

LOCATION: 57 The Burroughs, London, NW4 4AX

REFERENCE: H/05850/13

Received: 11 December 2013

Accepted: 08 January 2014

WARD(S): Hendon

Expiry: 05 March 2014

**Final
Revisions:**

APPLICANT: Mr J Ebgui

PROPOSAL: Change of use from A1 to an A3 Class restaurant. Re-instatement of window to side elevation. Re-location of door and block up window to rear elevation. Installation of ventilation and extraction equipment to rear elevation. Associated external alterations.

RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: JE TB 007 RevA; JE TB 005; JE TB 004 RevA; JE TB 1000 RevX; JE TB 1002 RevX; JE TB 2000 RevX; JE TB 1001 RevX; arya metal works cover letter; arya silencer details; JM aerofoil fan 40JM-45JM super xpress range; JM aerofoil fan 50JM super xpress range.

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

2. This work must be begun not later than three years from the date of this consent.

Reason:

To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

3. The materials to be used in the external surfaces of the building(s) shall match those used in the existing building(s).

Reason:

To safeguard the visual amenities of the building and surrounding area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

4. The ventilation and extraction equipment shall be provided and installed in accordance with the specification details provided by arya metal works and shall be retained as such thereafter.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

5. The use hereby permitted shall not be open to customers before 9am or after 8pm on weekdays and Saturdays or before 10am or after 6pm on Sundays or Bank Holidays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

6. No deliveries shall be taken at or dispatched from the site on any Sunday, Bank or Public Holiday or before 8 am or after 7 pm 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 i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.
- 2 This grant of permission does not convey advertisement consent that will be required for the advertisements shown on the proposed plans.

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 Government's 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". The NPPF retains a 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 and is recognised in the NPPF as part of the development plan.

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.

The Mayor's Housing Supplementary Planning Guidance (November 2012) provides guidance on how to implement the housing policies in the London Plan.

Relevant Local Plan (2012) Policies

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11 September 2012.

Relevant Core Strategy DPD (2012): Policies CS NPPF, CS1, CS5.

Relevant Development Management DPD (2012): Policies DM01, DM02, DM04, DM06

The Burroughs Conservation Area Character Appraisal Statement

Supplementary Planning Documents and Guidance

The Council has adopted two supporting planning documents to implement the Core Strategy and Development Management Policies DPDs. These are now material considerations. The Residential Design Guidance SPD and Sustainable Design and Construction SPD are now material considerations.

The Burroughs Character Appraisal - November 2012

Relevant Planning History:

Site history for current landparcel :

22941 - 57 The Burroughs, London, NW4 4AX

Case Reference: **H/05850/13**

Application:	Planning	Number:	H/03562/13
Validated:	07/08/2013	Type:	FUN
Status:	REG	Date:	
Summary:	DEL	Case Officer:	Prior Approvals Officer
Description:	Change of use from A1 to A3 for a period of 2 years starting from the 07th August 2013 up to 07th August 2015. (Class D).		

Application:	Planning	Number:	H/03877/12
Validated:	18/10/2012	Type:	APF
Status:	DEC	Date:	10/12/2012
Summary:	APC	Case Officer:	Emily Benedek
Description:	Retention of an ATM to the shopfront.		

Application:	Planning	Number:	H/03878/12
Validated:	18/10/2012	Type:	ADV
Status:	DEC	Date:	10/12/2012
Summary:	APC	Case Officer:	Emily Benedek
Description:	Retention of the internally illuminated CASH sign above the ATM machine.		

Application:	Planning	Number:	H/04140/13
Validated:	23/09/2013	Type:	APF
Status:	DEC	Date:	18/11/2013
Summary:	APC	Case Officer:	Graham Robinson
Description:	Alterations to fenestration to front and side of building.		

Application:	Planning	Number:	H/04698/12
Validated:	14/12/2012	Type:	CON
Status:	DEC	Date:	09/07/2013
Summary:	AP	Case Officer:	Graham Robinson
Description:	Submission of details of condition 4 (Trees-Protective Fencing), pursuant to planning permission (H/03877/11) dated (18 May 2012).		

Application:	Planning	Number:	H/05383/13
Validated:	20/11/2013	Type:	ADV
Status:	DEC	Date:	15/01/2014
Summary:	APC	Case Officer:	Graham Robinson
Description:	Installation of 1no. projecting non-illuminated projecting sign and 2no. non illuminated fascia signs to front and side elevation.		

Application:	Planning	Number:	H/05637/13
Validated:	03/12/2013	Type:	191
Status:	DEC	Date:	06/01/2014
Summary:	LW	Case Officer:	Elizabeth Thomas
Description:	Retention of erection of fence in rear courtyard.		

