



# REGULATORY SERVICES COMMITTEE

30 January 2014

# REPORT

**Subject Heading:**

P1134.13 17 Boxmoor Road, Romford

Change of Use of the existing vacant retail (A1) unit to a hot food takeaway (A5) with new rear external extract duct (Application Received 17 October 2013).

**Report Author and contact details:**

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**Policy context:**

Local Development Framework

**Financial summary:**

None

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

Ensuring a clean, safe and green borough	[ ]
Championing education and learning for all	[ ]
Providing economic, social and cultural activity in thriving towns and villages	[X]
Valuing and enhancing the lives of our residents	[ ]
Delivering high customer satisfaction and a stable council tax	[ ]

## SUMMARY

The application is brought to committee as the proposal relates to a council owned site. The application was deferred at the committee on 9 January 2014, to enable objectors to have opportunity to present their case in light of their late awareness of the proposal.. The application is for the change of use of the vacant A1 (Retail) premises to A5 (Takeaway) and involves the installation of an extract duct to the rear of the property. The proposal is considered acceptable in all material respects, including principle, design and layout, impact on neighbouring amenity, environmental impact and parking and highway issues. Subject to safeguarding conditions, 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 following plans and documents approved by the local planning authority:

3040\_PL01, 3040\_PL02, 3040\_PL03, 3040\_PL03a, 3040\_PL04B,  
3040\_PL05, 3040\_PL06

Reason:-

To accord with the submitted details and LDF Development Control Policies Development Plan Document Policy DC61.

3. Hours of operation - The premises shall not be used for the purposes hereby permitted other than between the hours of 11.00am to 23.00pm on Monday to Friday, 11.00am to 23.00pm hours on Saturdays and 11.00am

to 22.00pm on Bank Holidays and Sundays without the prior consent in writing of the Local Planning Authority.

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

4. Refuse and recycling - Before the permitted 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 storage, including provision for all refuse 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

5. Extract Ventilation - Before the use 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 approved in writing by 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

6. Noise and Vibration Before the uses 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.

7. Noise and Odour Reduction Before the hot food takeaway use commences, that part of the building shall be insulated in accordance with a scheme which shall previously have been submitted to and approved by the Local Planning Authority in order to secure a reduction in the level of noise and vibration emanating from it and it shall be effectively sealed to prevent the passage of odours through the structure of the building to other premises and dwellings.

Reason:-

To prevent noise and odour nuisance to adjoining properties.

8. 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

9. 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 or £28 where the related permission was for extending or altering a dwellinghouse, is needed.

## REPORT DETAIL

### 1. Site Description

- 1.1 The application site comprises of the ground floor of 17 Boxmoor Road which is a vacant A1 Retail unit.
- 1.2 The property is mid-terrace, situated within a row of three properties. To the north of the site is a semi-detached pair of properties. These five properties combined are designated as a Minor Local Centre. The upper floors of the parade comprise of residential properties.
- 1.3. To the south of the site is a terrace row of three properties which falls outside the designated centre.
- 1.4 To the east of the site are residential properties.
- 1.5 To the front of the site is a layby that provides on street car parking provision.

### 2. Description of Proposal

- 2.1 The application seeks planning permission for the change of use of 17 Boxmoor Road from an A1 (Retail unit) to an A5 (Takeaway) and the installation of an associated extract duct.
- 2.2 The proposed hours of use are as follows:

Monday to Friday	11.00am to 23.00pm
Saturdays	11.00am to 23.00pm
Bank Holidays and Sundays	11.00am to 22.00pm
- 2.3 The application is accompanied by indicative floor plans which indicate the provision of a waiting area, service bar and kitchen area.
- 2.4 In order to provide suitable extraction to the kitchen area a 0.5 metre square by 5m high extraction duct is proposed on the flank rear wall of the building. The duct has been revised during the course of the application to make it smaller in size.

### 3. Relevant History

- 3.1 No relevant history

## **4. Consultations/Representation**

4.1 9 neighbour responses have been received objecting to the proposal, including one objection that was received through the office of Andrew Rosindell MP. The objections have been made on the following grounds:

- Odour and noise
- Visual impact of the flue
- Increased litter
- Noise, disturbance and possible anti-social behaviour, particularly at night time hours. Related concerns were raised regarding substantial adverse health effects on vulnerable residents at 37 Boxmoor Road.
- Existing takeaways less than 1 mile away should be a chemist/grocers instead
- Increased traffic, parking demand and parking contraventions
- Refuse disposal and vermin
- Reduction in local property values
- Lack of consultation

4.2 A petition with 66 signatures has also been submitted in objection on the grounds included in those detailed above at 4.1

4.3 The issues raised have been incorporated in the officers' assessment of the planning application below, apart from matters that fall outside the scope of planning decisions. For clarity, these matters are: the possibility of crime, , littering and parking contraventions, which are controlled via the police and other relevant agencies; changes to existing developments outside the application site, and; the value of property. Regarding the lack of consultation, the Havering Planning Service has responded in writing to the objector and to Andrew Rosindell MP to explain that the consultation notifications were distributed in a manner similar to all planning applications of this nature. As explained above, this application was deferred from the Regulatory Services Committee meeting on the 9 January 2014 to enable objectors to have the opportunity to present their case in light of their late awareness of the proposal.

4.4 Environmental Health raised no objections subject to conditions.

4.5 The Highways Authority have no objections.

## **5. Relevant Policies**

5.1 LDF

CP4 - Town Centres

DC16 - Core and Fringe Frontages in District and Local Centres

DC33 - Car Parking

DC36 - Servicing

5.2 LONDON PLAN

- 2.15 - Town Centres
- 4.7 - Retail and town centre development
- 4.8 - Supporting a successful and diverse retail sector
- 6.13 - Parking
- 6.9 - Cycling

### 5.3 NATIONAL POLICY GUIDENCE

NPPF - National Planning Policy Framework

### 6.1 Staff Comments

- 6.1.1 The issues arising from this application are the principle of development, the impact of its design, scale and massing on the character of the area, impact on neighbours living conditions and parking and highway matters.

