

SECTION '2' – Applications meriting special consideration

Application No : 17/04806/FULL1

Ward:
Penge And Cator

Address : 161 High Street Penge London SE20
7QU

OS Grid Ref: E: 535579 N: 170197

Applicant : Mr Mushie Punjabi

Objections : YES

Description of Development:

Conversion and change of use of the existing ground floor commercial unit and upper floors from A2 Use into A1 Use at ground floor and the provision of 4 residential units on the upper floors (Use Class C3), the extension of the building at second floor & roof level and elevational alterations.

Key designations:

Biggin Hill Safeguarding Birds
Open Space Deficiency
Primary Shopping Frontage
Smoke Control SCA 1

Proposal

Planning permission is sought to convert and change of use of the existing ground floor commercial unit and upper floors from A2 to A1 at ground floor and the provision of 4 residential units on the upper floors (Use Class C3), the extension of the building at second floor & roof level and elevational alterations.

The application should be considered along with planning application ref:- 17/04954/FULL1 which is currently pending consideration for a replacement shopfront on the ground floor of the premises.

The Planning Statement sets out that the building was formerly used as a bank associated with office space above and falls within an A2 use class. A search of the property shows that the bank (Santander) closed on 29th June 2017 and currently lies vacant.

The application proposes to change the use of the ground floor of the premises from a former bank (use class A2) to a retail use (use class A1). Planning permission is also sought to change the vacant office premises on the first and second floors to residential accommodation to form 2 x 1 flats and 2 x 2 bedroom flats. The second floor would see a dormer window extension built and some of the existing rear windows replaced and repositioned. Two new rooflights would be added to the front roofslope of the property.

The application is accompanied by a Planning Statement.

Location and Key Constraints

The application relates to the ground floor of a three storey building located on the north-eastern side of Penge High Street. The building is currently vacant and is neither listed nor within a conservation area

This section of High Street Penge (designated as Primary Shopping Frontage), is characterised by commercial units at ground floor with residential and office development above. High Street Penge is a London Distributor Road and is classed as an area with a high Public Transport Accessibility Level (PTAL) of 5 (on a scale of 1 - 6 where 6 is the highest). The area is well served by local shops.

Comments from Local Residents and Groups

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

Objections

- I am objecting to this not only as a neighbour but as the chair of the Penge Traders Association. The premises in question has been a chemist for over 30 years and the current occupants do not wish this redevelopment to take place. The premises are used as a business and we feel it is extremely unfair and worrying for a landlord to suddenly change the use of a building. If this consent is given the current occupants will not be able to trade as they will not only lose their storage space but more importantly, they will lose part of the ground floor of the shop which is currently used for addicts to collect their drugs/needles etc. I understand accommodation is very important but if this permission is granted, the current traders will have no choice but to move and leave yet another empty shop in Penge High Street. How can this be fair when a business has been trading for so many years, for the landlord to suddenly change the use of the premises and force good retail shops out.
- As the property directly opposite 161, my property and garden will be overlooked and my privacy will be adversely affected. I also have major concerns regarding the use of the back alleyway as storage and main entrance for this build. There is currently significant daily noise and disruption and the increase in daily traffic in and out of the building will also adversely affect my privacy and security. I strongly object to this planning proposal and wish to be kept updated on the matter.

Comments from Consultees

Environmental Health Officer -

I have considered this application and would be unlikely to object to the proposal, however the Applicant should be aware of the following:

- The site is subject to high levels of road traffic noise and therefore a scheme of glazing and ventilation to protect residents would be required.
- The previous use of the site means that there is a risk of contamination of the soil, and therefore even if there is to be no garden space created in the development an assessment of the likely contamination should be carried out.
- No drawings have been submitted so I am unable to comment on the proposed layout, but in general terms the applicant should be mindful of the stacking as well as the availability of natural light and ventilation to habitable rooms

Highways Officer -

The development is located to the north of High Street; High Street, Penge (A234) is a London Distributor Road.

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

A car parking stress survey was undertaken on Wednesday 29th March 2017 and Thursday 30th March 2017, in accordance with the 'Lambeth Methodology'. The survey indicated that there is some on-street parking capacity of around 57 cars within 200m of the site.

Furthermore There are free on street parking bays within close vicinity of the development; however, there are waiting restrictions adjacent to the free parking bays.

No car parking is offered for the development; as the site is considered accessible to public transport links, being within walking distance of bus routes and a Rail Station. Therefore I raise no objection in principle.

Please include conditions regarding cycle parking and car club.

TfL comments

1. The site of the proposed development is located on the A234 High Street, which forms part of the Strategic Road Network (SRN). TfL has a duty under the Traffic Management Act 2004 to ensure that any development does not have an adverse impact on the SRN.

