

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

Application No : 17/05934/RECON

Ward:
Plaistow And Sundridge

Address : 76 College Road Bromley BR1 3PE

OS Grid Ref: E: 540202 N: 169987

Applicant : Mrs Vanessa Ward

Objections : YES

Description of Development:

Removal of Condition 8 of Planning Permission 16/02999/FULL1 for the Change of use from a Cafe to hot food takeaway (Use Class A5) together with a new shopfront and installation of ventilation ducting to the rear in order to allow a delivery service by push bike only

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Open Space Deficiency
Smoke Control SCA 5

Proposal

Removal of Condition 8 of Planning Permission 16/02999/FULL1 for the Change of use from a Cafe to hot food takeaway (Use class A5) together with a new shopfront and installation of ventilation ducting to the rear in order to allow a delivery service.

The application seeks consent for the removal of Condition 8 of Planning Permission 16/02999/FULL1 for the Change of use from a Cafe to hot food takeaway (Use class A5) together with a new shopfront and installation of ventilation ducting to the rear in order to allow a home delivery service with the use of a push bike only.

Condition 8 is as follows: There shall be no home delivery service provided by the use hereby permitted without written approval from the Local Planning Authority.

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

Location and Key Constraints

The application relates to a three-storey semi-detached Locally Listed building, which is located on the east side of College Road. The property forms part of a row

of workers cottages from the early 1800s and is also one of eight Locally Listed buildings fronting College Road. It forms part of a local shopping parade and the surrounding area is a mixture of residential and commercial properties. The unit is currently vacant. There is also residential accommodation above the site. An access path leading to a rear service yard is situated next to the property. Within the rear yard is a single-storey outbuilding, which is currently being used by a restoration company.

The property is now operating as a takeaway and Permission 16/02999/FULL1 appears to have been implemented.

Comments from Local Residents and Groups

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

- o There are already too many takeaway shops in the area.
- o College Road is very busy, with heavy traffic day and night.
- o Parking is already difficult for neighbours. Parking is more difficult since the takeaway opened.
- o Inconsiderate parking
- o The property is on a dangerous bend and the bikes will be entering and exiting all the time. This will be dangerous, especially as there is no bicycle lane.
- o Concerns around vehicle and pedestrian safety.
- o Will result in accidents
- o Object to two Indian takeaways on the same road.
- o Noise and disturbance
- o Not enough existing parking spaces
- o Over the last 10 years 82 accidents have taken place, 18 of which are on this road. This is mainly due to carelessness around the bend. Two involving push bikes had fatalities.
- o College Road will not be able to deal with increase in traffic
- o Overprovision of takeaways
- o Located on a busy main road, on a bend where the road is at its narrowest. No room on the pavement at this point.
- o Cyclists will be under pressure to deliver and will be entering the road from this location.
- o May result in a death or serious injury to cyclist/pedestrian

Comments from Consultees

Highways - Details were requested regarding how push bike riders will adhere strictly to the highway code, bike ability, duty of care to ensure bikes are road worthy, their public liability, cyclist insurance, training etc. The applicant should know that under the Highways Act 1835 s.72 (as amended by s. 85(1) of the Local Government Act 1888), cyclists must not cycle on a footway (pavement). No objections to the details of the above, which have been submitted by the applicant.

No objection to delivery service by push bike and removal of Condition 8 (i.e. there shall be no home delivery service provided by the use hereby permitted without written approval from the Local Planning Authority), as long as delivery is not done by motor vehicles.

I reiterate that use of motor vehicles especially cars will block access to existing restoration business and intensify the use of this access as all these customers will end up reversing on to College Road which is a London Distribution Route creating a road safety hazard and also interfere with the free flow of traffic.

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 makers can also give weight to relevant policies in emerging plans according to:

- o The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- o 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
- o 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

7.15 Reducing and managing noise

Unitary Development Plan

BE1 Design of New Development

BE10 Locally Listed buildings

S9 Food and Drink Premises
T3 Parking
T18 Road Safety

Emerging Local Plan

Policy 30 Parking
Policy 32 Road Safety
Policy 37 General Design and Development
Policy 39 Locally Listed Buildings
Policy 96 Neighbourhood Local Centres, Local Parades and Individual Shops
Policy 98 Restaurants, Pubs and Hot Food Takeaways

Planning History

The relevant planning history relating to the application site is summarised as:

85/01946/FUL - Change of use from shop to take away food bar. Permission
05.09.1985

89/01203/FUL - r/o 74/76 College Road. Single storey extension to garage and
single storey extension to 74 college road. Refused 10.05.1989

97/01756/ADVILL. -Externally illuminated fascia sign to front and non illuminated
wall sign to side. Refused 20.08.1997

98/00021/ADVILL non-illuminated wall mounted advertisement sign Refused
04.03.1998

