



REGULATORY SERVICES COMMITTEE

REPORT

30 January 2014

Subject Heading:

P1380.13: 6 Hacton Parade, Hornchurch
RM12 6EL

Change of use from retail (A1) to take
away (A5) and installation of extraction
flue system to rear side of building.
(Application received 11 December 2013).

Report Author and contact details:

Helen Oakerbee
Planning Manager
helen.oakerbee@havering.gov.uk
01708 432800

Policy context:

Local Development Framework
London Plan, Planning Policy
Statements/Guidance Notes

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input checked="" type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The application proposes a change of use from retail to a take away, together with an extraction flue. The site comprises Council owned land and the planning merits of the application are considered separately from the land interest.

The proposal is considered to be acceptable in all material respects and it is recommended that planning permission is granted.

RECOMMENDATIONS

It is recommended that planning permission be granted subject to the following conditions:

1. Time Limit: The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Accordance with plans: The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

3. Waste: Before the use commences details of a waste management scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme, which shall thereafter be permanently maintained, shall include details of the method and location of refuse and recycling storage, including provision for all refuse and recycling to be properly contained within the approved facility, together with arrangements for refuse disposal. The scheme shall be implemented on site, in accordance with the approved details, prior to the commencement of the use hereby approved and retained permanently thereafter.

Reason: To protect the amenity of occupiers of nearby premises, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

4. Extraction/Ventilation system: Before the use hereby approved commences suitable equipment to remove and/or disperse odours and odorous material should be fitted to the extract ventilation system in accordance with a scheme to be designed and certified by a competent engineer and after installation a certificate to be lodged with the Planning Authority. Thereafter, the equipment shall be properly maintained and operated within design specifications during normal working hours.

Reason: To protect the amenity of occupiers of nearby premises, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

5. Noise and Vibration: Before the use commences a scheme to control the transmission of noise and vibration from any mechanical ventilation system installed shall be submitted to and approved in writing by the Local Planning Authority and implemented prior to the permitted use commencing. Thereafter, the equipment shall be properly maintained and operated during normal working hours.

Reason: To protect the amenity of occupiers of nearby premises, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

6. Plant and Machinery: Before any works commence, a scheme for any new plant or machinery shall be submitted to the Local Planning Authority to achieve the following standard. Noise levels expressed as the equivalent continuous sound level LAeq (1 hour) when calculated at the boundary with nearest noise sensitive premises shall not exceed LA90 - 110dB and shall be maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining/adjacent properties

7. Hours of operation: The premises shall not be used for the purposes hereby permitted other than between the hours of 11:00 and 22:00 Monday to Saturday and 11:00 and 20:00 on Sundays, Bank or Public Holidays.

Reason: To enable the Local Planning Authority to retain control in the interests of amenity, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

8. Details of the Flue - Details of the colour and finish of the flue hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any work.

Reason: To safeguard the appearance of the building and the character of the immediate area, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61

INFORMATIVES

1. Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.
2. A fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per request.

REPORT DETAIL

1. Site Description

- 1.1 The application site concerns the ground floor unit of No.6 Hacton Parade which is currently operating as a Bakery which serves sandwiches, breakfasts, bread, pastries and hot drinks.
- 1.2 Hacton Parade is located to the west of Central Drive, and to the south of Bevan Way and consists of a three storey terrace with 8 commercial units on the ground floor and 16 residential flats on the first and second floors. It is part of a minor local centre designation.
- 1.3 The rear of the site consists of a private road with access to the rear garage areas.

2. Description of Proposal

- 2.1 The application seeks permission for the change of use from a Bakery (A1) to a take away (A5) and the installation of an extraction flue system to the rear of the building. The applicant has indicated that it would be used as a Fish and Chip Shop.
- 2.2 The proposed opening hours are 11am to 10pm Monday to Saturday and from 11am to 8pm on Sundays, Bank and Public Holidays. This has been revised from the initial proposed opening hours until 11pm at the request of the applicant.
- 2.3 The only external alteration proposed within this application is the extraction ventilation duct which would be attached to the rear elevation of the

building. This would measure 6.7 metres vertically and would project out of the building at approximately ground floor ceiling level.

- 2.4 In support of the application the applicant has advised that the Bakery opened in April 2013 following four years property vacancy and currently it is making a loss. The Bakery employs one full time and two part time members of staff, in addition to the applicant and her husband. Although the Bakery's offer is extensive, it is unable to compete with a nearby convenience store which sells a wide variety of goods. The applicant advises if an A5 permission is not secured, then it is likely that the Bakery will close.

