

SECTION '2' – Applications meriting special consideration

Application No : 15/01951/FULL3

**Ward:
Penge And Cator**

**Address : 167 - 169 High Street Penge London
SE20 7DS**

OS Grid Ref: E: 535589 N: 170180

Applicant : Antic London

Objections : YES

Description of Development:

Change of use of ground, first and second floors from Class A1 retail shop with ancillary office and commercial use on the second floor to mixed A3/A4 use as a cafe/restaurant/bar with function room with first floor terrace and external elevational alterations at the rear.

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding
London City Airport Safeguarding Birds
London Distributor Roads
Open Space Deficiency
Primary Shopping Frontage
Smoke Control SCA 1

Proposal

It is proposed to change the use of the ground, first and second floors of this retail shop with ancillary office use of the upper floors to a mixed A3/A4 use as a café/restaurant/bar with a function room.

The ground floor would be an open plan bar/café providing bakery goods, coffee, lunches and a wine bar during the day and a bar space at night.

On the first floor, a restaurant is proposed, with a kitchen and bar allowing the preparation of food for consumption on the premises. The first floor would have a roof terrace at the rear, providing access to an escape stair in addition to being used by customers until 21.00.

The terrace on the first floor would incorporate a rear facing wooden fence with planting to screen the terrace from neighbouring residents.

The second floor function room would cater for events including christenings and weddings and for individual events. The initial application submission proposed the

formation of a terrace at the rear of the second floor, but this element has been deleted from the scheme.

On the basis of other Antic London pubs in the area, the assumed delivery and servicing pattern would involve a delivery from 1-2 vans daily with food supplies and 1-2 waste collections per week. A loading bay in front of the premises would facilitate the delivery cycle. It is intended that smaller vehicles would be capable of using the narrow rear access way which leads to the rear of the premises.

Location

The application site lies on the north eastern side of Penge High Street within the Primary Shopping Frontage. It lies between a retail pharmacy and a charity shop (both within Class A1) and is currently occupied by a business selling fabric remnants and other household goods. The building is three storeys high, and the retail frontage is double width, with a large shop window in the left hand unit and a smaller shop window and double doors in the right hand unit.

At the rear, the site lies adjacent to a narrow service passage leading behind the shopping frontage and separating the yards and rear elevations from the rear gardens of dwellings fronting Raleigh Road. A residential development to provide a block of flats is currently under construction at Nos. 2 - 4 Raleigh Road and it is this block that is most closely related to the application site.

The rear elevation of the shopping frontage is irregular in terms of the built form of the individual properties, with some of the units having substantial brick built two and three storey rear extensions, interspersed with flat roofed single and first floor elements. The application site itself has part one/two/three storey rear elements. The flat roofed two storey elements lie towards either boundary and are linked by a metal walkway below which is a shallow pitched roof between and adjacent to the two storey projections, upon which the first floor terrace would be constructed.

Consultations

A large number of letters have been received relating to the proposals.

Where objections have been raised, the concerns do not relate to the principle of the change of use, but can be summarised:

- The roof terrace will overlook gardens and windows of Raleigh Road. Smoking and noise associated with the use of the terrace and possible anti-social behaviour would have an adverse impact on the residential dwellings nearby.
- Noise would echo from the terrace
- Loss of privacy

A substantial number of letters supporting the proposals have been received, stating:

- There is a lack of places open in the evening and the proposed use would complement the existing provision
- The provision of outside space is good, but the design needs to give thought to nearby residents
- The proposal would meet a huge demand for a quality café and eat-in restaurant
- The applicants have made a success of the Goldsmith's Arms
- Would be a community asset
- Would act as a catalyst for improvement along the High Street
- A destination coffee shop would be popular during the day time.

From a technical highways perspective, the application is considered to be satisfactory on the basis of the high PTAL level and the submission of a satisfactory Delivery and Servicing Plan.

Environmental Health comments with regards to the superseded submission raised concerns regarding the lack of a kitchen extraction system and there being no details of the ventilation and air conditioning system acoustic assessment. The proposed external terraces would have the potential to lead to a loss of amenity for surrounding residents owing to noise from the use of these areas, and if there are directly adjoining residential uses at first floor or above, a sound insulation assessment would be necessary.

The application was subsequently revised to delete the second floor terraces adjacent to the proposed function room. Plans were submitted showing the kitchen extraction system and an Acoustic and Noise Assessment was submitted. The first floor terrace would be surrounded by wooden fences with plants and vines

Further comments from the Environmental Health Officer are summarised:

- In principle the kitchen extraction issue can be overcome, although elevational drawings should be submitted showing the system on the ground floor as well as the first floor kitchen. The specification is unacceptable as no odour abatement plant is detailed. It may be that this aspect could be dealt with by way of planning condition.
- The noise issues have not been adequately addressed and it would not be appropriate to condition the submission of a noise-report as a pre-commencement issue as this is critical to whether the proposal is acceptable at all. An acoustic report should be submitted which would cover the worst-case assessment for the permitted A4 use for both environmental noise and internal sound transference. Details of precisely what information would be required are listed.

