acceptable from a highways, environmental health and housing point of view.

The design, positioning and scale of the proposed block is considered acceptable. Furthermore, the impact upon neighbouring residential amenity is not considered to be undue. However the principle of the redevelopment of the pub is contrary to Policy C1 in the light of the changing understanding articulated in the London Plan 2011 and NPPF 2012 of the contribution of public houses to social infrastructure. Also contrary to London Plan Policy 3.16 which deals with the protection and enhancement of social infrastructure.

Additionally given the location of the pub within the local neighbourhood centre its loss, being the only one, fails to maintain the provision of shops and services within the centre contrary to UDP Town Centres Objective 5.

It should also be noted that whilst The Rising Sun was not listed as an Asset of Community Value when the request was made last year there was significant local objection from local residents (petition), The West Beckenham Residents Association and the Campaign for Real Ale (CAMRA), all of which contribute to the planning case for its value to the local community. The Community Right to Bid process is a process separate to the planning process.

The NPPF makes clear that weight can be attached to emerging policies, that weight dependant not simply on how far through the process the policies are importantly the degree of consistency to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The proposal is therefore also contrary to the emerging Local Plan- Policies relating to "Community Facilities", "Public Houses". Also the draft "Further Amendments to the London Plan"(FALP - consultation live) specifically Policy 4.8

The Viability Report and Business Study fails to address the above or meet the requirements of the emerging policy to demonstrate that the business is no longer financially viable as a public house, including the submission of evidence of active marketing as a pub for a substantial period of time.

On the basis of the above it is considered that the proposal should be refused as contrary to UDP Policy C1 and Town Centres and Shopping objective 5 and Policy 3.16 of the London Plan. Additionally contrary to and emerging draft London Plan Policy 4.8, emerging Local Plan policies for Community Facilities and Public Houses and the NPPF

Background papers referred to during production of this report comprise all correspondence on the file ref. 13/03889 set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: PERMISSION BE REFUSED

The reasons for refusal are:

- 1 The proposal results in the loss of a public house and community facility, detrimental to the quality and range of services within an acceptable distance of Upper Elmers End Road shopping frontage available to visitors and local residents, contrary to Policy C1 and objectives and 5 of Chapter 11 of the Unitary Development Plan, draft alterations to Chapter 4.8 of the London Plan, emerging Local Plan policies on Community Facilities and Public Houses, and the National Planning Policy Framework 2012.

Application:13/03889/FULL1

Address: The Rising Sun 166 Upper Elmers End Road Beckenham BR3 3DY

Proposal: Demolition of existing buildings and erection of a 3 storey block with 400sqm of commercial floorspace (Class A1), 1 two bedroom and 1 one bedroom flats on the ground floor, 14 two bedroom flats above, revised vehicular access, 11 car parking spaces and servicing



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