3. Relevant History

- 3.1 There is not any relevant history in particular to No.6 Hacton Parade, however there is a relevant application at No.8 which is at the end of the parade. The application details are as follows:

P1883.04 - Change of use from A1 (retail) to A3 (sale of hot food and drink) Refused on 26 November 2004 and dismissed at appeal on 2 September 2005 under Appeal reference APP/B5480/A/05/1175447.

Refusal Reason:

The proposed use, by reason of noise and disturbance caused by customers entering and leaving the premises, vehicles parking and manoeuvring, particularly during the evening hours of operation, would be detrimental to the amenities of the occupiers of nearby residential properties, contrary to Policy ENV1 of the Havering Unitary Development Plan.

4. Consultations/Representations

- 4.1 53 notification letters were sent to neighbouring properties, 2 letters of objection and one letter of comment were received, summarised as follows;
- Extraction flue system going to the rear of their wall, and would create unwanted odours
 - Parking issues would likely to increase as a result from the takeaway
 - Would create additional problems of teenagers to the area which currently congregate outside the Off-License which is open to 10pm.

The above issues are addressed within the amenity paragraph below.

- Their property would devalue

- Rubbish being thrown at present into peoples gardens, which would get worse as a result of the proposal

The above points have been carefully considered however, they are not material considerations which can be taken into account in determining this particular application.

5 Relevant Policies

5.1 Policies CP17 (Design), DC16 (Core and fringe frontages in district and local centres), DC33 (Car parking), DC55 (Noise) and DC61 (Urban Design) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Documents are material planning considerations. In addition, Policies 6.13 (Parking) and 7.4 (Local character) of the London Plan and Chapter 7 (Requiring good design) of the National Planning Policy Framework is also relevant.

6. Staff Comments

6.1 This proposal is put before the Committee owing to the land being Council owned. The issues arising in respect of this application and which will be addressed through this report are the principle of development, impact on the streetscene and design, amenity issues and parking and highways implications.

6.2 The current LDF was adopted in 2008 and despite the NPPF being issued later, it is considered that it is up-to-date and its policies are relevant to this particular application. The site is defined within a Minor Local Centre as defined by the Havering LDF Proposals Map.

7. Principle of Development

7.1 LDF Policy DC16 states that within Minor Local Centres, permission for retail and other services appropriate to a shopping area will be granted at ground floor level. Other services include A2, A3, A4 and A5. On this basis, the proposal is appropriate in principle.

8. Design and Appearance

8.1 Policy DC61 seeks to ensure that all new developments are satisfactorily located and are of a high standard of design and layout. In this regard it is important that the appearance of any new development is compatible with the character of the local street scene and the surrounding area.

8.2 As mentioned above, the only external alteration proposed within this application is the extraction ventilation duct which would be attached to the rear elevation of the building.

8.3 Following a site inspection, it is noted that there are no existing ventilation ducts to the rear of properties on Hacton Parade and Bevan Way. However,

given its siting to the rear and subject to a condition requiring details to be submitted regarding the external finish of the duct, such installation is considered to be acceptable.

- 8.4 Staff are satisfied that the development accords with the principles of Policy DC61.

9. Impact on Amenity

- 9.1 Policy DC61 of the LDF requires new development not to harm the amenities of adjoining occupiers by reason of noise and disturbance, loss of light, overlooking or other impacts.

- 9.2 Policy DC55 recognises that noise pollution can have a significant effect on quality of life. Planning permission will not be granted if it will result in exposure to noise or vibrations above acceptable levels affecting a noise sensitive development such as all forms of residential accommodation.

- 9.3 The previous refusal for No.8 as listed above, which was dismissed at appeal is material in the consideration of this proposal. It was refused on the grounds of being detrimental to neighbouring amenity by reason of noise and disturbance caused by customers entering and leaving the premises and vehicles parking and manoeuvring, particularly during the evening hours of operation.

- 9.4 On appeal, the Inspector considered that “additional noise and disturbance would be likely to result, and would be beyond the powers of the appellant to control. The evidence indicates that residents of Hacton Parade and numbers 61 and 63 Central Drive, among others already experience a degree of noise and disturbance in the evening and the Inspector concluded that, bearing in mind the above points, the proposal was considered to be in conflict with Policy ENV1”.

