

SECTION '2' – Applications meriting special consideration

Application No : 10/02385/FULL2

Ward:
Penge And Cator

Address : 4 Green Lane Penge London SE20 7JA

OS Grid Ref: E: 535639 N: 170190

Applicant : Mr Michele Perrotta

Objections : YES

Description of Development:

Change of use from Cafe (Class A1) to Pasta Bar (Class A3), installation of ventilation duct together with seating area to the front of the property

Key designations:

London Distributor Roads

Proposal

This proposal is for the change of use of the ground floor from Cafe (Class A1) to Pasta Bar (Class A3), installation of ventilation duct with seating area to the front of the property.

Location

The property is located on the northern side of Green Lane in close proximity to High Street and is a ground floor unit in an end of terrace three storey property with residential accommodation on the upper floors. The rest of the terrace appears to be used solely for residential accommodation. There are a number of varying use classes within the area with a number of Class A5 hot food takeaways in close proximity to the site although the area is primarily characterised by residential properties.

Comments from Local Residents

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

- work has already been ongoing for some time, including alterations to the front of the property (wall, with gates, and paving added) and considerable work on the back of the property, including excavation work, repaving and

the erection of a fence within the property which leaves the unsightly chipboard facing above the fence of No. 5 Green Lane.

- concerns about the extent to which the back area will be used for customers dining which would potentially impinge on privacy and potentially presents a security risk for No. 5.
- the increase in terms of hours of operation until late in the evening (20:00) during the week and weekends is unsuitable for an outside setting which will impinge on neighbours. This is a considerable increase in the times of operation and is a potential nuisance to residential amenity.
- the initial change of use from funeral directors to café was not applied for.
- there are too many eating outlets in Penge at present which results in difficulties in paying rates as all there is in Penge are restaurants and a charity shop.
- No. 4 has already installed a ventilation duct and other takeaways in the area open without a night licence.

A number of letters of support were also received by local residents and those who regularly visit the area which can be summarised as follows:

- it was felt this type of restaurant is what Penge needs to lift the area and people's spirits.
- a number of comments were received about the quality of the food at the applicant's other restaurant Flavours.
- support as it was felt Penge was in need of high quality restaurants such as this and there should be encouragement for such a proposal.
- concerns as to why the application was delayed as the applicant has a proven track record for quality restaurants.
- it was felt this would be a valuable addition to the eating experience in Penge.
- it was felt that the proposal would be good for the area as at present there are hardly any restaurants in Penge apart from coffee shops and hopefully this will start a trend in encouraging similar upmarket restaurants such as those in Beckenham to open in Penge.

Comments from Consultees

The Council's Environmental Health Department were consulted who following in-depth discussions with the applicant stated that they are confident that the menu will not include fried or barbequed food nor will pizzas be offered. Consequently, as all dishes are pasta based the likelihood of pungent cooking odours is reduced and in the view of the Environmental Health Officer it was felt the existing extraction system would be able to cope with this limited range of dishes. There is no guarantee, however, that the emphasis on other dishes will not change in time and therefore the existing extract system will be inadequate; nor would it be sufficient if the ownership changed and a different cooking style was introduced. Therefore, following further review and discussions with the applicant no objections were ultimately raised subject to a condition being attached requiring the applicant to submit detailed plans and specification of the extraction system for approval by the Local Planning Authority within six months.

The Council's Waste Advisors were consulted who raised no objections to the proposal as access would be as existing.

The Council's Highways Department were consulted who stated the site is situated on the northern side of Green Lane. The site is located in an area with medium PTAL rate of 4 (on a scale of 1 - 6, where 6 is the most accessible). Also, Green Lane (A213) is a London Distributor Road (LDR). No car parking is offered for the development. The site is considered accessible to public transport links, being within walking distance of bus routes and a Rail Station. Furthermore the development is small and the on street parking demand generated by the development would not have an adverse impact on the parking and traffic within the local road network. Therefore no objections were raised to the development from a highways perspective.

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
S5 Local Neighbourhood Centres, Parades and Individual Shops
S9 Food and Drink Premises
ER9 Ventilation

Planning History

In 1995 under planning ref. 95/01423, planning permission for an internally illuminated free standing advertisement sign was refused.

In 1997 under planning ref. 97/00564, planning permission was granted for a retrospective application for a single storey rear extension.

In 2008 under enforcement ref. 08/00581/CHANGE, a Planning Contravention Notice was issued in 2009 following an investigation into the unauthorised change of use of a funeral directors into a night café. The Planning Contravention Notice was not responded to.

In 2010 under enforcement ref. 10/00430/CHANGE, an investigation was undertaken into the unauthorised Change of Use into a café. This case is currently open and enforcement action is pending, awaiting the outcome of the current application 10/02385.

In 2010 under ref. CONLIC/10/00066, Environmental Health and Trading Standards raised objections to a proposal for a Pasta Bar to open and sell alcohol from 11.00am to 11.00pm Monday to Sunday.

