

**MEETING****EAST AREA PLANNING SUB-COMMITTEE****DATE AND TIME****WEDNESDAY 5TH SEPTEMBER, 2012****AT 7.00 PM****VENUE****HENDON TOWN HALL, THE BURROUGHS, NW4 4BG**

Dear Councillors,

Please find enclosed additional papers relating to the following items for the above mentioned meeting which were not available at the time of collation of the agenda.

Item No	Title of Report	Pages
	<b>High Barnet Ward</b>	
13a	4 Potters Road, Barnet, Herts, EN5 5HW - B/02027/11	1 - 12

Maria Lugangira 020 8359 2761  
maria.lugangira@barnet.gov.uk

This page is intentionally left blank

**LOCATION:** 4 Potters Road, Barnet, Herts, EN5 5HW

**REFERENCE:** B/02027/11 **Received:** 11 May 2011

**Accepted:** 17 May 2011

**WARD(S):** High  
Barnet

**Expiry:** 12 July 2011

AGENDA ITEM 13a

**Final Revisions:**

**APPLICANT:** Mr Sazdil

**PROPOSAL:** Change of use from A1 (Retail unit) to A3 (cafe/restaurant) and installation of extraction/ flue system to rear.

**RECOMMENDATION: Approve Subject to Conditions**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Site Location Plan (Received 17.05.2011); Drg No. 076.11/01 - Existing Ground Floor Plan & Rear Elevation (Received 15.05.2012); Drg No. 076.11/03A - Proposed Rear Elevation (Received 15.05.2012); Drg No. 076.11/02 - Proposed Ground Floor Plan & Second Floor Flue Plan / Section (Received 15.05.2012); Drg No. 076.11/02A - Proposed Ground Floor Flue Plan (Received 15.05.2012); Drg No. 076.11/03 - Proposed A-A Side Section (Received 15.05.2012); Drg No. 076.11/04 - Details (Received 15.05.2012); Drg No. 076.11/05 - Extraction and Flue Notes (Received 15.05.2012); Drg No. 076.11/06 - Extraction and Flue Notes (Received 15.05.2012); Noise Impact Assessment dated 14.11.2011 (Received 16.11.2011); Maintenance of Systems document (Received 06.01.2012); E-mail sent from agent on 09.01.2012 including revised Odour Management Plan (Received 09.01.2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

2. This development must be begun within three years from the date of this permission.

Reason:

To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.

3. Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the development is occupied.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area.

4. Before the development hereby permitted commences on site, details of all extraction and ventilation equipment shall be submitted to and approved by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced.

Reason:

To ensure that the proposed development does not prejudice the enjoyment or amenities of occupiers of adjoining residential properties.

5. The level of noise emitted from the ventilation and extraction equipment shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties.

6. A scheme for maintenance and servicing of the ventilation and extraction system shall be submitted to and approved by the local planning authority before the approved use commences. Maintenance and servicing shall be carried out as set out in the approved scheme.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties.

7. Before this use commences, the noise mitigation measures outlined in the report by Practical Acoustics - number 5831.NIA.01, dated 14 November 2011, shall be implemented.

Reason:

To ensure that the amenities of neighbouring premises are protected from noise from the development.

8. The use hereby permitted shall not be open to customers before 08.00am or after 11.00pm Monday to Friday or before 09:00am or after 11:00pm on Saturday, or before 10:00am or after 11:00pm on Sundays and Public Holidays.

Reason:

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties.

9. No deliveries shall be taken at or dispatched from the site on any Sunday, Bank or Public Holiday or before 9am or after 6pm on any other day.

Reason:

To prevent the use causing an undue disturbance to occupiers of adjoining residential properties at unsocial hours of the day.

#### **INFORMATIVE(S):**

1. The reasons for this grant of planning permission or other planning related decision are as follows: -

- i) The proposed development accords with strategic planning guidance and policies as set out in The Mayor's London Plan: July 2011 and the Adopted Barnet Unitary Development Plan (2006).

In particular the following policies are relevant:

Adopted Barnet Unitary Development Plan (2006):

GBEnv1 (Character); ENV12 (Noise Generating Development); ENV13 (Minimising Noise Disturbance); M14 (Parking Standards); and TCR19 (Neighbourhood Centres, Shopping Parades and Local Shops).