2. It is understood that the proposed development seeks to provide 4 residential units (3 x one bedroom and 1 x two bedroom units) together with a change of use of the ground floor from A2 to A1.
3. TfL welcomes the car-free nature of the proposed development.
4. A minimum of 8 long and 4 short stay cycle spaces should be provided in line with the standards of the draft London Plan. All cycle parking should be located in a secure, accessible and well-lit area.
5. All vehicles associated with the development must only park/stop at permitted locations and within the time periods permitted by existing on-street restrictions. It is critical that any vehicles associated with the development do not obstruct the operation of the adjacent bus stop High Street Green Lane (Stop F).
6. The footway and carriageway on the A232, Croydon Road must not be blocked during the development. Temporary obstructions during the development must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic on the A232, Croydon Road.
7. Subject to the above conditions being met, the proposal as it stands would not result in an unacceptable impact to the SRN and bus network.

Policy context

Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise. According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The Council is preparing a Local Plan. The submission of the Draft Local Plan was subject to an Examination In Public which commenced on 4th December 2017 and the Inspector's report is awaited. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

The development plan for Bromley comprises the Bromley UDP (July 2006), the London Plan (March 2016) and the Emerging Local Plan (2016). The NPPF does not change the legal status of the development plan.

London Plan Policies

- Policy 3.3 Increasing Housing Supply.
- Policy 3.4 Optimising Housing Potential
- Policy 3.5 Quality and design of housing developments
- Policy 3.8 Housing choice
- Policy 5.1 Climate change mitigation
- Policy 5.2 Minimising carbon dioxide emissions
- Policy 5.3 Sustainable design and construction
- Policy 5.7 Renewable energy
- Policy 5.9 Overheating and cooling
- Policy 5.10 Urban greening
- Policy 5.11 Green roofs and development site environs
- Policy 5.12 Flood risk management
- Policy 5.13 Sustainable drainage
- Policy 5.14 Water quality and wastewater Infrastructure
- Policy 5.15 Water use and supplies
- Policy 5.16 Waste net self-sufficiency
- Policy 5.17 Waste capacity
- Policy 5.18 Construction, excavation and demolition waste
- Policy 6.5 Funding Crossrail and other strategically important transport infrastructure
- Policy 6.9 Cycling
- Policy 6.13 Parking
- Policy 7.2 An inclusive environment
- Policy 7.3 Designing out crime
- Policy 7.4 Local character
- Policy 7.6 Architecture
- Policy 7.14 Improving Air Quality
- Policy 7.19 Biodiversity and Access to Nature
- Policy 8.2 Planning obligations
- Policy 8.3 Community infrastructure levy

Mayor's Housing Supplementary Planning Guidance 2016

The National Planning Policy Framework (NPPF) is also a consideration.

Unitary Development Plan

- BE1 Design of New Development
- H8 Residential Extensions
- BE7 Railings, Boundary Wall and Other Means of Enclosure)
- EMP3 Redevelopment of Office Space
- EMP5 Development outside business areas
- H1 Housing Supply
- H7 Housing Density and Design
- H9 Side Space
- H12 Conversion of non-residential buildings to residential use
- S1 Primary Frontages
- T1 Transport Demand
- T3 Parking
- T7 Cyclists
- T18 Road Safety

Emerging Local Plan

- Draft Policy 1 Housing Supply
- Draft Policy 4 Housing Design
- Draft Policy 3 Backland Development
- Draft Policy 8 Side Space
- Draft Policy 10 Conversion of non-residential buildings to residential
- Draft Policy 37 General Design of Development
- Draft Policy 30 Parking
- Draft Policy 86 - Office uses outside town centres and office clusters
- Draft Policy 123 - Sustainable Design and Construction

Supplementary Planning Guidance

Supplementary Planning Guidance 1 - General Design Principles

Planning History

Under planning application ref:- 17/04806/FULL1 planning permission is currently pending consideration for conversion and change of use of the existing ground floor commercial unit and upper floors from A2 to A1 at ground floor and the provision of 4 residential units on the upper floors (Use Class C3), the extension of the building at second floor & roof level and elevational alterations.

Under planning application ref:- 05/01563/ADV advertisement consent was granted for externally illuminated fascia and projecting box sign.

Under planning application ref:- 04/00168/ADV advertising consent was granted for internally illuminated fascia and projecting signs.

Under planning application ref:- 89/01921/OTH planning permission was granted for a cash dispensing machine.

Under planning application ref:- 88/03974/ADV planning permission was granted for an internally illuminated cash dispenser and projecting box sign.

Under planning application ref:- 86/00120/ADV advertisement consent was granted for internally illuminated double sided projecting box and fascia sign.

