

## **SECTION '2' – Applications meriting special consideration**

**Application No :** 19/00963/FULL1

**Ward:**  
**Kelsey And Eden Park**

**Address :** 96 Wickham Road Beckenham BR3 6QH **Objections: Yes**

**OS Grid Ref:** E: 537929 N: 168598

**Applicant :** Mr Peter Bolton

### **Description of Development:**

Change of Use from Retail (Use Class A1) to Retail/Café/Restaurant (Use Class A1/A3).

Key designations:

Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Smoke Control SCA 18

### **Proposal**

Planning permission is sought for a change of use from A1 to A1/A3 restaurant/café use.

### **Location and Key Constraints**

The application relates to a two-storey mid-terrace property that is located within a commercial parade. The surrounding area is characterised by a mix of commercial units on the ground with residential properties above.

No.96 Wickham Road is a café (Daisy Grey) on the ground floor with separate living accommodation above. The premises lie in the middle of a local parade of nine similar two storey premises close to the busy roundabout where Wickham Road meets Stone Park Avenue, South Eden Park Rd, Wickham Way and Hayes Lane. The parade is set back from Wickham Road behind a service road used for parking. There is an unmade track at the rear giving access to the back of the shops and in some instances to the residential accommodation above them. There is a bus stop in front of No.94/96 with a service to Beckenham.

The application has been called-in to committee by the Local Ward Councillor.

## **Comments from Local Residents and Groups**

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

- The owners have been trading under the wrong licence before doing their renovations.
- No.96 has been turned down for an A3 use a few times before & opening late.

## **Comments from Consultees**

Highways –

In the previous application 15/01934/FULL3 the applicant was asked to demonstrate with the help of a parking stress survey that by opening another restaurant/takeaway in this parade of shops with limited parking facilities close to a major roundabout would not cause congestion and increase the likelihood of road accidents with cars queuing across the London Distribution Route and there would not be an increase in parking.

The parking stress survey confirmed that the parking stress in the vicinity is high and it was decided to refuse the application as the takeaway element of the proposed business would cause undue traffic congestion and will be detrimental to the safety of other road users and pedestrians.

As there is no takeaway element in this application so I would have no objection to the application.

Environmental Health -

I haven't been able to find any information in relation to the sound proofing of the premises with adjacent residential uses, has this been considered anywhere?

We received noise complaints in relation to this premises in 2018 which would indicate that they have been opening past their permitted operating hours already. Given this, and with nothing to support otherwise, it is likely that this application will negatively impact upon the amenity of neighbouring residential premises and as such I would recommend that the application is refused.

## **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.

The National Planning Policy Framework was published on 24th July 2018.

According to paragraph 48 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

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

C) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF

The development plan for Bromley comprises the London Plan (March 2016) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.

The application falls to be determined in accordance with the following policies:-

#### London Plan

- Policy 5.2 Minimising carbon dioxide emissions
- Policy 5.3 Sustainable design and construction
- Policy 7.3 Designing out crime
- Policy 7.4 Local character
- Policy 7.6 Architecture
- Policy 7.8 Heritage assets.
- Policy 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- Policy 8.3 Community infrastructure levy

#### Bromley Local Plan

- Policy 30 Parking
- Policy 37 General Design of Development
- Policy 41 Conservation Areas
- Policy 94 District Centres
- Policy 101 Shopfronts and Security Shutters
- Policy 116 Sustainable Urban Drainage
- Policy 119 Noise Pollution
- Policy 121 Ventilation and Odour Control
- Policy 123 Sustainable Design and Construction

## Planning History

Under planning application ref:- 15/01934/FULL3 planning permission was refused for Change of use from retail shop (use class A1) to restaurant/takeaway (use class A3 (A5)), installation of ventilation extraction system to rear. The application was refused on the following grounds:

1. *The proposal would give rise to unacceptable levels of activity and general noise and disturbance, detrimental to the residential amenities that the occupants of nearby residential properties could reasonably expect to be able to continue to enjoy, and thereby contrary to Policy S9 of the Unitary Development Plan.*
2. *In the absence of sufficient parking capacity in the vicinity of the application site to satisfactorily accommodate the additional traffic associated with the proposed use, the proposal would be likely to undermine the free flow of traffic along surrounding roads, inconvenience other road users and pedestrians, and prejudice road safety conditions in general, contrary to Policies S9 and T18 of the Unitary Development Plan.*

Under reference 11/00591 planning permission was granted for Change of use from Class A1 Shop to Class D1 (Surgery/therapy/gallery use).