Core Strategy (Submission version) 2011:

CS NPPF (National Planning Policy Framework - Presumption in Favour of Development); and CS5 (Protecting and Enhancing Barnet's character to create high quality places).

Development Management Policies (Submission version) 2011:

DM01 (Protecting Barnet's character and amenity); DM04 (Environmental Considerations); and DM12 (Maintaining our local centres and parades).

- ii) The proposal is acceptable for the following reason(s): -

The proposed development is considered to have an acceptable impact on the vitality, viability, character and appearance of the area. It is not considered to have a harmful impact on the amenities of neighbouring occupiers and is in accordance with aforementioned policies.

2. You are advised to engage a qualified acoustic consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory internal noise levels in this location.

In addition to the noise control measures and details, the scheme needs to clearly set out the target noise levels for the habitable rooms, including for bedrooms at night, and the levels that the sound insulation scheme would achieve.

The council's supplementary planning document on Sustainable Design and Construction requires that dwellings are designed and built to insulate against external noise so that the internal noise level in rooms does not exceed 30dB(A) expressed as an Leq between the hours of 11.00pm and 7.00am, nor 35dB(A) expressed as an Leq between the hours of 7.00am and 11.00pm (Guidelines for Community Noise, WHO). This needs to be considered in the context of room ventilation requirements

The details of acoustic consultants can be obtained from the following contacts: a) Institute of Acoustics and b) Association of Noise Consultants.

The assessment and report on the noise impacts of a development should use methods of measurement, calculation, prediction and assessment of noise levels and impacts that comply with the following standards, where appropriate: 1) BS 7445 (1991) Pts 1, 2 & 3 (ISO 1996 pts 1-3) - Description and & measurement of environmental noise; 2) BS 4142:1997 - Method of rating industrial noise affecting mixed residential and industrial areas; 3) BS 8223: 1999 - Sound insulation and noise reduction for buildings: code of practice; 4) Department of transport: Calculation of road traffic noise (1988); 5) Department of transport: Calculation of railway noise (1995); 6) Department of transport : Railway Noise and insulation of dwellings.

3. Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. We further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses. Further information on the above is available in a leaflet, 'Best Management Practices for Catering Establishments' which can be requested by telephoning 01923 898 188.

## **1. MATERIAL CONSIDERATIONS**

### National Planning Policy Framework

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The 'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that "good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

NPPF retains presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

### The Mayor's London Plan: July 2011

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Relevant Unitary Development Plan Policies:

- GBEnv1 (Character);
- ENV12 (Noise Generating Development);
- ENV13 (Minimising Noise Disturbance);
- M14 (Parking Standards); and
- TCR19 (Neighbourhood Centres, Shopping Parades and Local Shops).

Core Strategy (Adoption version) 2012

Barnet's emerging Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Until the Local Plan is complete, 183 policies within the adopted Unitary Development Plan (UDP) remain. The replacement of these 183 policies is set out in both the Core Strategy and Development Management Policies DPD.

The Core Strategy is now capable of adoption following receipt of the Inspector's Report in June 2012. The Inspector endorsed all the Council's modifications at EIP and found it sound and legally compliant. Therefore very significant weight should be given to the 16 policies in the CS. The National Planning Policy Framework (NPPF) (para 216) sets out the weight that can be given to emerging policies as a material consideration in the determination of planning applications.

Relevant Core Strategy Policies (Adoption version) 2012:

- CS NPPF (National Planning Policy Framework - Presumption in Favour of Development);
- CS5 (Protecting and Enhancing Barnet's character to create high quality places).

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

Development Management Policies is now capable of adoption following receipt of the Inspector's Report in June 2012. The Inspector endorsed all the Council's modifications at EIP and found it sound and legally compliant. Therefore very significant weight should be given to the 18 policies in the DMP. The National Planning Policy Framework (NPPF) (para 216) sets out the weight that can be given to emerging policies as a material consideration in the determination of planning applications.

Relevant Development Management Policies (Adoption version) 2012:

- DM01 (Protecting Barnet's character and amenity);
- DM04 (Environmental Considerations);
- DM12 (Maintaining our local centres and parades).