- 9.5 Although this application is of the same description as the dismissed scheme, that decision was taken 9 years ago and given that intervening period, the application should be assessed based on current policy and site circumstances.

- 9.6 The sole policy cited in the refusal reason, was ENV1 of the Havering Unitary Development Plan. This has since been superseded by the current policies within the Havering LDF adopted in 2008. Weight should also be given to the NPPF which emerged in 2012.

- 9.7 It should also be noted that in dismissing the appeal, the Inspector made specific references to the neighbours at Nos. 61 and 63 Central Drive which are directly adjacent to the end of the parade to the south of No.8. However, these same properties are at least 20 metres away from the current application site. In Staff's view, the most affected neighbouring properties in this case would be the residential properties above Hacton Parade.

- 9.8 The dismissed scheme proposed a closing time of 10.30pm, which the inspector concluded would do nothing to reduce the incidence of noise and disturbance in mid-evening, when residents' reasonable expectation is of relative peace and quiet. The closing times proposed by this submission are earlier at 10pm Monday to Saturday and 8pm on Sundays, Bank and Public Holidays.
- 9.9 The Inspector did not make reference to the existing stores nor their opening hours. During site inspection it was noted that of the 8 ground floor units, opening times consist of: No.1 Newsagent (Mondays to Friday 7am-6pm. Weekends 7.30am-6pm); No.2 Dry Cleaners (Mondays to Friday 9am-6pm. Saturday 9am-2pm and closed Sunday); Nos. 3 & 4 Off-license (Mondays to Saturday 8am to 10pm, Sunday 10am to 10pm); No.5 is a vacant site; No.7 Hairdressers (Mondays to Friday 9am to 5pm (1pm on Wednesday), Saturday 9.30am to 4pm, Sunday 10am to 3pm); and No.8 Flower Shop (Mondays to Saturdays 9am to 5pm (2pm on Wednesday), Sunday 10am to 3pm).
- 9.10 Given the opening hours of the off-license and those proposed by this application, it is considered that it would be difficult to substantiate an objection on the grounds of noise and disturbance to neighbouring residents as a result of the use given the existing activity within what is a commercial parade during later evening hours. The local Safer Neighbourhood Policing Team has also advised that they have no objection to this application and although the area has suffered from anti-social behaviour in the past, this problem appears to have stopped over the last year or so. If future anti-social behaviour problems did occur, the SNT advise that they would address that at the time.
- 9.11 Unlike the appeal premises, the current use of the application site is a bakery, so there is already an element of baking/heating up bread and taking away warm/hot food and drink. The use has an existing internal ventilation canopy and pipe system which discharges externally through a hole to the rear of the property.
- 9.12 The current proposal results in the addition of a rear external flue, which would discharge a metre above eaves level. Given the design of the installation and subject to conditions regarding odour control, noise/vibration and its external finish, Staff consider that the proposed flue would not result in undue harm to neighbouring residential amenity.
- 9.13 Taking all of the above circumstances into account, Staff consider that there is sufficient difference between the appeal scheme and the current proposal to justify a granting of permission.

10. Parking and highway issues

- 10.1 There is an access and private road which runs from the south of the parade adjacent to No.8 to the rear, where garaging and parking in front of garages

is available. It is unclear from the submission whether this is available for public use. On street parking is available to the front of the premises.

10.2 The proposal would not impact on existing parking arrangements. The extended hours of operation would increase the amount of vehicular activity visiting the parade, however this would be spread across these extended hours rather than in any concentrated period.

10.3 With the above taken into consideration, it is considered that the proposal considered being acceptable and accords with the principles of Policy DC33.

12. Mayoral CIL implications

12.1 The proposal would not be expanding in floor space, as such the CIL liability would be zero.

13. Conclusion

13.1 Having regard to all relevant factors and material planning considerations staff are of the view that the proposed change of use and external flue would be acceptable. Staff are of the view that the proposal would not have an impact on the streetscene or result in an unacceptable loss of amenity to neighbouring occupiers. The proposal is considered to be acceptable in all other respects and it is therefore recommended that planning permission be granted subject to conditions.

IMPLICATIONS AND RISKS

Financial implications and risks:

None directly affecting the Council.

Legal implications and risks:

The application site comprises Council owned land and the planning merits of the application are considered separately from the land interest.

Human Resources implications and risks:

None relating directly to the proposal.

Equalities implications and risks:

BACKGROUND PAPERS

Application form, drawings and supporting statement received on 11th December 2013 and 12th January 2014