

Location	Oasis Restaurant (Formerly The Alexandra Pub) 1 Church Lane East Finchley London N2 8DX	
Reference:	17/4718/FUL	Received: 21st July 2017 Accepted: 29th August 2017
Ward:	East Finchley	Expiry 24th October 2017
Applicant:	Ruta Lebiodaite	
Proposal:	Change of use from A4 (drinking establishment) to A3 (restaurants and cafes). Removal of existing canopy structures at rear and erection of new canopy structure with perspex roof. Single storey front/side extension (Retrospective Application)	

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Drawing no. /PL-010 Rev A; Drawing no. /PL-011 Rev A; Drawing no. /PL-012; Drawing no. /PL-013; Drawing no. /PL-014; Drawing no. /SI-000; Drawing no. /SI-002; Drawing no. /PL-000 Rev E; Drawing no. /PL-001 Rev D; Drawing no. /PL-002 Rev D; Drawing no. /PL-003 Rev C; Drawing no. /PL-004 Rev C; Drawing no. /SI-003; Noise Impact Assessment Report 13454.NIA.01.Rev D by KP Acoustics Ltd; Planning Statement by MSK Design.

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 CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 The existing front extension and canopy at the rear including all constituent elements shall be demolished and all materials resulting from the demolition shall be removed within three months of the date of failure to meet requirement (i) below:

(i) within three months of the date of this decision, the flat roof of the front extension shall replace the current hipped roof and the canopy at the rear shall be implemented as approved and shall be permanently retained as such thereafter.

Reason:

To safeguard the character and appearance of the host dwelling and general area in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

- 3 The restaurant use with internal seating within the building hereby permitted shall not be open to members of the public before 8:30am or after 11.30pm Mondays to Thursdays, before 8.30am on Fridays or after 1:30am on Friday night/ Saturday morning, before 9am and after 1:30am on Saturdays, or before 9am or after 11pm on Sundays and Bank and Public Holidays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2016.

- 4 The restaurant use located under the rear canopy or outside of the building hereby permitted shall be vacated and not used by members of the public after 11:30pm Mondays to Saturdays and after 11pm on Sundays and Bank and Public Holidays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2016.

- 5 No deliveries shall be taken at or dispatched from the site on any Sunday, Bank or Public Holiday or before 9.00 am or after 7.00 p.m. 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 in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2016.

- 6 No flues, ducting, air conditioning units or piping shall be constructed on the exterior of the building.

Reason: To safeguard the amenities of neighbouring occupiers in accordance with policies DM01 and DM04 of the Adopted Barnet Development Management Policies 2012.

- 7 The level of noise emitted from any plant associated with the restaurant use hereby approved, televisions and speakers 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 in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2016.

Informative(s):

- 1 In accordance with paragraphs 186 and 187 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. Your planning application has been assessed at this time as liable for a £4935.00 payment under Mayoral CIL.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge. Your planning application has therefore been assessed at this time as liable for a £23,538.82 payment under Barnet CIL.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

You will be sent a 'Liability Notice' that provides full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the applicant for this permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice, which is also available from the Planning Portal website.

The CIL becomes payable upon commencement of development. You are required to submit a 'Notice of Commencement' to the Council's CIL Team prior to commencing on site, and failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please email us at: cil@barnet.gov.uk.

Relief or Exemption from CIL:

If social housing or charitable relief applies to your development or your development falls within one of the following categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

You can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk

Please visit <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> for further details on exemption and relief.

- 3 The hereby attached decision does not relate to the current shisha use or any associated plant which does not benefit from planning permission.

Officer's Assessment

1. Site Description

The application site is a two storey end-of-terrace building located on the southern side of Church Lane, near the junction with High Road in the East Finchley Ward. The property is not listed nor does it lie within a conservation area. It is however locally listed. The properties on this section of the road are generally characterised by commercial units on the ground floor and residential accommodation on the floors above.