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 surrounding residential properties.

Policy S5 must be considered when determining this application, it states:

“In local neighbourhood centres and shopping parades change of use from Class A1 (Shops) to other uses will be permitted provided that:

- (i) the use proposed contributes to the range of local services or the provision of local community facilities: and contributes to the vitality of the centre by providing a service or attracting visitors during shopping hours; or
- (ii) it can be demonstrated that there has been a long term vacancy and a lack of demand for Class A1 (Shops) use, as well as a lack of demand for service or community use before other uses are proposed”.

While the proposal will result in the loss of a Class A1 unit, the demand for such units appears to be limited in the area at present, with a number of vacant retail properties in the vicinity and on the neighbouring High Street which has a detrimental impact on the vitality and viability of the area. Members are requested to consider whether the proposed change of use from A1 to A3 will result in a significant detrimental impact on the retail character of the area given the lack of demand for Class A1 units at present.

It is accepted that there are a number of Class A5 uses in the area at present, however, the proposed use of a pasta bar could be considered to differ in substance from the existing hot food takeaways nearby. Members are asked to consider whether the proposal will result in an overconcentration of such uses or whether it would add to the variety of local services available in the area and thus potentially attract a wider range of visitors to the area in line with Policy S5.

Policy S9 is also a key consideration when determining this application, it states:

“The Council will only permit proposals for additional restaurants and cafes (Class A3), drinking establishments (Class A4) and hot food takeaways (Class A5) 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 and pedestrians;
- (iii) the proposal would not result in an over concentration of food and drink establishments, out of character with the retailing function of the area; and
- (iv) where appropriate, the proposal does not conflict with Policies S1, S2, S4 or S5.

In a plan that was submitted to Environmental Services it was indicated that a number of tables to be used for dining purposes were to be inserted in the both the front and rear external areas of the property. However, the insertion of seating areas in the rear area, which indicated that approximately 10 tables were to be provided, was felt to be detrimental to the residential amenity of the neighbouring

properties and as such confirmation was received from the applicant that this aspect of the proposal would be removed. Members are asked to consider whether the proposed seating area to the front of the property and whether the use of the site as an A3 use, which at present is proposed to be used as a Pasta Bar but were permission to be granted could potentially be used by any A3 restaurant, would potentially be detrimental to the residential amenity of neighbouring properties. The proposed opening times have been revised and the applicant has confirmed the site will not be open beyond 20:00. Members are asked to consider whether this will be unduly harmful to the residential amenity of neighbouring properties. Comments from Environmental Health with regards to the impact on the surrounding residential properties will be submitted verbally. In addition, Members may wish to explore the use of the personal permission bearing in mind the nature of the operation proposed. This would allow the Committee to consider future changes of operation at this premises.

No objections were raised from a highways perspective and as such the proposal is not anticipated to result in a significant impact in terms of traffic congestion in the area and in this regard is in line with Policy S9.

In summation, Members are asked to consider whether the change of use from café (Class A1) to Pasta Bar (Class A3) will be detrimental to the residential amenity of neighbouring properties, particularly given the residential setting of the property and whether the loss of a retail unit is acceptable in this instance given the apparent lack of demand for such uses in the area at present. In terms of the implication for parking and congestion in the area, no objections were raised from the Council's Highways Department and as such the proposal is considered acceptable in this respect.

Background papers referred to during production of this report comprise all correspondence on file ref. 10/02385, excluding exempt information.

as amended by documents received on 20.10.2010

RECOMMENDATION: MEMBERS' VIEWS ARE REQUESTED

- 0 D00002 If Members are minded to grant planning permission the following conditions are suggested:
 - 1 ACA01 Commencement of development within 3 yrs
 - ACA01R A01 Reason 3 years
 - 2 ACC04 Matching materials
 - ACC04R Reason C04
 - 3 ACJ01 Restriction on use (2 inserts) a Pasta Bar A3
- Reason:** In order to comply with Policy S9 of the Unitary Development Plan and in the interest of the amenities of the area.
- 4 ACJ09 Restricted hours (restaurant use) (2 in) 07:00 20:00
 - ACJ09R J09 reason
 - 5 Customers shall not occupy the outdoor seating areas at the front property before 09:00 and after 20:00 on any day.
- Reason:** In order to comply with Policy S9 of the Unitary Development Plan and in the interest of the amenities of the area.

6 Details of the outdoor seating area to the front of the property (number of tables and chairs and location) shall be submitted to the Local Planning Authority for approval prior to this area being used for outdoor dining purposes.

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

7 The area to the rear of the property shall not be used by customers for any purpose without prior approval in writing by the Local Planning Authority.

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

8 Detailed plans of the appearance and specification of the equipment comprising a ventilation system which shall include measures to alleviate fumes and odours (and incorporating activated carbon filters where necessary) shall be submitted to the Local Planning Authority for approval within six months of the date of this Decision Notice; after the system has been approved in writing by the Authority, it shall be implemented in accordance with the approved details and be operational within a further six months of the date of approval being given 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.

