

Location **1 Halliwick Court Parade Woodhouse Road London N12 0NB**

Reference: **19/0196/FUL**

Received: 14th January 2019

Accepted: 17th January 2019

Ward: Coppetts

Expiry 14th March 2019

Applicant: Mr Gary Clarke

Proposal: Change of use from Sui Generis (Veterinary clinic) to Class A3 (Restaurant)
Installation of extraction and ventilation system. (
AMENDED APPLICATION FORM/ADDITIONAL INFO)

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control 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:

- Drawing no. A101 Rev 1, dated 28/04/2019, received by the LPA on 14 June 2019
- Drawing ref. Halliwick/9948 'Existing floor plan', received by the LPA 11 March 2019
- Drawing ref. Halliwick/9947 'Proposed floor plan', received by the LPA 11 March 2019
- Planning statement, prepared by Chester Clarke, dated January 2019
- Email sent to the LPA on 28 March at 11.22am, confirming revised opening hours

- Extraction equipment specifications, received by the LPA on 14 January 2019

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 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 use hereby permitted shall not operate outside of the following times:

Monday-Thursday: 10.00-22.00

Friday-Saturday: 10.00-2300

Sunday/public and bank holidays: 10.00-22.00

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 4 a) No development other than demolition works shall commence on site in connection with the development hereby approved until a report has been carried out by a competent acoustic consultant that assesses the likely noise impacts from the development of the ventilation/extraction plant, and mitigation measures for the development to reduce these noise impacts to acceptable levels, and has been submitted to and approved in writing by the Local Planning Authority.

The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and Policy 7.15 of the London Plan 2015.

- 5 The level of noise emitted from the extraction and ventilation 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 Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2015.

- 6 a) No development other than demolition works shall take place until a detailed assessment for the kitchen extraction unit, which assesses the likely impacts of odour and smoke on the neighbouring properties is carried out by an approved consultant. This fully detailed assessment shall indicate the measures to be used to control and minimise odour and smoke to address its findings and should include some or all of the following: grease filters, carbon filters, odour neutralization and electrostatic precipitators (ESP). The equipment shall be installed using anti-

vibration mounts. It should clearly show the scheme in a scale diagram and shall be submitted to and approved in writing by the Local Planning Authority

b) The development shall be implemented in accordance with details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the amenities of the neighbouring occupiers are not prejudiced odour and smoke in the immediate surroundings in accordance with policies DM01 of the Development Management Policies DPD (adopted September 2012) and Policy CS14 of the Local Plan Core Strategy (adopted 2012).

Informative(s):

- 1 In accordance with paragraphs 38-57 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 applicant is 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 Sustainable Design and Construction Supplementary Planning Document 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(2003) Pt 1, BS7445 (1991) Pts 2 & 3 - Description and measurement of environmental noise;

- 2) BS 4142:2014 - Method for rating industrial noise affecting mixed residential and industrial areas;
- 3) BS 8223: 2014 - Guidance on 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) National Planning Policy Framework (2012)/ National Planning Policy Guidance (2014).

Please note that in addition to the above, consultants should refer to the most relevant and up to date guidance and codes of practice if not already listed in the above list.

- 3 The applicant is advised to engage a qualified kitchen extraction consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory smoke and odour control. Please note that:
 - Flue(s) must be 1.5 m* above eaves or any open able windows in the vicinity (within 20 metres of the flue) if there are sensitive premises in the vicinity. The final discharge must be vertically upwards. There should be no hat or cowl on the top of the flue. If flues are to be attached to neighbouring noise/vibration sensitive premises they must incorporate anti-vibration mounts, flexible couplings and silencers. *If the flue is in a Conservation area then this height may be reduced to 1m above eaves.
 - 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: DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (DEFRA, January 2005); DEFRA Odour Guidance for Local Authorities (DEFRA, March 2010). Please note that in addition to the above, consultants should refer to the most relevant and up to date guidance and codes of practice if not already listed in the above list.

Officer's Assessment

1. Site Description

The application site contains a corner unit located on the corner of Woodhouse Road and Lyndhurst Avenue and is currently used as a veterinary clinic (Sui Generis). The site is located on a designated local shopping frontage.

2. Site History

None relevant.

3. Proposal

The proposal seeks to convert the existing use from a Veterinary Clinic (Sui Generis use) to a restaurant (A3 use), with associated internal reconfiguration of the unit. The new restaurant will have a maximum of 4 staff, being 3 full time and 2 x part time, at any one time, and is proposed to have the following opening times:

Monday-Thursday: 10.00-22.00

Friday-Saturday: 10.00-2300

Sunday/public and bank holidays: 10.00-22.00

In addition, the proposal seeks to install an extraction flue on the rear elevation of the host building; being internalised for 1.7 metres across the rear elevation of the ground floor and then projecting up from a height of 2.9 metres above ground level, extending the full height of the host building and an additional 1.5 metres above the eaves height of the building. The flue will have a total width of 0.3 metres and a visible height of 8.8 metres.