Considerations

The main issues to be considered in respect of this application are:

- Principle of Development
- Design, Siting and Layout
- Standard of Residential Accommodation
- Impact on Neighbouring residential properties
- Highways

Principle of Development

Housing is a priority use for all London boroughs and the Development Plan welcomes the provision of small scale infill development in the areas of stability and managed change provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space. The National Planning Policy Framework (NPPF) states in Paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development.

The NPPF sets out in paragraph 14 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with a local plan, applications should be approved without delay. Where a plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate development should be restricted.

Policy S1 states that in primary retail frontages the Council will only permit changes of use from retail (Class A1) to other uses where the proposal would:

- (i) not harm the retail character of the shopping frontage;
- (ii) generate significant pedestrian visits during shopping hours;
- (iii) complement the shopping function of the town centre;
- (iv) not create a concentration of similar uses; and
- (v) have no adverse impact on residential amenity.

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

The Council recognises that to ensure these shopping centres remain vibrant, a diversity of uses that complement the retail function is necessary. Non-retail uses within Classes A2, A3, A4 and A5 can generate high levels of pedestrian activity and may be appropriate complementary uses, provided that the retail function of the centre is not undermined. Planning permission is sought for the change of use of the ground floor commercial unit from A2 to A1, the proposed use would allow for visiting members of the public which would ensure the viability and vitality of the town centre as such it is considered the change of use of the ground floor unit in principle would be acceptable.

The change of use of the vacant shop unit from use class A2 to A1 is supported by the Council if it brings back into use a retail unit.

Policy H7 of the UDP sets out criteria to assess whether new housing development is appropriate subject to an assessment of the impact of the proposal on the appearance/character of the surrounding area, the residential amenity of adjoining and future residential occupiers of the scheme, car parking and traffic implications, community safety and refuse arrangements.

London Plan Policy 3.4 Optimising housing potential of the London Plan seeks to optimise housing potential, taking into account local context and character, the design principles and public transport capacity.

Furthermore, Policy 3.5 of the London Plan seeks to ensure that housing developments should be of the highest quality internally, externally and in relation to their context and their wider environment. In addition, development proposal should seek to protect and enhance London's residential environment and attractiveness as a place to live.

Policy H12 of the Unitary Development Plan states that the Council will permit the conversion of genuinely redundant office and other non-residential building to residential use, particularly above shops, subject to achieving a satisfactory quality of accommodation and amenity.

The accompanying Planning Statement does not make an assessment of the loss of office provision which currently lies empty. The Policy outlines that floors above shops in particular offer an important source of additional housing within the Borough. In this case it is considered that it has not been demonstrated that the quality of four residential units does not outweigh the loss of the office accommodation.

Design, Siting and Layout

The National Planning Policy Framework (NPPF) states that a key role for planning is to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Further to this, paragraph 58 of the NPPF states that planning decisions should aim to ensure that developments function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, respond

to local character and history, and reflect the identity of local surroundings and materials; and are visually attractive. Whilst, Paragraph 60 of the NPPF states that it is proper to seek to promote or reinforce local distinctiveness, whilst paragraph 61 refers to the fact that although visual appearance and architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.

London Plan Policy 7.4 requires developments to have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Furthermore, Policy 7.6 of the London Plan states that development should be of the highest architectural quality, be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm and should comprise details and materials that complement, not necessarily replicate, the local architectural character.

Policy BE1 states that development should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas. Development should not detract from the existing street scene and/or landscape and should respect important views, skylines, landmarks or landscape features. Space about buildings should provide opportunities to create attractive settings with hard or soft landscaping and relationships with existing buildings should allow for adequate daylight and sunlight to penetrate in and between buildings.

The external alterations to the building include an extension within the second floor within the internal courtyard area and rear dormer extension. Replacement and repositioned windows are also proposed in the rear elevation of the premises. Internally the site would be converted to a shop unit at ground floor and four flats (over two floors). The proposed alterations and extensions would be sited to the rear of the host dwelling, well-screened from public vantage points, set into the gradient of the site. As such, the proposal is not considered to have a detrimental impact to the character of the surrounding area.

Standard of Residential Accommodation

Policy 3.5 of the London Plan (2015) Quality and Design of Housing Developments and the Department for Communities and Local Government (DCLG) Nationally Described space standards states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit.

Whilst Policy BE1 in the Adopted UDP states that the development should respect the amenity of occupiers of future occupants.