To the east, the site borders the former Esso Petrol Station at the junction with High Road. At the time of the visit, this site was unoccupied and the petrol station had been removed. A planning application has been submitted for development of this site into 9no residential units comprised of both family dwellings and flats; this recently refused under reference number 17/1360/FUL. The application was refused for the following reasons for refusal:

Reason 1- The proposed development, by reason of its height, massing and design, and the contrasting designs of the two buildings, would appear as an overly prominent and dominant addition to the plot and the street scene, which would harm the character and appearance of the area. The contrasting designs of building are considered to relate poorly to each other, exacerbating the harm to the character and appearance of the street scene. The excessive bulk, massing and siting of the proposed buildings would not respect the appearance, scale, mass, height or pattern of surrounding buildings, spaces and streets, and would amount to an overdevelopment of the site.

Reason 2- The proposed development, by reason of its cramped internal layout and height and proximity of the proposed flatted building relative to the Leopold Road houses would result in a poor quality of outlook being afforded to the rear gardens, terraces and rear-facing windows of the Leopold Road houses, resulting in a sub-standard form of accommodation giving rise to poor living conditions for future occupiers of these units.

It must be noted that the scheme was not refused for the principle of residential use on the site and given there is a current application this is a material consideration in the determination of the application at no.1 Church Lane.

Further to the north east, approximately 50 metres from the site lies Martin Primary School. To the north, lies a three storey block of flats known as Rew Lodge.

The documents submitted indicate that the use of the upper floor is currently offices and other facilities ancillary to the ground floor commercial unit. At the time of the site visit, there was no evidence of the first floor being used for independent residential accommodation.

2. Site History

Reference: ENF/00466/15

Address: The Alexandra Pub, 1 Church Lane, London, N2 8DX

Decision: Enforcement Notice Issued

Date Notice Issued: 26 June 2017

Description: Without planning permission the use of the premises as a restaurant combined with secondary shisha use and the construction of a canopy structure with Perspex roof

Reason:

The facilitation of the shisha use by the construction of the Perspex roof canopy structure and odours resulting from this use result in demonstrable harm to the amenities of neighbouring occupiers particularly in Leopold Road and Church Lane and for any future residential occupiers of the former Esso Petrol Station site, contrary to Paragraph 123 of the NPPF (2012), Policy 3.2 of the London Plan (March 2015), and Policy DM04 of the Barnet Adopted Development Management Policies DPD (2012).

Requirements of notice:

1. Cease the use of the property as restaurant with combined shisha use.
2. Demolish the Perspex roof canopy structure.

Time for compliance: 4 Months after notice took effect (Notice took effect on 1st August 2017).

Reference: 16/4242/FUL

Address: Oasis Restaurant (Formerly The Alexandra Pub), 1 Church Lane, London, N2 8DX

Decision: Refused

Decision Date: 12 May 2017

Description: Change of use from A4 (drinking establishment) to A3 (restaurants and cafes) combined with secondary sui generis use (shisha). Removal of existing canopy structures at rear and erection of new canopy structure with Perspex roof with air filtration unit. Single storey front/side extension. (Retrospective application)

Reason for refusal:

Insufficient information has been provided with regards to suitable mitigation measures to protect against the resultant odour from the shisha use and in the absence of this and by reason of the siting, proximity and scale of this use, the use is considered to result in demonstrable harm to the amenities of neighbouring occupiers particularly at Leopold Road and Church Lane and future occupiers of the former Esso Petrol Station site. It therefore does not accord with Paragraph 123 of the NPPF (2012), Policy 3.2 of the London Plan (March 2015), and Policy DM04 of the Barnet Adopted Development Management Policies DPD (2012).

Reference: 15/02918/FUL

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Withdrawn

Decision Date: 10 May 2016

Description: Change of use from A4 (drinking establishment) to A3 (restaurants and cafes) combined with secondary sui generis use (shisha). Removal of existing canopy structures at rear and erection of new canopy structure with perspex roof. Single storey front/side extension

Details: This application was presented to the Finchley and Golders Green Area Planning Committee on the 15th October 2015. The Chairman used the her casting vote to approve the application however immediately following the decision, three members of the Committee supported a referral of the decision to the Planning Committee, noting that there was a significant need to safeguard the amenities of occupiers of nearby residential properties.