4. Public Consultation

Consultation letters were sent to 87 neighbouring properties.

7 responses have been received, comprising 5 letters of objection and 2 letters of support.

The objections received can be summarised as follows:

- Object to the proposal of the extractor and ventilation system as it will cause odour issues for adjoining residential flats, in addition to it being an eyesore, being located directly next to a flat.
- Regarding the proposed flue, a similar structure at the back of 10, Halliwick Court (PFC) became detached and fell into the yard during a storm a few years ago, causing substantial damage to property. The current structure (flue chimney) at number 10 has made deep fissures in the outside wall, and is eroding the brickwork.
- There is concern about noise transmission through the walls as a result of the extraction equipment and the restaurant; outside traffic noise cannot be compared to continuous engine vibrations. The proposed opening times for a restaurant violate the building's rules (no noise after 11 pm), noting that operators often turn up the extractors before they are turned off, which would result in sleep disruption, which is bad for residents' health.
- The area is already full of restaurants and takeaways which causes a lot of problems, including rats, rubbish and anti-social behaviour.
- The restaurant will add to existing rubbish and rat problems.

- There is not enough parking for residents and having another restaurant open late at night will result in residents having further difficulties finding a place to park,
- Barnet Council are not doing enough to clear the rubbish from this block.
- The street and pavement behind this block are in very poor condition which is a big issue of health and safety.
- The application does not meet the stated planning requirements for the area, as set out by the Council and the wider planning strategy for London.
- It is an unnecessary and un-wanted form of development

The comments in support can be summarised as follows:

- I would hope that a restaurant would see it as being in their own interests to ensure that the council is doing their job properly in regard to rubbish collection and action on fly tipping. Perhaps a condition on this permission could be the installation of CCTV to monitor fly tipping and record anti-social behaviour, which is sometimes a worry for people.
- The plan looks like rubbish has been taken into account with dedicated bin stores in a locked rear yard
- A quality restaurant will increase the overall quality of the parade and local area.

5. Planning Considerations

5.1 Policy Context

Revised 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 Revised National Planning Policy Framework (NPPF) was published on 19 February 2019. 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.

Existing policies in Barnet's Local Plan (2012) and the London Plan (2016) should not be considered out-of-date simply because they were adopted prior to the publication of the revised NPPF. Due weight should be given to them, according to their degree of consistency with the revised NPPF.

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.

The Draft London Plan

'Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the 2016 London Plan.'

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.
- Relevant Development Management Policies: DM01, DM02, DM04, DM11, DM12 and 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.

Policy DM03 relates to universal access, lifetime homes and equality in design and seeks to ensure that development proposals meet the highest standards of accessible and inclusive design.

Policy DM04 relates to environmental considerations. The policy states that development that is likely to generate unacceptable odour or noise levels close to noise/odour sensitive uses, and likewise, proposals to locate noise/odour sensitive uses within areas with existing high levels of noise and odour, will not normally be permitted. The policy goes on further to note that in regards to such proposals, mitigation of such impacts through design, layout and insulation and appropriate ventilation and extraction equipment will be expected where appropriate.

Policies DM11 and DM12 seek to maintain and enhance the vibrancy and vitality of local centres through the protection of existing A1 uses and ensuring an over-concentration of similar non-A1 uses does not occur. The policy defines the over-concentration of other A uses as 3 units in a row.

Policy DM17 states that the council will ensure that the safety of all road users is taken into account when considering proposals, and will refuse proposals that unacceptably increase conflicting movements on the road network or increase the risk to vulnerable users. The policy further states the expectation for assessing travel impact and parking standards in the Borough, and specifically, the provision of off-street parking as guided by the London Plan.

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:

- The principle of the change of use and whether harm would be caused to the character of the area;
- Whether harm would be caused to the living conditions of neighbouring residents; and,
- Whether harm would be caused to the Highway environment.

5.3 Assessment of proposals

Principle of the change of use and impact on character

Policy DM12 of the LDP seeks to ensure that proposals do not result in an over-concentration of similar non-A1 uses, in order to allow for a broader commercial experience, rather than several units offering the same services. It was noted on the Officer site visit, that in the immediate row of units there is a betting office (Sui Generis), a kitchen store (A1), a hair dresser (A1), a milkshake and vape store (A1) and the subject unit. Whilst it is appreciated that around the corner, adjoining Colney Hatch Lane, there are more A3 and A5 units, as the proposal would not result in an over-concentration of A3 units as defined by the LDP policy, the proposed change of use is considered to be acceptable in principle, subject to the appropriate controls being put in place with regards to odour and noise.

