

LOCATION: 17-19 Hendon Lane, London, N3 1RT
REFERENCE: F/00087/13 **Received:** 02 January 2013
WARD(S): Finchley Church End **Accepted:** 02 January 2013
Expiry: 27 February 2013

Final Revisions:

APPLICANT: Tasti
PROPOSAL: Partial change of use from A1 (travel agency) to A5 (Kosher pizza take away); installation of flue

RECOMMENDATION: Approve Subject to Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Drawing no. FL-19 (date received 02-Jan-2013); Letter from Ellis and Co; Proposed Flue Details (date received 13-Feb-2013) Marketing Information by Ellis and Co; Noise Assessment PWH/js/1263R/4548; Design and Access Statement; Drawing no. FL-191-B (date received 26-Feb-2013); email from agent dated 18th April 2013.

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 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 The level of noise emitted from the ventilation/ extraction plant hereby approved 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 Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 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 in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD

(2012) and 7.15 of the London Plan 2011.

- 5 The development shall be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration. This sound insulation shall ensure that the levels of noise generated from the (specified use) as measured within habitable rooms of the development shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am.

A scheme for mitigation measures shall be submitted to and approved by the Local Planning Authority prior to development. The approved mitigation scheme shall be implemented in its entirety before (any of the units are occupied / the use commences).

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of the residential properties adjacent to the A1 use in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 6 Before the use commences, the scheme of proposed noise mitigation measures outlined in the report by WH Hines and Partners dated 19th February 2013, reference PWH/js/1263R/4548 shall be implemented in its entirety.

Reason:

To ensure that the amenities of nearby residents are not prejudiced by noise from the ventilation/extraction system.

- 7 The hereby approved planning permission shall not allow the premises to operate outside the hours of 10.00 am to 11.00 pm Monday to Saturday, and 10.00 am to 10.00 pm on Sundays, Bank and Public Holidays.

Reason:

To safeguard the amenities of occupiers of surrounding residential properties.

- 8 The scheme of odour control outlined in the report by WH Hines and Partners dated 19th February 2013, reference PWH/js/1263R/4548 shall be installed before the use commences.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of the residential properties adjacent to the A1 use.

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 Core Strategy (2012) and Development Management Policies DPD (2012).

In particular the following policies are relevant:

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

Relevant Development Management DPD (2012) Policies: DM01, DM02, DM04, DM06, DM11, DM12, DM17.

ii) The proposal is acceptable for the following reason(s): - Having taken all material considerations into account, the loss of an A1 unit is considered acceptable given the marketing strategy provided, is in line with the Council's town centre policies and would not detrimentally impact on the residential amenity of neighbouring residents. The application is not considered to harm the vitality and viability of this section of Finchley Church End. The Local Planning Authority has considered this scheme's impact on neighbouring properties' amenities to be acceptable.

iii) 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 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.

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 London Plan is recognised in the NPPF as part of the development plan.

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 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 11th September 2012

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

Relevant Development Management DPD (2012) Policies: DM01, DM02, DM04, DM06, DM11, DM12, DM17.

Relevant Planning History:

Site history for current landparcel :

111462 - 17-19 Hendon Lane, London, N3 1RT

Case Reference: **F/00087/13**

Application:	Planning	Number:	F/00087/13
Validated:	02/01/2013	Type:	APF
Status:	REG	Date:	
Summary:	DEL	Case Officer:	Denisse Celi
Description:	Partial change of use from A1 (travel agency) to A5 (Kosher pizza take away); installation of flue		

Application:	Planning	Number:	F/00845/12
Validated:	09/03/2012	Type:	APF
Status:	DEC	Date:	07/09/2012
Case Officer:	David Campbell		
Summary:	REFUSED 1) The proposed A5 use in this secondary retail frontage would not respect the Borough's retail hierarchy and as such would be detrimental to the vitality and viability of the North Finchley shopping area. 2) The application contains insufficient information with regards to the proposed flue and odour abatement. In the absence of this information the proposals would not ensure that the development does not prejudice the enjoyment or amenities of occupiers of adjoining residential properties. 3) The flue, by virtue of its size and siting, would form a visually obtrusive feature on the building which would be detrimental to the character and appearance of the conservation area.		

