



REGULATORY SERVICES COMMITTEE

21 August 2014

REPORT

Subject Heading:

P0483.14 – 99 Front Lane, Upminster -
Change of use from retail (A1) to café
(A3) and installation of external extract
ventilation duct. (received 14/04/14)

Report Author and contact details:

Suzanne Terry
Interim Planning Manager
suzanne.terry@havering.gov.uk
01708 432755

Policy context:

Local Development Framework
The London Plan
National Planning Policy 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]
Value and enhance the life of our residents	[X]
Delivering high customer satisfaction and a stable council tax	[]

SUMMARY

This application relates to a Council owned premises and proposes the change of use from an existing vacant retail (A1) unit to a Cafe (A3) and the addition of a rear external extract duct. The planning issues are set out in the report below and

cover issues relating to the loss of retail space, impact on amenity and the design and appearance of the extractor flue. Staff consider the proposal to be acceptable. The application is recommended for approval subject to conditions.

A similar application for a change of use from retail (A1) to take-away (A5) was previously approved at the Regulatory Services Committee of 21 December 2013.

RECOMMENDATIONS

That the 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 Act 1990.

2. Accordance with plans: The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans listed on page 1 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. Flue details: Before any of the development hereby permitted is commenced, details of the colour and finish of the flue shall be submitted to and approved in writing by the Local Planning Authority and thereafter the flue shall be constructed with the approved materials.

Reason: To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and comply with Policy DC61 of the Development Control Policies Development Plan Document.

4. Hours of Use: The café (A3) use hereby permitted shall not be used for the purposes hereby permitted other than between the hours of 07:00 and 23:00 Mondays to Saturdays and 07:00 to 22:00 Sundays, Bank and Public Holidays 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.

5. Storage of refuse: Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse awaiting collection according to details which shall previously have been agreed in writing by the Local Planning Authority. The approved details shall be implemented and retained for the life of the development

Reason: In the interests of amenity of occupiers of the development and also the visual amenity of the development and the locality generally, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

6. Insulation scheme: Before the commercial use commences, part of the building shall be insulated in accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority in order to secure a reduction in the level of noise emanating from the building 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.

7. New plant or 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 the nearest noise sensitive premises shall not exceed LA90-10dB and shall be maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining/adjacent properties.

8. Remove or disperse odours: 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 Local Planning Authority. Thereafter, the equipment shall be properly maintained and operated during normal working hours.

Reason: To protect the amenity of occupiers of nearby premises.

9. Transmission of noise: 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 approved working hours.

Reason: To protect the amenity of occupiers of nearby premises.

INFORMATIVES

1. Following a change in government legislation 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.
2. 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.

REPORT DETAIL

1. Site Description

- 1.1 The application site is located on the western side of Front Lane, approximately 50 metres north of the junction with Ingrebourne Gardens. The site comprises a mid-terraced ground floor retail unit with the Cranham Social Hall at first floor. The application site is within the core area of Front Lane, Cranham Major Local Centre. The site is adjoined south by the A Touch of Glass (A1) and the Coiffeur Victoria hairdressers (A1) to the north.

2. Description of Proposal

- 2.1 This application relates to a Council owned premises and proposes the change of use from an existing vacant retail (A1) unit to a Cafe (A3) and the addition of a rear external extract duct.
- 2.2 The proposed use would employ 4 permanent members of staff and opening hours are proposed to be 07:00 to 23:00 Monday to Saturday and 07:00 to 22:00 on Sundays and Bank Holidays.

