

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 15/00970/FULL3

Ward:

Penge And Cator

**Address : 110 Beckenham Road Beckenham BR3
4RH**

OS Grid Ref: E: 536210 N: 169638

Applicant : Mr Andy Pybus

Objections : YES

Description of Development:

Change of use of ground floor A1 (retail) unit to mixed use A3 (restaurant) and A5 (takeaway) uses, together with the installation of flue to rear elevation of 108 Beckenham Road (Revised plans submitted with ventilation arrangement amended and opening hours revised to 12 - 9pm Monday - Saturday)

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
London City Airport Safeguarding Birds
Smoke Control SCA 30

Proposal

The application seeks consent for the change of use of the ground floor (A1) retail unit to mixed use A3 (Restaurant) and A5 (takeaway) uses together with the installation of a flue on the rear elevation of 108 Beckenham Road.

The proposed opening hours would be 12:00pm -9pm Monday - Saturday with no Sunday or Bank Holiday trading.

The application has been revised since the original submission with an amended ventilation arrangement and reduced opening hours.

Location

The application site is located to the northern edge of Beckenham Road opposite the junction with Churchfields Road, just east of Beckenham Road Station. The site comprises a ground floor Class A1 retail unit within a three storey terrace of commercial ground floor units and first and second floor residential properties. A vehicular access features to the west of the site via an undercroft to a parking area to the rear with an additional access to the east and Thayers Farm Road.

Consultations

Comments from Local Residents

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

- o Increased traffic and parking pressure
- o Rubbish and litter
- o Noise and disturbance from late opening and people congregating outside
- o Anti-social behaviour
- o Loss of amenity
- o Already a number of takeaway uses further along the road. No need for another one. Over provision.
- o Ventilation would interfere with safe operation of the gas ventilation of flat 108B
- o There is extensive planning background with previous refusals regarding loss of amenity.
- o Will attract vermin
- o The flue location is dangerous and noisy
- o Smells and odours
- o Impact on mortgaging flats
- o Out of character with historic retail use

Residents were reconsulted on the 26th May 2015 regarding a revised ventilation arrangement and reduced opening hours.

Comments from Consultees

Highways - No objection

Environmental Health - I have looked at this application and visited the area and in principle would have no objections to permission being granted. The additional details look fine, so there would be no need for the J10 Condition.

I would recommend that a Condition be imposed restricting the hours of use in order to be consistent with other similar uses in the area

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
ER9 Ventilation
S5 Local Neighbourhood Centres, Parades and Individual Shops
S9 Food and Drink Premises
S10 Non-Retail Uses in Shopping Areas
T3 Parking
T18 Road safety

Planning History

13/03260/FULL2 Change of use from retail (Class A1) to cafe (Class A3) and installation of ventilation extraction duct to side elevation.

Refused 23.12.2013

The application was refused for the following reasons:

1. "The proposal lacks adequate means of ventilation to deal with cooking odours and as such would be detrimental to the residential amenities of the locality and in particular those residents of Wessex Court by reason of adverse fumes and cooking smells thereby contrary to Policy S9 of the Unitary Development Plan."
2. "The proposal would be contrary to Policy S9 of the Unitary Development Plan and prejudicial to the amenities currently enjoyed by the occupants of nearby residential properties by reason of the general noise and disturbance resulting from the use, particularly during the evening."

14/00400/FULL2 Change of use from retail (Class A1) to cafe (Class A3) with ventilation extract to rear of 108 Beckenham Road Granted 02.04.2014

Conclusions

The main issues relating to the application are the effect that it would have on the character of the area and the impact that it would have on the amenities of the occupants of surrounding residential properties. Consideration should also be given to the impact on the highway and previous reasons for refusal.

The application site was visited by the case officer and the aims and objectives of the above policies, national and regional planning guidance, all other material planning considerations including any objections, other representations and relevant planning history on the site were taken into account in the assessment of the proposal.

Principle of Development

The site is located within a local shopping parade. Saved policy S5 states that in shopping parades changes of use from A1 (Shops) to other uses will be permitted provided that the use contributes to the range of local services or the provision of community facilities; and contributes to the vitality of the centre by providing a service that attracts visitors during shopping hours; or that it can be demonstrated that there has been a long term vacancy and a lack of demand for Class A1 use.

Saved Policy S9 stated that "the Council will only permit proposals for additional restaurants and cafes (Class A3), drinking establishments (Class A4) and hot food takeaways 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;
- (iii) the proposal would not result in an overconcentration of food and drink establishment, out of character with the retailing function of the area and

The site is located within a shopping parade of 8 units with the following breakdown

Unit No and Use

100 - A1
102 - A1
104 - A2
106 - A1
108 - A2/B1
110 - Vacant

A further parade of commercial units is situated approximately 130m to the south east of the site. This has a range of A1, A3 and A5 Uses.