Description: Partial change of use from A1 (Travel Agency) to A5 (Kosher Pizza Take Away). Installation of a flue to the side.

Consultations and Views Expressed:

Neighbours Consulted:	70	Replies:	14
Neighbours Wishing To Speak	0		

The objections raised may be summarised as follows:

- There are already not enough parking spaces and this will cause more congestion.
- Will cause more pollution.
- Shops on Hendon Lane have similar architecture and I believe this kind of pizza takeaway will look very different.
- May cause other business to close down
- Already a number of flues and ventilation ducts installed at the rear which create unbearable noise and vibration disturbances late at night and smells which penetrate windows.
- Increase in rubbish
- Lack of space at the rear would be heavily impacted if delivery vehicles parked here.
- Noise and disturbance
- Close proximity of King Edward Hall should be considered and the proposed business would not be in keeping with the surrounding area.
- Fear of vermin
- Fire safety of the residents of the flats will be compromised.
- Do not consider that the proposal will enhance the conservation area.
- Back yard is already overcrowded with vehicles.
- It is not necessary of another fastfood takeaway shop as there are already

many on Regents Park Road.

- Business such as these with the inevitable attention grabbing plastic shop signage and lights would impinge upon the surrounding area.

Internal /Other Consultations:

- Environmental Health - The noise report submitted is satisfactory for this premises. Conditions to be attached to the application.

Date of Site Notice: 17 January 2013

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site incorporating 17 and 19 Hendon lane is currently occupied as travel agency falling within Use Class A1. The site is located within a parade of shops in Hendon Lane. The site falls within the Finchley Church End Conservation Area.

Proposal:

The application seeks consent for the partial change of use from A1 (Travel Agency) to an A5 (Kosher Pizza Take Away). 17 Hendon Lane would remain as a travel agents and 19 Hendon Lane would be the take away. The application also proposes a flue to the rear elevation.

The application was previously refused under planning application F/00845/12.

Planning Considerations:

The main issues are considered to be:

- Whether the proposals would have an acceptable impact on the vitality and viability of the town centre
- Impact on the amenities of neighbouring occupiers.

Policy context

Policy DM11 advises that The Council will expect a suitable mix of appropriate uses as part of development within the town centres to support their continued vitality and viability. A development proposal which reduces the combined proportion of class A1 retail use at ground floor level (including vacant) in the secondary frontage below 65% will not be permitted. The proposal should not create an over-concentration of similar uses which detract from the retail function of the town centre. Change from a retail use (Class A1) will be strongly resisted unless it can be demonstrated that there is no viable demand for continued Class A1 use. When it can be demonstrated that the site has been marketed effectively for Class A1 use acceptable alternatives to Class A1 use will be Class A2, A3, A4, A5 or community uses. Conversion of any Class A use to a community use will be expected to present an active frontage at

ground floor and be able to demonstrate a similar weekday footfall to Class A1 use. All alternatives to Class A1 use will be subject to amenity impacts.

Although the proposal will result in a shortfall of A1 uses, as mentioned in the refusal of the application F/00845/12, the applicant has provided marketing information which has been assessed by Barnet's Property Services. The asking rent at £20,000 pa per unit was considered to be at a reasonable level. Evidence has also been provided to show that the property has been fully marketed for at least 12 months and only non A1 users have shown genuine interest.

Impact on the amenities of neighbouring occupiers.

The applicant proposes to install an external extractor fan to the rear of the site. The applicant has addressed the concerns raised in the original refusal of the proposal. Environmental Health are satisfied with the proposed development does not prejudice the enjoyment or amenities of occupiers of adjoining residential properties and have requested that conditions are attached to provide further details.

The siting of the flue at the rear is considered acceptable as it will not be visible from the streetscene and it is not considered to harm the Conservation Area, particularly as there are other examples of extractor flues at the rear of the properties.

The proposal is not considered to result in an increase in Traffic Congestion or parking restrictions as the site is within the CPZ; therefore there are no objections on highways grounds.

3. COMMENTS ON GROUNDS OF OBJECTIONS

All planning considerations are considered to have been addressed in the report above.

Comments regarding vermin, fire safety, competition for other food business or impact on other businesses are not planning considerations.