Relevant Planning History:

- N06976B - Conditional Approval (13/11/1981)

Conversion of first and second floors to two self-contained flats and three-storey rear extension.

## Consultations and Views Expressed:

Neighbours Consulted: 61

Replies: 22 Objections & 2  
Comments

Neighbours Wishing To 5  
Speak

The objections raised may be summarised as follows:

- Concern regarding noise, vibration and smell from the proposed extractor fan.
- Concern that there are already enough cafes and fast food outlets in the area.
- Concern regarding impact on parking.
- Concern that the business will be open into the late evening / early morning and subsequent disruption.
- Concern regarding competition and impact on neighbouring businesses.
- Concern regarding pedestrian safety and impact on pedestrian footpath due to vehicles parking on the pavement.
- Concern regarding possible impact on traffic.
- Concern regarding 'smoke pollution' from users of the proposed restaurant.
- Concern that the unit may be licensed for off-licence sales.
- Concern that the unit will be converted to a hot-food take-away.
- Concern regarding the possible incorporation of an outdoor seating area.
- Concern regarding possible crime and anti-social behaviour.
- Concern regarding litter.
- Environmental concerns regarding the current location and overuse of the bins at the existing commercial units and the careless storage of refuse.
- Concern regarding noise, odour and disturbance from the existing restaurant on Potters Road.
- Concern regarding increased noise and disturbance from vehicles and customers.
- Increase in refuse.
- Concern regarding noise from kitchen.
- The application does not identify the opening times of the cafe / restaurant.
- Concern regarding proximity of the flue to the neighbouring windows and the impact this will have on the occupiers ability to fully open these windows.
- A large number of people have objected and none have written in support of the application.
- The community already have businesses that satisfy local needs in the area and there is already a fish and chip shop and Chinese restaurant in this parade and a cafe on Plantaganet Road.
- Concern regarding the parking problems on Potters Road.
- Concern that the restaurant would be opposite the zebra crossing.
- Concern that there are already too many 'eating places' in the area.

## Internal /Other Consultations:

### Traffic & Development

The proposal is for the change of use of approximately 60 sqm of A1 retail use into A3 café/restaurant use. No off street parking is provided for the existing premises



and no off street parking is proposed.

The proposal is not expected to have a detrimental impact on the public highways and is considered acceptable on highways grounds. I have no objections on highways grounds.

The proposal is considered acceptable on highways grounds.

#### Environmental Health

No objection, subject to conditions.

#### Thames Water Devt Control

Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. We further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses.

Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Date of Site Notice: 26 May 2011

## **2. PLANNING APPRAISAL**

#### Site Description and Surroundings:

This application relates to a 2-storey (with rooms in the loft), mid-terraced property located on the northern side of Potters Road, close to the junction with Cromer Road. The ground floor of the property is currently vacant (having previously operated as an A1 use) and the upper floors are residential.

#### Proposal:

This application involves a change of use of the ground floor unit from A1 (retail unit) to A3 (café/restaurant) and the installation of an extraction / flue system to the rear.

#### Planning Considerations:

##### **Change of use**

The application site is located within the Potters Road Local Neighbourhood Centre as defined within the Adopted London Borough of Barnet Unitary Development Plan (2006). The application must therefore be assessed against the criteria in Policy TCR19, which states that changes from A1 to other uses will not be permitted unless the proposal meets the following criteria:

- **It can be demonstrated that there will be no significant diminution of local shopping facilities as a result.**

Within the Potters Road Neighbourhood Centre there are a mixture of uses and it serves a wide community. The change of use to A3 is considered acceptable as it would not result in a significant diminution of local shopping facilities. The most recent survey, which was carried out in August 2012, indicated that there is currently only 1 restaurant and 1 take-away outlet within this neighbourhood centre, which

mainly consists of A1 uses. This is a total of 2 restaurant / take-away units out of the 17 commercial units (i.e. approximately 12%). As such to allow this unit to change to an A3 use would not have a detrimental impact on the vitality and viability of the shopping centre. This proposal therefore meets this criterion.

- **It can be demonstrated that alternative shopping facilities that are similarly accessible by walking, cycling or public transport exist to meet the needs of the area.**

The application site is in close proximity to the East Barnet Town Centre which is similarly accessible by walking and public transport.