The application was then referred to the Planning Committee on the 26th November 2015. Members resolved that the item was deferred until the next meeting in order for the applicant to consider the issue of odour.

The applicant engaged with Environmental Health officers to resolve the issue, however the application was withdrawn in May 2015.

Reference: 15/02919/ADV

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Approved subject to conditions

Decision Date: 15 October 2015

Description: Installation of 1no. externally illuminated fascia sign and 1no. externally illuminated wall mounted sign (Retrospective Application)

Reference: 15/01019/FUL

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Withdrawn

Decision Date: 12 May 2015

Description: Change of use from A4 (drinking establishment) to A3 (restaurants and cafes), erection of 2 no. canopy structures to rear, rebuild of existing canopy in rear garden, demolition of outbuilding and rebuild with a new canopy in rear garden, erection of new roof to front patio area

Reference: 15/01020/ADV

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Withdrawn

Decision Date: 12 May 2015

Description: 1 no illuminated fascia sign to front, 3 no. illuminated signs to side.,

Reference: C06650B/07

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Approve subject to conditions

Decision Date: 22 February 2008

Description: First floor rear extension to existing flat.

Reference: C06650A

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Approve subject to conditions

Decision Date: 29 September 1998

Description: Single storey side extension.

Reference: C06650

Address: The Alexandra, 1 Church Lane, London, N2 8DX

Decision: Approve subject to conditions

Decision Date: 20 March 1979

Description: Single storey rear extension

3. Proposal

The applicant seeks retrospective planning permission for the change of use from A4 (drinking establishment) to A3 (restaurants and cafes). In addition, the application seeks consent for canopy structure at the rear including perspex roof and a single storey front/side extension

At the front, the extension has a depth of 4.9m to infill up to the existing front façade and side elevation. The extension at the front is proposed to be changed from the pitched roof (which does not benefit from consent) to a flat roof with a height of 3.3m. Since the last visit (July 2017) the changes to the roof of the front extension have not been carried out.

The canopy at the rear is generally not visible from the side elevation, adjacent to the former petrol garage or from the streetscene, apart from a marginal projection of the roof approximately 0.4m above the existing height of the boundary wall.

The canopy is set 1 metre away from the main building and from the boundary with the former petrol station. A rain-drip sheet (plastic) runs along this area of open space and several palm-trees are also located within this area.

It is important to reiterate that whilst the existing use includes ancillary shisha element and a bespoke air filtration system with the "smoke hood/ trap" has been located on the south eastern corner of the site, near no.2 and 4 Leopold Road, the current application does not seek to retain the shisha use and associated plant (it is acknowledged that the proposed block plan erroneously refers to this, and amendments have been sought to remove this reference from this plan). This use is subject to an enforcement notice and was also refused planning permission. Whilst the enforcement notice also includes removal of the Perspex roof structure, the applicant seeks permission for this as part of the restaurant use only.

4. Public Consultation

Consultation letters were sent to 105 neighbouring properties. 69 responses have been received, comprising 45 letters of objection, 20 letters of support and 4 letters of comment.

The objections received can be summarised as follows:

- Opening hours are too late for a residential area/ hours on open ended side especially late
- Perspex roof will not stop noise in the small hours;
- Associated shisha use which does not have consent, has operated for 3 years and has continued to flout all planning rules;
- Consent has been refused elsewhere for a café to open until 11am in a much noisier area, even pub did not open this late;
- Supportive of the restaurant use but the design of the rear structure unnecessarily increases noise and disturbance;
- Structure at the rear is for shisha use/ smell of shisha close to school;
- Noise pollution/ air pollution due to shisha smells and anti-social behaviour disturbs neighbours;
- Rear does not need to be a smoking area/ Council does not need to approve the design (of rear structure) to approve the use;
- Object to smoking area;
- The applicant has yet to prove how smoke will be correctly filtered away via systems that won't impact neighbours;
- Side/ front extension infringes pavement and area where the bins would have been is now taken up by extension which is hazardous along narrow pavement;
- Further create pollution and environmental damage in neighbourhood;
- Impact on traffic and congestion;
- Operating without planning consent;
- Not fitting for the area;
- Odour from cooking and smoking unsuitable.