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

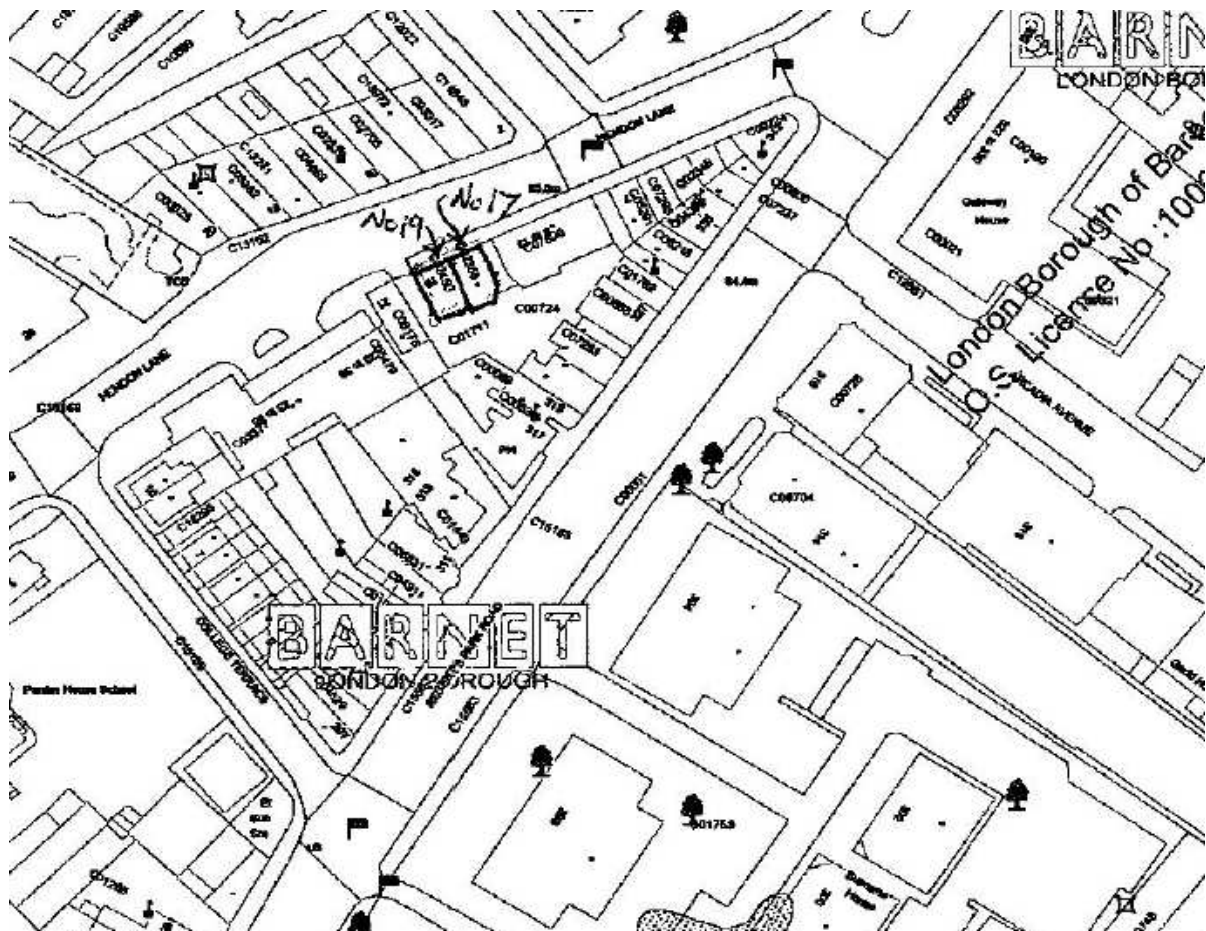
Having taken all material considerations into account, the loss of an A1 unit is considered acceptable given the marketing strategy provided, is in line with the Council's town centre policies and would not detrimentally impact on the residential amenity of neighbouring residents. The application is not considered to harm the vitality and viability of this section of Finchley Church End.

The Local Planning Authority has considered this scheme's impact on neighbouring properties' amenities to be acceptable.

Therefore it is recommended that the application be **APPROVED** subject to conditions.

SITE LOCATION PLAN: 17-19 Hendon Lane, London, N3 1RT

REFERENCE: F/00087/13



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