Furthermore, the existing rear elevations of neighbouring units contains several ventilation pipes and extraction flues associated with both commercial and residential uses, and thus has an existing cluttered appearance. Whilst the proposed flue would further contribute to this, the part internalisation of the flue and the minimal width of this (0.3 metres) is not considered to detract from the established character of the building/elevation. Additionally, whilst it is appreciated that the flue would be visible from Lyndhurst Avenue, given the existing structures located on the rear elevation, the flue would not be disrupting an elevation that is free of such equipment and therefore would not appear uncharacteristic. Finally, it is emphasised that being the rear elevation of a shopping parade, such equipment is somewhat anticipated in this location, being inherently associated with restaurants and take-aways on shopping parades.

With regards to the opening hours, since submitting the application the applicant has agreed to reduced opening/closing hours to be consistent with the opening times of other restaurants/takeaways in the area. This is considered an acceptable outcome and would not be uncharacteristic for the location.

Residential Amenity

Policy DM01 of the Development Management Policies (Adopted) 2012 states that all development should represent high quality design policy DM04 requires adequate ventilation and extraction equipment to be installed to ensure that potential adverse odour and noise impacts are appropriately mitigated.

The applicant has provided details of the extraction and ventilation equipment to be installed in association with the proposed restaurant. This information has been reviewed by the Council's Environmental Health department, who have stated that additional information should be submitted through conditions to ensure the plant will not adversely affect nearby residential properties, particularly by way of noise impacts.

The proposed extraction flue has been located to minimise the impact on residential properties within the host building; it is located away from windows and thus will not impact the outlook of properties and moreover, projects 1.5 metres above the eaves height of the building in accordance with the Council's environmental health requirements that seek to minimise the impact of odour on adjoining residential properties.

Based on the above comments and the support of the Council's Environmental Health officer, the impact of the proposed conversion and associated equipment, on neighbouring residential properties, will be acceptable.

Highways

In assessing the proposal, the Council's Highways Officer has been consulted. In their assessment, the Officer has stated that the level of trip generation associated with the existing and proposed use is similar; the restaurant is likely to have more out of peak hour trips whereas the Vet clinic is likely to have trips spread out during the day, without a typical peak.

The Officer has stated that the proposal will not generate a significant impact on the performance and safety of the surrounding highway network, and as such has raised no objections to the proposal on highway grounds.

5.4 Response to Public Consultation

In addition to the above assessment, the following comments are made in response to the objections received:

- Regarding the proposed flue, a similar structure at the back of 10, Halliwick Court (PFC) became detached and fell into the yard during a storm a few years ago, causing substantial damage to property. The current structure (flue chimney) at number 10 has made deep fissures in the outside wall, and is eroding the brickwork.

The flue would be required to be affixed to the building in a manner than meets building regulations. As this is not a listed building, the affixation of the flue would not be a material planning consideration.

- There is concern about noise transmission through the walls as a result of the extraction equipment and the restaurant; outside traffic noise cannot be compared to continuous engine vibrations. The proposed opening times for a restaurant violate the building's rules (no noise after 11 pm), noting that operators often turn up the extractors before they are turned off, which would result in sleep disruption, which is bad for residents' health.

As noted previously, a noise assessment will be required to be undertaken, submitted and approved by the LPA prior to commencing works on the site. This is in accordance with standard practice of the LPA and guidance of the Environmental Health team.

- The area is already full of restaurants and takeaways which causes a lot of problems, including rats, rubbish and anti-social behaviour.

As previously noted, there is not considered to be an over-concentration of restaurants, as defined by the local plan, in this immediate location. Moreover, the applicant has shown appropriate waste and recycling storage being internally located at the rear of the single storey rear extension, emphasising that this will not be located in the service lane.

- There is not enough parking for residents and having another restaurant open late at night will result in residents having further difficulties finding a place to park.

The Council's Highways officer has reviewed the proposal and has raised no concerns regarding the impact of the proposal on the paring environment within the public highway, emphasising that they consider the impact from the existing use in comparison to the proposed use to be comparable.

- Barnet Council are not doing enough to clear the rubbish from this block.

This is not a material planning consideration.

- The street and pavement behind this block are in very poor condition which is a big issue of health and safety.

The current state of the public highway and footway is not a material planning consideration for a proposal of this nature.

- The application does not meet the stated planning requirements for the area, as set out by the Council and the wider planning strategy for London.

As assessed above, the LPA disagrees with this statement and believes the proposal to meet the intentions of the local planning requirements.

- It is an unnecessary and un-wanted form of development

This is not a material planning consideration.

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, it is considered that subject to compliance with the attached conditions, the proposed change of use would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of nearby occupiers. This application is therefore recommended for approval.