Consultations and Views Expressed:

Neighbours Consulted:	46	Replies:	7
Neighbours Wishing To Speak	2		

The objections raised may be summarised as follows:

- A number of works have already been carried out before the application was made.
- Seating outside the premises would cause accessibility issues.
- Loss of privacy.
- Effect on traffic and parking.
- Manoeuvre vans around lamp posts.
- Lantern lamps will obstruct right of way.
- Ventilation and extraction units will be noisy

Internal /Other Consultations:

Design and Heritage - no objections.
 Environmental health - no objections.
 Traffic and development - no objections.

Date of Site Notice: 23 January 2014

2. PLANNING APPRAISAL

Site Description and Surroundings:

The site property is a two storey end of terrace building on The Burroughs.

The site is located within The Burroughs conservation area.

Proposal:

Change of use from A1 to an A3 Class restaurant. Re-instatement of window to side elevation. Re-location of door and block up window to rear elevation. Installation of ventilation and extraction equipment to rear elevation. Associated external alterations.

Planning Considerations:

The main issues are considered to be:

- The loss of an A1 retail unit and the use of the building as an A3 (restaurant).
- Whether the proposals would have an acceptable impact on the character and appearance of the conservation area
- Whether the proposals would harm neighbouring amenity

Change of use from retail to restaurant use.

Prior notification has been granted for the change of use from A1 to A3 for a period of 2 years starting from the 07th August 2013 up to 07th August 2015. (Class D). The application now seeks a permanent change of use of the property to continue the restaurant use beyond 2015.

Policy DM12: Maintaining local centres and parades

The council will protect all retail uses (Class A1) in the existing local centres, parades and isolated shops unless it can be demonstrated that:

- i. there will be no significant reduction of shopping facilities as a result; and
- ii. that alternative shopping facilities that are similarly accessible by walking, cycling or public transport exist to meet the needs of the area; and
- iii. the proposed use is within Class A2, A3, A4, A5 or meets an identified local need; and
- iv. there is no demand for continued Class A1 use, and that the site has been marketed effectively for such use.

A proposal that either creates an over concentration of Class A2, A3, A4 and A5 uses or has a significant adverse effect on the amenity of existing residents will be refused. Community uses will be expected to present an active frontage at ground floor and be able to demonstrate a similar weekday footfall to a Class A1 use. Proposals for residential

Although Policy DM12 seeks to maintain isolated shops considering under the prior approval process an A1 can convert into an A3 unit without requiring planning permission for a period of two years. Prior approval has been granted up to August 2015. It is not considered given the existing prior approval that the proposal would result in harm to the way the small parade of which this unit forms a part would be harmed.

Whether the proposals would have an acceptable impact on the character and appearance of the conservation area

The applicant has omitted the works to the front forecourt from the proposals including the provision of bollards to form a boundary around the courtyard. The previously shown lights on the side elevation and baskets at low level on the side in front of the stallriser have been removed from the application.

Policy DM06 of the Development Management Policies (Adopted) 2012 states that development proposals must preserve or enhance the character and appearance of 16 Conservation Areas in Barnet.

These proposed alterations are considered to ensure that this proposal would not detrimentally impact on the qualities of the building and protect the character of this part of the Burroughs Conservation Area. As conditioned, they would preserve the amenities of the occupiers of the neighbouring properties and the character and appearance of the individual property, street scene, conservation area and area of special character.

The proposal is considered to be appropriate development taking into consideration the guidance provided within the Conservation area Character Appraisal dated 16th November 2012.

The ventilation and extraction equipment has been relocated to ensure that it is concealed and does not impact on the character of the Conservation Area. Specification details have been provided for the equipment which will be used. The environmental health officer has reviewed the application and the associated machinery specifications and considers that the proposal is acceptable and would not result in noise and disturbance or odour nuisance as a result of the ventilation and extraction equipment used. A condition has been imposed to ensure the equipment installed is in accordance with the specification details provided.

Whether the proposals would harm neighbouring amenity

The proposed alterations, ventilation/extraction equipment and change of use of the property are not considered to be harmful to the residential amenities of surrounding occupiers.

The change of use of the property is not considered to result in increased comings and goings to an unacceptable degree in this mixed use area.

The alterations to the shop front would not result in any harm to the surrounding residential occupiers.

The proposal is in compliance with Policy DM01 which states that development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

3. COMMENTS ON GROUNDS OF OBJECTIONS

Any works done prior to the submission or approval of a planning application is done at the owner's own risk and discretion, however, planning applications can be made retrospectively.

The applicant has applied for the premises to be used as A3 use class under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. Permission is therefore not required for a period of of 2 years from 07/08/2013.

The outdoor seating area has been removed from the application as have the bollards proposed to surround the seating area.

The lamps on the side elevation of the property have been removed from the application. The Right of Way is not covered by planning legislation.

The environmental health team have reviewed the specification information for the ventilation and extraction equipment and have not raised any objections. Given the equipment to be used it is considered that there will be no noise or odour disturbance.

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 application is recommended for **APPROVAL**.

SITE LOCATION PLAN: 57 The Burroughs, London, NW4 4AX

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