Under reference 95/01009 an application for a change of use to a restaurant was refused on the following grounds:

- "01 *The proposed change of use would result in the unacceptable loss of a retail unit detrimental to the retail character and amenity of this local shopping parade, contrary to Policy S.4 of the Unitary Development Plan.*
- 02 *The proposed use by reason of the days and hours of operation would give rise to unacceptable levels of activity and general noise and disturbance detrimental to the residential amenities that the occupants of nearby properties could reasonably expect to be able to continue to enjoy, thereby contrary to Policy S.6 of the Unitary Development Plan.*
- 03 *The proposed system of ventilation would not ensure that odours would be effectively dispersed without having a detrimental impact upon the residential amenities of nearby occupants, thereby contrary to Policy S.6 of the Unitary Development Plan."*

A subsequent appeal was dismissed.

Under reference 88/04870, planning permission was granted for a single storey rear extension.

## Considerations

The main issues to be considered in respect of the current proposal are:

- Principle of the change of use
- Neighbouring amenity
- Highways Impacts

### Principle

The application seeks permission for the change of use of the premises from A1 (retail) to a mixed A1/A3 (Retail/Restaurant/ Café) use. The applicant has set out in an email to the Council that the shop was granted an alcohol licence in 2017 to operate between the following hours Monday - Saturday 08:00-23:00 & Sunday 08:00 -22:00.

The existing café seeks to offer a more extensive food menu to its existing customers providing pop-up experiences such as Charcuterie and Surban Vegan Dining. The restaurant seeks to provide a mixture of cold and warm dishes with food prepared off-site, transported and reheated before being served.

The proposed hours of opening are specified as follows:

Monday to Saturday	08:00 - 22:00 &
Sunday	08:00 - 21:00

The shopping parade on Wickham Road is not designated as a primary or secondary shopping frontage within the Bromley Local Plan, though it does form a neighbourhood / local parade. Policy 96 states that a change of use to non-A1 uses will only be considered if the use proposed contributes to the range of local services or the provision of local community facilities, or where there is appropriate alternative provision within reasonable walking distance.

The parade of shops on Wickham Road consists of a mix of predominately retail uses and one A2 use. Having consideration for the range of local services currently provided within close proximity to the application site, it is not considered that the loss of one retail unit would result in a detrimental impact upon the local shopping parade and the services available. Furthermore, the proposed mixed use of A1 / A3 use is not considered to result in an overconcentration of cafés / restaurants or takeaways and the change of use is therefore considered acceptable in principle.

### Design

Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that it is

important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

London Plan and Bromley Local Plan policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.

It is noted that the existing shopfront and awning has been altered when the premises became Daisy Grey café. A search of the Council's records shows that the external alterations do not have permission. No external ductwork is shown to the rear and the applicant has confirmed that the food prepared in the kitchen will only need to be reheated.

### Neighbouring amenity

Policy 37 of the Bromley Local Plan seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

The Environmental Health Officer has raised objections to the change of use citing that the café has been trading since 2017 under its A1 use. In order to ensure the proposed A3 use it must be demonstrated that the use would not be detrimental to the amenity of existing nearby residents whether this be from odour or noise associated with music or kitchen activity.

No details have been provided by the applicant in relation to the sound insulation of the building or in relation to a kitchen extraction system, resulting in a recommendation for refusal from the Council's Environmental Health Officer.

The proposal would not include any external alterations which are not considered to result in any significant harm to light, outlook or visual amenities of nearby residents.

The application was previously refused in 2015 for a change to use to A3 on the basis that the use could give rise to unacceptable levels of activity and general noise and disturbance, detrimental to the residential amenities that the occupants of nearby residential properties could reasonably expect to be able to continue to enjoy, and thereby contrary to Policy S9 of the Unitary Development Plan. In the absence of a noise survey the Council considers that the proposed use could be detrimental to the residential amenities of nearby residents contrary to Policy 98 of the Local Plan.

CIL

The Mayor of London's CIL is a material consideration. CIL is not payable on this application.

### **Conclusion**

Having had regard to the above it is considered that the development in the manner proposed is not acceptable in that it could result in significant loss of amenity to local residents.

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: APPLICATION BE REFUSED**

**The reasons for refusal are:**

**The proposed change of use to a mixed A1/A3 use (retail/restaurant/café) has the potential to result in noise and disturbance to local residents and in the absence of a satisfactory acoustic assessment the proposal is contrary to Policy 98 of the Bromley Local Plan.**