The representations received can be summarised as follows:

- No objection to restaurant use;

- Restaurant good, shisha bad.

The letters of support received can be summarised as follows:

- Area in much need of high end restaurants;
- Benefit to local community, adding a venue of unique culture, clientele and ambience/ loss of venue would be a loss to the community;
- Never experienced over-crowding due to parking nor experienced noise;
- Restaurants like this enhance the value of the area and local economy;
- Replaced a toxic and anti-social pub with a friendly family restaurant/ vast improvement on previous premises;
- Rejecting this is not a way of amicably finding a solution for the smoke problems.

The Council's Environmental Health team were consulted on the 1st September with comments received on the 5th September; these are detailed within the main body of the report.

A site notice was erected on the 7th September 2017.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

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'. 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 2016

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 2050. 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.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS11.
- Relevant Development Management Policies: DM01, DM02, DM04, DM12, DM17.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.
- Highways implications

5.3 Assessment of proposals

Impact on the character of the area

The proposal will result in the loss of a public house, which could be considered to be a community asset.

Paragraph 70 of the NPPF stipulates that planning decisions should plan positively for the provision of community facilities including public houses and guard against the unnecessary loss of these valued facilities. Similarly, Policy 4.8 of the London Plan specifies that decisions should prevent the loss of valued local community assets, including public houses.

The public house was not considered to be a community use for the local area and is not listed as an Asset of Community Value.

Policy DM11 advises that the Council will protect all retail uses in the existing local centres, parades and isolated shops. The pre-ample to this policy also states that 'preventing an over concentration of similar non Class A1 uses is important to maintaining the vitality and viability of the local centre or parade'.

The retrospective change of use from A4 to A3 is still considered to maintain a retail element and is not considered to compromise the vitality and viability of this section of Church Lane. In addition, this section of Church Lane is not considered as a town centre due to the small number of shops, as defined by chapter 13 of the Development Management Policies DPD. Whilst it is acknowledged that there are other restaurants in the East Finchley town centre, the proposed change of use is not considered to unbalance

the character of the area, competition between units is not a material consideration and the Town Centre does not form part of the immediate vicinity.

Consideration has been given to the previous and lawful use of the ground floor unit as a public house. It is not considered that the change of use to a restaurant would result in a heightened level of activity to that previously experienced. It must be noted that whilst the unit is currently operating with a shisha use, the current application seeks consent for the A3 restaurant use only and the structures at the rear and front. In the previously refused application, the Local Planning Authority did not object to the use of the site as a restaurant.

As mentioned in section 3 above, the structure currently on site has been erected without consent; the extension with a large pitched roof as built at the front is different to that proposed and the changes have not been carried out to as indicated on the elevations submitted with the current application. Nonetheless, officers have assessed the scheme as indicated on the plans submitted. The height of the proposed structure at the front (as indicated on Drawing no. PL-001 Rev D) is considered to be subordinate and would not detract from the character of the locally listed building, particularly when considering the previous structure serving the public house. It must be noted that the proposed flat roof of the front extension would be no higher than the adjoining ridge height and is therefore considered to be acceptable. A condition has been added to ensure that the proposed changes to the physical structures as presented as proposed are implemented within three months from approval.

The agent has confirmed that the refuse for the unit would be located next to the flank wall of the site and that this has been the siting of the refuse for the last 10 years. It is accepted that the siting is close to the pavement however considering the rest of the arrangement for the other commercial uses, it is not considered that this is sufficient to justify refusal.

At the rear, although the canopy covers the majority of the rear garden, it is not considered that this would be out of character given the similar extensions on Church Lane and as such this reason alone does not warrant refusal. It is accepted that the structure at the rear would remain partially open however as the application only seeks the use of a restaurant use, no objection is raised by officers.