- **The proposed use is within use class A2, A3, A4, A5 or meets an identified local need.**

The use falls within Class A3. The proposal would therefore meet this criterion.

- **It can be demonstrated that there is no known demand for continued A1 use, and that the site has been marketed effectively for such use.**

No evidence has been provided regarding the demand for this property or the length of time it has been vacant however, considering that the proposal is not considered to have a detrimental impact on the vitality and viability of the area, refusal on this point alone is not considered justifiable.

The level of activity generated by an A3 use is not considered to be greater than that of an A1 retail use, however a condition has been imposed to ensure that the opening hours are restricted in order to minimise the impact on the neighbouring occupiers.

Considering the previous use of the application property (A1 - retail), the proposed use is not considered to have a detrimental impact on parking provision or pedestrian / highway safety. The Council's Traffic and Development Team have not raised any objection to this proposal.

### **Extraction / flue system**

Amendments were made during the course of this application including the use of an alternative extraction / flue system, and amendments to the size and siting of the flue, in order to address the Environmental Health Officers concerns regarding the impact on the neighbouring occupiers and the Local Planning Authority's concerns regarding the size, siting and visual impact of the system.

The proposed extraction equipment is an Electrostatic Precipitator System (ESP). This is a highly efficient filtration system which removes particles from flowing gas using an induced electrostatic charge. The extraction equipment itself would be located within the restaurant unit and only the flue (painted black) would be visible from the outside. This flue would be located adjacent to the rear projection at No.2 Potters Road and would measure 0.25m wide (sitting 0.6m from the first and second floor rear windows of No.4 Potters Road); 0.4m deep; and 7.1m in height (extending 0.8m above the top of the flat roof / 1.5m above the top of the second floor window).

Due to its size and siting, the proposed flue is not considered to have a detrimental impact on the character or appearance of the application property or the general

streetscene.

The Council's Environmental Health Team have conducted various site visits and reviewed the submitted noise report and odour management plan relating to the proposed ESP system. They are satisfied that this proposal would not have a detrimental impact on the amenities of the neighbouring occupiers, subject to the attached conditions.

### **3. COMMENTS ON GROUNDS OF OBJECTIONS**

Mainly dealt with in the above report.

- The impact on neighbouring businesses in terms of increased competition, is not a material planning consideration.
- The impact of this proposal in terms of 'smoke pollution' from people outside the unit, neither considered to be significant nor is it a material planning consideration.
- The licensing of this unit for the sale of alcohol is not a material planning consideration. Any proposal to convert this unit to a public house / drinking establishment (Class A4) would require full planning consent.
- Any proposal to convert this unit to a hot-food take-away (Class A5) would require full planning consent.
- An outdoor seating area has not been indicated on the submitted plans and therefore has not been included as part of this planning application.
- Due to the nature of this proposal, it is not considered to result in an increase in crime or anti-social behaviour.
- Impacts in terms of litter are not material planning considerations.
- The existing problems regarding the storage of refuse at neighbouring properties are not material considerations in the determination of this application. A refuse condition has been imposed requiring the submission of refuse storage and collection details.
- Considering the location of this unit on a shopping parade, the proposed change of use from A1 to A3 is not considered to result in undue levels of noise or disturbance.
- Any issues regarding existing units within this area are not a material planning consideration in the determination of this application.
- A condition has been imposed restricting the opening hours.
- The proposed flue would be located almost 0.6m from the nearest adjacent windows, and is therefore not considered to have an impact on the ability of the neighbouring occupiers to fully open their windows.
- All objections have been considered in the determination of this application. The application is also to be decided by the East Area Planning Sub-Committee due to the number of objections received.

### **4. EQUALITIES AND DIVERSITY ISSUES**

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

### **5. CONCLUSION**

The proposed development is considered to have an acceptable impact on the vitality, viability, character and appearance of the area. It is not considered to have a

harmful impact on the amenities of neighbouring occupiers and is in accordance with the above policies.

**SITE LOCATION PLAN: 4 Potters Road, Barnet, Herts, EN5 5HW**

**REFERENCE: B/02027/11**



Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database right 2012. All rights reserved. Ordnance Survey Licence number LA100017674.

This page is intentionally left blank