### 6.2 Principle of Development

- 6.2.1 The application site is located within the Minor Local Centre. Planning permission will be granted for A1 uses at ground floor level together with service uses A2, A3, A4 and A5.
- 6.2.2 The application is for an A5 "Hot Food Takeaway".
- 6.2.3 The purpose of the retail frontage is to provide retail and service uses so that they do not have to be located in more sensitive area such as within wholly residential areas. In this instance, the proposed use would remain within the "A-Use" class, provide a service, create a footfall and generally contribute to the vitality and viability of the centre. Takeaways are usually found in minor local centre locations and on commercial parades. No. 15 – 27 is designated as the Minor Local Centre. However, the visual form of the parade reads as no. 3 to no. 27. No. 21 is also currently vacant.
- 6.2.4 Details have been submitted in relation to the layout of the unit which show that the customer counter and waiting area would be located to the front of the premises and the kitchen would be located to the rear. In addition, the Takeaway would be open during the normal shopping hours of this local parade.
- 6.2.5 The advice contained in the NPPF is that retail vitality should be protected such that Local Plans should "define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations".
- 6.27 Subject to the proposal safeguarding the character and appearance of the area, neighbours amenity and not prejudicial to highway safety and parking standards. The proposed change of use is therefore considered acceptable in principle.

### **6.3 Design / Impact on Streetscene**

- 6.3.1 Policy DC61 states that development must respond to distinctive local buildings forms and patterns of development and respect the scale, massing and height of the surrounding context.
- 6.3.2 The proposed application does not involve any external works to the existing shop front or fascia.
- 6.3.2 The proposed extraction flue would not be visible from Boxmoor Road or harmful to the street scene, as it would be located to the rear the building. Details of the colour and external finish of the extraction flue will be secured by condition if minded to grant planning permission to ensure that the duct does not have an unduly harmful visual impact within the rear garden environment.
- 6.3.3 It is therefore considered that the proposed development would safeguard the character and appearance of the parade and surrounding area. The proposal is acceptable in accordance with Policy DC61 and advice contained within the NPPF.

### **6.4 Impact on Amenity**

- 6.4.1 Policy DC61 considers that new developments should not materially reduce the degree of privacy enjoyed by the occupants of adjoining properties and should not have an unreasonably adverse effect on sunlight and daylight to adjoining properties.
- 6.4.2 The proposed flue by reason of its location and separation distance from habitable rooms of the first floor residential properties would not result in any loss of outlook and sunlight and daylight to warrant a reason for refusal. The change of use by reason of its nature and its proposed non-domestic use would not raise any overlooking or loss of privacy concerns.
- 6.4.3 With regard to the impact upon the amenity of neighbouring occupants consideration must be given to potential implications in terms of operating hours, noise and disturbance and odours, particularly in view of the fact that there are residential properties located on the upper floors of the parade.
- 6.4.4 The application property lies within a parade of commercial premises which forms part of the Boxmoor Road Minor Local Centre. All of the properties within the parade have an A1 use which currently attracts patrons that travel by foot, public transport and by car. It is considered that the proposed use would not significantly increase the level of noise and disturbance from pedestrian movements and vehicles over and above the existing conditions. If minded to grant planning permission, conditions will be placed for the following aspects: opening hours, trading days, deliveries and refuse storage.



- 6.4.5 The proposed takeaway would not be open later than 23.00pm Monday to Saturdays and 22.00pm on Sundays and Bank Holidays. It is considered that the proposed opening hours would not result in a significant increase in noise and disturbance over and above existing conditions, as the site is located within a fully functional commercial parade.
- 6.4.6 Planning conditions would be attached to any approval that mitigates odour and noise nuisance in order to safeguard the amenity of neighbouring occupants.
- 6.4.7 Subject to safeguarding conditions, it is considered that the proposal would not harm the living conditions of neighbours in accordance Policy DC61.

## **6.5 Highway/Parking**

- 6.5.1 The application does not involve any changes to the existing highway or creation of car parking provisions. There is an existing lay-by that is situated to the front of the parade of shops and there is unrestricted on street car parking within the immediate vicinity.
- 6.5.2 It is considered that the proposal would not result in any highway or parking issues. Servicing would take place from the rear of the unit. Highways raised no objections. The proposal is therefore considered acceptable in parking standards terms and highway safety in accordance with Policy DC33.

## **7. Refuse and recycling**

- 7.1 The agent confirmed that the refuse and recycling provisions will be stored in a secure environment externally and be collected by an external refuse company. The details of the refuse provision and collections procedure would be secured by way of condition.

## **8. Conclusion**

- 8.1 Having had regard to the LDF Core Strategy and Development Control Policies Development Plan Document, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the change of use and associated works would provide a service which is compatible with a town centre and would not harm the form and character of the surrounding area, the residential amenity of the occupants of neighbouring properties or parking standards.
- 8.2 The proposed development would comply with the intensions of the NPPF, London Plan Policies and Havering Core Strategy and Development Control Policies.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

None

### **Legal implications and risks:**

The planning merits of the proposal are considered independently of the Council's interest as landowner.

### **Human Resources implications and risks**

None

### **Equalities implications and risks:**

The Council's planning policies are implemented with regard to equality and diversity.

## **BACKGROUND PAPERS**

Application forms, plans and supporting statements received 17 October 2013.