In conclusion, the proposal is not considered to be detrimental to the character and appearance of the host property and of the general vicinity.

Impact on the amenities of neighbours

The previous existing plans indicate that the use as a pub of the first floor was ancillary to the ground floor use, and that this will remain the case for the use as existing. During the site visit, it was not evident that the upper floor was being used as an individual unit and officers do not have any evidence to the contrary.

Due to the canopy at the rear being located on the ground floor only, it is not considered that this would give rise to overlooking into the private gardens of neighbouring occupiers.

Officers do not have any objection to the use as a restaurant in so far as the level of activity and the impact on neighbouring occupiers. The use as an A3 unit is not considered to differ from the previous use as a public house with regards to the level of user activity.

As mentioned above, it is acknowledged that the rear structure would remain partially opened however the application indicates this is for the restaurant use only. A noise report has been submitted to the Council's Environmental Health Scientific Services who raised no objection subject to restrictive conditions being attached to the recommendation including restrictions on the opening hours (more restrictive at the rear), limiting noise from plant and televisions/speakers. It is noted that the previous application was not refused on noise grounds including for future occupiers of the site to the east.

It must also be noted that there is a large access road separating the properties on Leopold Road to the south from the host site, acting as a buffer to properties at the rear.

A condition has been attached to address the opening hours for the unit as a whole, and a further condition to restrict the use at the rear of the site (under the canopy) to address concerns from neighbours regarding noise and disturbance. It must be noted that the hours of operation specified in the condition are less than the previous A4 use and therefore would be considered to reduce the impact on neighbouring occupier. With regards to noise and disturbance between the previous A4 use and proposed (as operating) A3 use, it is considered that within the main building, the noise and disturbance would be comparable. It is accepted that due to the additional seating towards the rear, there could be an argument that the noise would be greater in this section, however consideration has also been given to the previous pub garden and a condition has been added to the use of the areas outside the main building, restricting noise and disturbance.

Highways

The Council's Highways team were consulted as part of the previous application which was withdrawn by the applicant. The Highways officer at the time considered that the A3 use, given the previous use as a public house, would not have a detrimental impact on the public highways and therefore no objection was raised.

There are no parking standards with the Council's Local Plan for this type of use; the London Plan details a maximum number of spaces for up to 500sqm of floor space of between 35-50 spaces. Consideration has been given to the A4 use.

It is not considered that the use of the site as A3 would result in safety or access problems.

On balance, given the prior use of the site and associated activity, it is not considered that refusal of the application on highways grounds is justified.

Community Infrastructure Levy

The Mayor of London is empowered to charge a Community Infrastructure Levy (CIL). The Levy is intended to raise £300 million towards the delivery of Crossrail. The Mayoral CIL will take effect on developments that are granted planning permission on or after 1 April 2012 setting a rate of £35 per sqm on all 'chargeable development' in Barnet (index linked).

Barnet has adopted its own CIL Charging schedule chargeable on liable development granted permission on or after 1st of May 2013 at £135 per sqm (index linked).

The proposal would be liable for £23,538.82 of Barnet's CIL and £4935.00 of Mayoral CIL.

5.4 Response to Public Consultation

It is considered that the planning related objections have been addressed in the report above.

With regards to the shisha use which does not benefit from planning permission, as has been noted above, the current application does not seek retrospective consent for the shisha use and this assessment solely relates to the restaurant use. In addition, the shisha use is subject to an enforcement notice. With regards to the restaurant use, the area has no particular use class designation and consideration has been given to the previous use as a public house.

Whilst it is accepted that the site is within close proximity to a school, there is no policy to protect against this..

6. Equality and Diversity Issues

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

7. Conclusion

Having taken all material considerations into account, the use of the building as a restaurant and associated structures is not considered to be detrimental to the character and appearance of the surrounding area, and would not result in a significant adverse effect to the amenities of neighbouring occupiers and the future occupiers of any residential development on the former petrol site due to the resultant odour of the use. The proposal is considered to accord with the requirements of the Development Plan and is therefore recommended for APPROVAL.