Subject to resolving these issues there are no objections to the proposals from an environmental health perspective but it would not be appropriate to grant planning permission in advance of their resolution.

No objections are raised in respect of the water or sewerage infrastructure capacities.

Planning Considerations

The application falls to be determined with reference to the following policies of the Unitary Development Plan:

- BE1 Design of new development
- S1 Primary frontages
- S9 Food and drink premises
- T18 Road safety

Policies in the London Plan and the NPPF are also material to the determination of the application.

Planning History

There is no relevant planning history to report.

Conclusions

The main issues in the determination of this application are the impact that the proposed change of use would have on the vitality and viability of the shopping centre and the impact that the proposal would have on the residential amenities of neighbouring residents.

The proposal would result in the loss of a double retail unit in a primary frontage. As such it is necessary to carefully consider whether the proposal would comply with the requirements of Policy S1 which states that in order to be permitted, proposals should not harm the retail character of the shopping frontage, should generate pedestrian foot-fall, should complement the shopping function of the area, should not create a concentration of similar uses and should not have an adverse impact on residential amenity.

In the immediate stretch of frontage premises, the use of the premises is predominantly as retail shops, with 2 Class A2 banks/building societies. It is not considered that the proposed change of use would undermine the retail function of the frontage or result in an over-concentration of similar uses, and in providing a day-time opening as a restaurant/coffee shop the proposal would generate a pedestrian foot-fall and a use that would complement the shopping function of the area.

However, while the proposed change of use is generally acceptable in principle, the impact on residential amenity falls to be considered with reference to Policies BE1 and S1. Serious reservations remain regarding the proposals from a technical Environmental Health perspective. In planning terms, Policy S1 states that changes of use within primary retail frontages will not be acceptable if there would be an adverse impact on residential amenity.

It is evident that there are some residential flats in the upper floors of the retail frontage close to the application site, and it was noted at the site visit how close the proposed terraces would be to the new flats currently under construction at Nos. 2-

4 Raleigh Road. The rear of the application site relates directly to the rear of 2 - 4 Raleigh Road since they are directly opposite each other on either side of the narrow access way. The rear elevation of the flats immediately abut the boundary and the approved plans for application ref. 13/03506 indicate that the first floor and second floor rear facing windows and balconies will serve habitable rooms including bedrooms and the third floor rear flat will incorporate a terrace wrapping around the living/kitchen/dining room at the rear.

The proposed terrace at the application site would be located approx. 5m from the rear elevation of the new flats. The proximity of the terrace to the adjacent residential flats and those currently under construction is considered unacceptable. While the terrace would be screened with a wooden fence and limited planting, the position of the terrace in relation to adjacent vertical elevations on all sides is considered likely to result any noise being bounced off neighbouring walls and being concentrated within an enclosed space, and likely to be appreciable to neighbouring residents.

It is appreciated that the hours of use of the terrace could be controlled by way of a condition, and the applicant has stated that the terrace would not be used other than in an emergency escape situation after 9pm. The application forms did not specify hours of operation, although given the nature of the use proposed it would not be unreasonable to expect weekend and evening opening. Notwithstanding the serious concerns raised by the Environmental Health Officer regarding the internal transference of noise between the property and neighbouring flats, it is considered that the use of the terrace would have a seriously detrimental impact on the amenities of existing and prospective residents by way of noise and disturbance.

In respect of the impact on privacy, it is considered that the views from the terrace towards the existing dwellings in Raleigh Road would be limited as a result of the built form of the terrace and the siting of the new flats at Nos. 2-4. It is unlikely that the proposal would lead to a significant impact on the privacy of these dwellings. The proposed screening would be approx. 2.2m high and as such the potential for direct mutual overlooking to the similar level flat at Nos. 2 - 4 would be limited, although the proposed terrace would be clearly visible from upper storeys and it is considered that the noise associated with the use of the terrace would be appreciable from adjacent properties, including flats and a terrace associated with the residential use of the upper floors of the frontage buildings. This would increase the sense of a loss of privacy associated with the uncomfortable proximity of the terrace to residential units.

With regards to the elevational alterations to the rear of the premises, these alterations would have a limited impact on visual amenity as a consequence of the small scale of the alterations, and the proposal would therefore be compliant with Policy BE1 in this respect.

On balance, while in most respects the proposed change of use would comply with the provisions of Policies S1 and BE1, the impact of the proposal on the residential amenities of neighbouring dwellings would be unacceptable.

RECOMMENDATION: APPLICATION BE REFUSED

The reasons for refusal are:

- 1 The proposed first floor terrace would have a seriously detrimental impact on the residential amenities of neighbouring properties resulting in noise, disturbance and loss of privacy thereby contrary to Policies S1 and BE1 of the Unitary Development Plan and insufficient evidence has been submitted to demonstrate that the impact of the proposals on adjacent properties could be mitigated to a satisfactory extent.**