Reasons for granting permission:

In granting permission the Local Planning Authority had regard to the following policies of the Unitary Development Plan:

BE1 Design of New Development
S5 Local Neighbourhood Centres, Parades and Individual Shops
S9 Food and Drink Premises
ER9 Ventilation

The development is considered to be satisfactory in relation to the following:

- (a) the loss of a retail unit is acceptable in this instance;
- (b) the relationship of the development to adjacent properties;
- (c) the character of the development in the surrounding area;

and having regard to all other matters raised.

D00003 If Members are minded to refuse planning permission the following grounds are suggested:

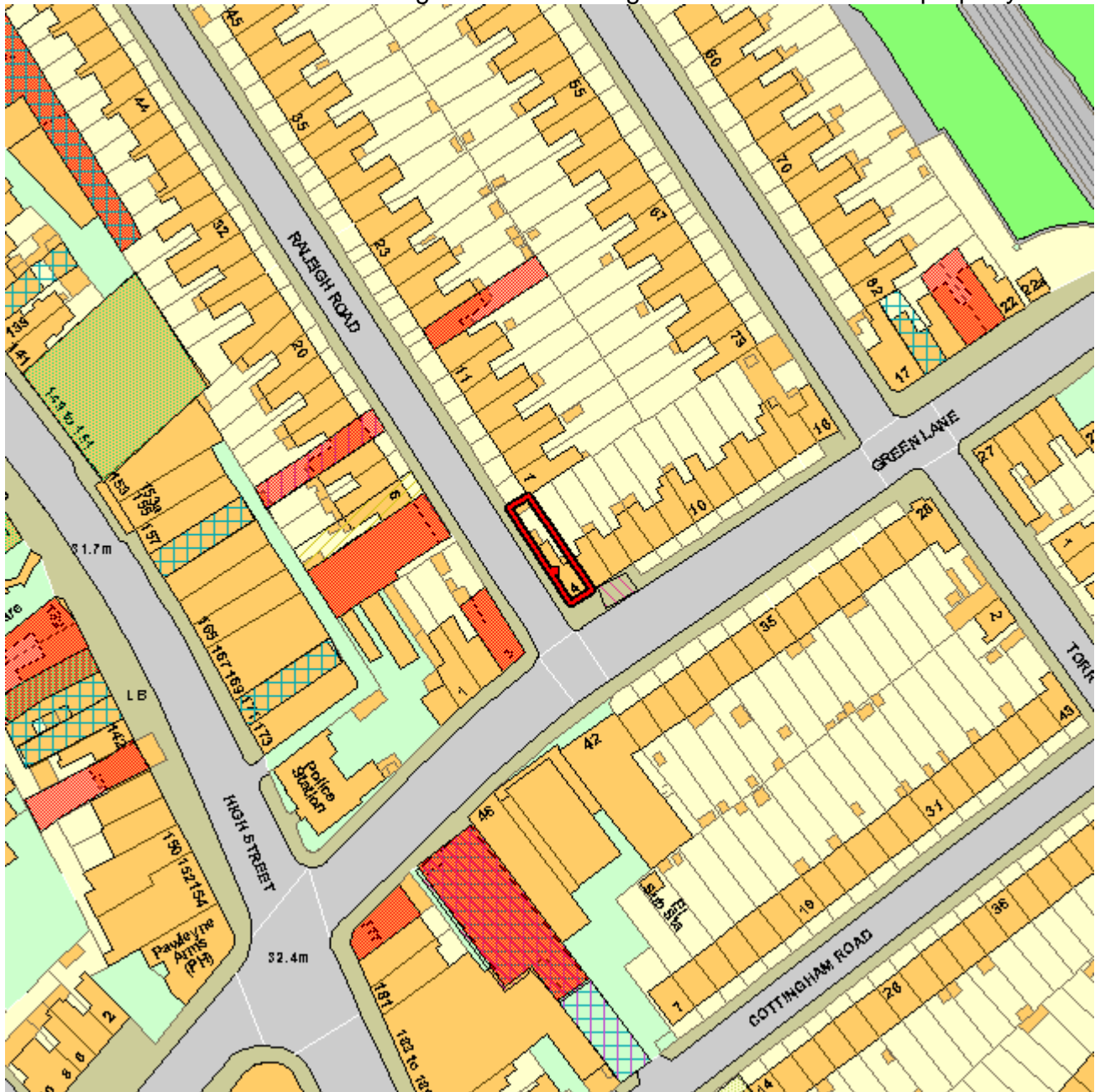
- 1 The proposal would result in an increase in intensity of use of this site, detrimental to the amenities of adjoining residential properties particularly by reason of the likely increase in general noise, cooking smells and disturbance associated with the use.

- 2 The proposal would result in the unacceptable loss of a retail unit and would result in an overconcentration of food and drink premises within the area contrary to Policy S5 and S9 of the Unitary Development Plan.

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