The submitted plans show the following accommodation:

A studio flat should provide a minimum of 39sqm (37sqm if a one person dwelling which has a shower room instead of a bathroom), one bedroom two person single

storey property should provide a minimum of 50sqm of habitable floor space and a two bedroom three person bedroom should provide a minimum of 61sqm. Flat 1 & 4 as stated on the submitted plans for the proposed flats would not comply with the Governments Technical housing standards and London Plan standards:

Flat 1: 36 m2 (First floor) 2p studio

Flat 2: 57 m2 (First floor) 1b 2p

Flat 3: 77m2 (Second & third floor) 2b 3p flat

Flat 4: 32m2 (Second floor) 2p studio

In addition, the Mayor's Housing Supplementary Planning Guidance (SPG) (March 2016) provides guidance on the implementation of housing policies in the 2016 London Plan and the 2016 Minor Alterations to the Plan (MALP), replacing the 2012 Housing SPG. The SPG provides guidance on Private Open Space. The submitted plan do not show an area, which could be used as private amenity space, thus contrary to the Mayor's Housing SPG (2016). However, whilst no private amenity space is contrary to the requirements of the Mayor's Housing SPG, regard must also be had as to the acceptability of any proposed terraces in terms of the impact on the amenities of the neighbouring properties. In this instance, it is acknowledged that the use of balconies or terraces in this location would not be appropriate and would lead to unacceptable opportunities for overlooking and loss of privacy. Standard 36 of the Mayor's Housing SPG does indicate that where site constraints make it impossible to provide private open space, additional internal living space equivalent to the area of private open space requirement may be provided instead.

The Council also considers that the bedroom of Flat 2 does not provide adequate natural daylight/sunlight into the room and the room has no outlook as it is reliant on a roof light which is situated on the roof above.

The proposed quality of accommodation provided by the proposed residential units is considered not to be acceptable because it does not comply with Policy 3.5 of the London Plan and flats 1 & 4 would result in a cramped form of development for future occupiers.

Impact on Neighbouring Residential properties

Policy BE1 seeks to ensure that new development proposals, respect the amenity of occupiers of neighbouring buildings and any future occupiers ensuring that their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight or privacy or by overshadowing. This is supported by London Plan Policy 7.6.

Two letters of objection have been received relating to the application. The first letter relates to the loss of the Pharmacy. No.161 has never been a pharmacy however there was a recent application at No.165 High Street Penge which does have a pharmacy on the ground floor. This application was similar to that proposed at 161 and was recently allowed at planning committee under planning application ref:- 17/03964/FULL1.

A further objection has been received from a resident living behind the premises who is concerned about their property being overlooked and losing privacy to their garden. Concerns are also raised about the back alleyway being used as storage and main entrance for the development. It is considered that no new windows will be introduced to the rear elevation of the property and that the only increase will come from the rear dormer extension on the second floor. As such it is considered that the rear dormer extension would cause no more overlooking than the existing rear windows to the property.

Highways

The London Plan and UDP policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision.

No objections are raised from the a Highway perspective in relation to the car free development, when taking into account the sites high PTAL rate (5) and close proximity to train and bus services. As such, the proposal is not considered to have a significant impact on the parking demand and highway safety within the local road network.

Cycle parking

Cycle parking is required to be 1 space per studio/1 bedroom flats and 2 spaces for all other dwellings. The agent has provided details of a location for cycle storage in the rear curtilage. A planning condition can be attached to ensure this is carried out if permission is granted.

Refuse

All new developments should ensure adequate facilities for refuse and recycling. The agent has provided details of a refuse storage area. A planning condition can be attached to ensure that this is carried out.

CIL

The Mayor of London's CIL is a material consideration. CIL is payable on this application.

Summary

Whilst the change of the ground floor unit to A1 retail would be acceptable the quality of residential accommodation proposed on the upper floors is considered cramped and unsuitable for potential occupiers because of the size of two of the units and the lack of a window. Furthermore it has not been adequately demonstrated that the office accommodation is redundant.

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: APPLICATION BE REFUSED

The reasons for refusal are:

- 1. Insufficient information has been provided to satisfactorily demonstrate a lack of demand for office accommodation and that the upper floors are genuinely redundant. Therefore the change to residential accommodation would result in the potential loss of office floorspace contrary to Policy H12 of the UDP and Policy 10 of the Draft UDP which seeks to safeguard office accommodation.**
- 2. Flats 1 & 4 would by reason of their size and siting would constitute a cramped form of development, providing accommodation with an inadequate of residential amenity contrary to Policies BE1, H7 of the Unitary Development Plan, Policies 1, 4 & 10 and 37 of the Draft Local Plan and Policies 7.4 and 3.5 of the London Plan.**
- 3. The bedroom of Flat 2 would have no window afforded to with the only source of light being a rooflight position in the roof of the floor above which would not be acceptable for the occupier resulting in an unacceptable reduction in the amount of light to a habitable room and no outlook contrary to policy BE1 of the UDP, Policies 1,4, 10 & 37 of the Draft Local Plan and Policies 7.4 & 3.5 of the London Plan.**