16/02999/FULL1 Change of use from a Cafe to hot food takeaway (Use class A5)
together with a new shopfront and installation of ventilation ducting to the rear
Permission. 19.12.2016

16/02999/CONDIT Details of conditions submitted in relation to planning
permission ref: 16/02999/FULL1
Condition 3 - Sound Insulation
Condition 5 - Ventilation System Approved 23.05.2017

17/01448/RECON Removal of Condition 8 of Planning Permission
16/02999/FULL1 for the Change of use from a Cafe to hot food takeaway (Use
Class A5) together with a new shopfront and installation of ventilation ducting to
the rear in order to allow a delivery service. Members resolved to refuse
permission for the following reason:

1. The proposal would lead to an unacceptable intensification of the existing
access within an area of poor visibility close to a junction, which would be
prejudicial to the free flow of traffic conditions and general safety in the
highway, contrary to Policy T3 and T18 of the Unitary Development Plan.

An appeal has now been lodged under ref: APP/G5180/W/18/3196435 against the refusal of planning permission and this is currently pending.

Considerations

The main issues relating to the application are the impact on highway safety.

The site forms part of a local shopping parade which includes a number of A3/A5 uses and has a PTAL of 4. It is located on a sharp bend within College Road, which is a busy classified London Distributor Route. There are also parking restrictions in the form of single and double yellow lines within the immediate vicinity. The site benefits from an existing vehicular access path to the north of the site, which leads to a service area at the rear. There is also a detached outbuilding, used by restoration business located within this rear service area.

Policy T18 states that the Council will consider as appropriate the potential impact on road safety and will seek road safety is not adversely affected.

In 2017, under ref: 17/01448/RECON, the applicant also sought to remove condition 8 in order to provide a home delivery service, but this instead proposed the use of two motor vehicles. These vehicles would have been parked on the existing side access road, which lies to the north of the property.

Members resolved to refuse permission for the above application as it was considered that the proposal would have led to an unacceptable intensification of the existing access and, due to poor visibility at the junction the proposal would have been prejudicial to the free flow of traffic and general highway safety.

The current proposal is a re-submission; which seeks to remove condition 8 in order to provide a home delivery service with the use of bicycles only. The Council's Highways officer has not raised specific objections to this, subject to restrictions on the use of motor vehicles and details regarding how riders will adhere to the Highway Code. The applicant has submitted this additional information to the satisfaction of the highway officer. The bicycles would be parked to the rear of the site and would again utilise the existing access point and drive, which is already used by vehicles. Therefore, it is considered that given the highway comments, existence of the existing access point and restrictions on the use of motor vehicles the proposal would be on balance acceptable.

The use of push bikes would be unlikely to generate significant noise and disturbance and there would be still be a restriction on the use of motorised vehicles therefore the impact on the residential amenities of neighbouring properties is considered to be acceptable.

The Mayor of London's CIL is a material consideration. CIL is not payable on this application and the applicant has completed the relevant form.

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

RECOMMENDATION: APPROVAL

subject to the following conditions:

- 1** 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 UDP and in the interests of visual and residential amenity.

- 2** The drawings and specifications submitted under ref: 16/02999/CONDIT dated 23/05/17 of the works (including the adaptations to the ceilings and floors between the residential and non-domestic uses) for sounds insulation against airborne noise to meet $D'nT,w + C_{tr}$ of not less than 55dB shall be retained permanently in accordance with the approved details.

Reason: In the interests of residential amenity and to comply with Policy 7.15 of the London Plan.

- 3** At any time the combined plant noise rating level shall not exceed the measured typical background L90 level at any noise sensitive location. For the purposes of this condition the rating and background levels shall be calculated fully in accordance with the methodology BS 4142:2014. Furthermore, at any time the measured or calculated absolute plant noise level shall not exceed 10dB below the typical background noise level (LA90 15 minute) in this location.

Reason: In the interests of residential amenity and to comply with Policy 7.15 of the London Plan.

- 4** The detailed plans of the appearance of and the equipment comprising a ventilation system, including measures to alleviate fumes and odours (and incorporating activated carbon filters where necessary) submitted to and approved by the LPA under ref: 16/02999/CONDIT shall be implemented in accordance with the approved details 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 visual and residential amenities of the area.

- 5** The use shall not operate before 9am or after 11:30pm on any day of the week.

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

- 6** The premises shall be used for a takeaway and for no other purpose (including any other purpose in Class 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).

Reason: In order to comply with Policies 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 home delivery service shall only be undertaken by bicycle and in accordance with the details set out within this application and no form of motorised vehicle including cars, motorcycles or mopeds shall be used at any time.**

Reason: In order to comply with Policies BE1, T18 and S9 of the Unitary Development Plan and in the interest of the amenities of nearby residential properties and highway safety.