Planning permission was granted in April 2014 for a change of use from A1 to A3 (Restaurant). At that time marketing information was submitted demonstrating the units had been marketed unsuccessfully for a period of 18 months and that there has been very little interest from prospective tenants to let the units for retail purpose. This was considered satisfactory in relation to the vacancy of the units and no objections were raised to the loss of the A1 unit. The principle of the loss of the A1 and the change of use to a restaurant was therefore established within that permission.

The current application seeks consent for the mixed use which now includes a restaurant A3 and A5 takeaway element. The principle of the takeaway element therefore comes down the impact of the use on neighbouring amenity and a highway impact.

Character and appearance of the area

The site is located within a shopping parade on a busy road with a high level of passing trade. The site has permission to operate as an A3 restaurant with associated ventilation. The impact on the character and appearance of the area

from the A3 use has already been assessed and deemed acceptable by that permission. The proposal would now include an A5 takeaway element, however this would be ancillary to the A3 use. There are a number of A5 uses within the neighbouring parade, which is located approximately 130m to the south east of the site. Given the locality, existing permission and wider development officers consider that the proposal would not represent an overconcentration of takeaway uses and would not significantly harm the character or appearance of the area.

Impact on neighbouring occupiers

Immediately above the site are a number of residential units which have the potential be significantly impacted by the proposal. The site is however located on a busy road adjacent to Beckenham Road Station Tram stop. There is already therefore a low background ambient noise level generated from the passing vehicular traffic, pedestrians and from the use of the tram stop.

Whilst officers acknowledge that the scheme would generate a higher level of comings and goings than the existing A1 use, the proposal would only operate between the hours of 12pm and 9pm Monday -Saturday, with no trading on Sundays or Bank Holidays. The hours of operation have been reduced from the 2013 refusal which proposed 7am -10pm trading Monday to Sunday. Further, the Councils Environmental Health officer has not objected to the proposed ventilation details in respect of noise and smells. However, officers consider that given neighbouring concerns and late night opening, it reasonable to request sound proofing in order to protect residents from noise and disturbance from within the unit. Whilst there may be some noise generated from the later opening, 9pm is not considered to be an unreasonable or an unsociable hour given the location of the site. No details have been provided within the application to explain whether there would be a home delivery service, this could have the potential to impact neighbouring residents via noise from mopeds using the forecourt immediately outside the unit or parking within the vicinity. It is therefore considered reasonable to prevent the use providing home delivery from the restaurant in the interest of protecting neighbouring amenity and highway safety.

In light of recent changes to the General Permitted Development Order 2015 which allows for a permitted change of A3 and A5 units to a number of temporary uses, including a state funded school, it is also considered necessary to limit the use of the unit to A3/A5 only in order to protect the vitality of the parade and neighbouring amenity.

Officers therefore consider that the scheme has overcome the previous reason for refusal and subject to the above conditions would not result in significant detrimental impact on neighbouring amenity.

Given the above Members may consider that on balance the proposed has overcome the previous reasons for refusal and would have an acceptable impact on neighbouring amenity, subject to the highlighted conditions.

Highways

The site is located on the north side of Beckenham Road. The site is in an area with high PTAL rate of 5 (on a scale of 1 - 6, where 6 is the most accessible).

There are waiting restrictions immediately in front of the premises which includes no loading and unloading and parking between 0800 to 0930 hours and 1630 to 1830 hours and customers can park at pay and display bays.

The highways officer has reviewed the scheme and is of the "opinion that the A3/A5 proposal would not have a significant impact on the parking and highway safety within the local road network." No objections were therefore raised to the scheme.

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.

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.**

Reason: Section 91, Town and Country Planning Act 1990.

- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 3 The use shall not operate on any Sunday or Bank Holiday Xmas Day or Good Friday nor before 12pm or after 9pm on any other day.**

In order to comply with Policy BE1 and S9 of the Unitary Development Plan and in the interest of the amenities of the area.

- 4 There shall be no home delivery service provided by the use hereby permitted without written approval from the Local Planning Authority.**

In order to comply with Policy BE1 and S9 of the Unitary Development Plan and in the interest of the amenities of nearby residential properties and highway safety.

5 The ventilation system indicated on the approved drawing(s) shall be completed before the use hereby permitted first commences and shall thereafter be permanently retained in an efficient working manner.

Reason:In order to comply with Policies S9 and ER9 of the Unitary Development Plan and in the interest of the amenities of nearby residential properties.

6 The premises shall be used for a restaurant/takeaway and for no other purpose (including any other purpose in Class A3/A5 of the schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and reacting that Order with or without modification).

In order to comply with Saved Policy S5 and S9 of the Unitary Development Plan and in order to protect neighbouring amenity and the character and appearance of the area.

7 The ceilings and walls between the and the upper floors of the premises and the adjacent properties shall be so adapted as to achieve a reasonable resistance to airborne sound and heat transference as far as is practical having regard to existing construction. These works shall be implemented before the use hereby permitted commences in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and shall be permanently retained thereafter.

Reason:In order to comply with Policy S9 of the Unitary Development Plan and to ensure a satisfactory standard of amenity for adjacent properties.