3. History

- 3.1. P2336.07 - Change of use to acupuncture and massage salon - Approved

- 3.2 P1135.13 - Change of Use of the existing vacant retail unit to a hot food takeaway (A5) including extract duct – Approved

4. Consultation/Representations

- 4.1 Neighbour notification letters were sent to 14 local addresses and 3 letters of objection were received raising the following concerns:

- do not want any form of hot food outlet due to smells parking and noise.
- rear entry to neighbouring glass shop is shared with the subject premises and use to carry glass in an out of the shop. Build up of grease in this area could result in serious injury or death.
- lack of suitable waste storage space
- vandalism
- cafe will attract students congregating outside and could potentially intimidate customers.
- antisocial behaviour
- litter
- possibility of people parking on the access road to the rear car park and causing backup of vehicles onto Front Lane

- 4.2 The Council's Environmental Health Department raise no objection subject to the provision of conditions.

- 4.3 Highways Authority has raised no objection to the proposal as there is an existing lay-by to the front of the shops.

5. Relevant Policies

- 5.1 Policies CP4 (Town Centres), DC16 (Core and Fringe Frontages in District and Local Centres), DC33 (Car parking) and DC61 (Urban Design) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Documents.

- 5.2 Policies 2.15 (Town Centres), 4.7 (Retail and town centre development) and 4.8 (Supporting a successful and diverse retail sector) of the London Plan (2011).

- 5.3 National Planning Policy Framework (NPPF).

6. Mayoral CIL Implications

- 6.1 The proposal would not result in an increase to the floor area and is therefore not CIL liable.

7. Staff comments

- 7.1 This proposal is put before the Committee owing to the application site comprising land owned by the Council. It should be noted that a similar application for a change of use from retail (A1) to take-away (A5) was

previously approved at the Regulatory Services Committee of 21 December 2013.

7.2 *Principle of Development*

7.2.1 The application site falls within the Front Lane Major Local Centre where Policy DC16 states that planning permission for Class A2 - A5 (Services) will be granted throughout the retail core where:

- (a) the use provides a service appropriate to a shopping area
- (b) the proposal will not result in the grouping of 3 or more adjoining A2-A5 uses
- (c) within the retail core, the proposal will not result in the proportion of non-retail uses within the relevant frontage exceeding 33% of its total length, and
- (d) an active frontage is maintained and the use is open for a significant number of core retailing hours.

7.2.2 In the retail core the policy seeks to restrict the number of non-retail uses and also to prevent their grouping, as this could interrupt the continuity of individual shopping frontages thus undermining their contribution to the centre as a whole. It is important however that proposed uses compliment and consolidate the town centre's retail function.

7.2.3 In this instance the relevant frontage would be considered as No. 85 to 101 Front Lane. At present this parade consists of mostly retail uses with the exception of No. 95 (A2 use), No. 99 (proposed A5) and No. 103 (D1 use).

7.2.4 The combination of the existing non-retail uses and the proposed A3 use would not exceed 33% of non-retail uses for this parade. Also the proposal would not result in a group of 3 or more adjoining non-retail uses. In addition, the proposed use would have similar characteristics to that of the existing use and would be open for the majority of the day thus creating a footfall and positively contributing to the vitality and viability of this Major Local Centre.

7.2.5 It is considered by Staff that the proposed use would be appropriate to a shopping area as it would be likely to attract both dedicated customers and those on more general shopping trips. Staff are of the view that the proposal has the potential to make a contribution to pedestrian flows and would display many similar characteristics to some Class A1 uses in terms of the general level of activity and expenditure, particularly as it would be open during core shopping hours.

7.2.6 For these reasons Staff consider the proposal to be acceptable in principle.

7.3 *Design and Impact on Local Character and Street Scene*

7.3.1 The proposal would not involve alterations to the external appearance of the building to the front and would therefore pose no adverse or detrimental issues to the character of the street scene.

7.3.2 The extract duct proposed to the rear would be clearly visible in the rear environment but given the location at the rear of the site, Staff consider the size of the flue to be acceptable on balance. The external appearance of the flue is the same as that previously considered and found to be acceptable under application reference P1135.13. A condition is recommended in respect of the colour and finish of the flue.

7.4 *Impact on Amenity*

7.4.1 Policy DC61 states that planning permission will only be granted where proposals would not result in unreasonable adverse effects on the environment by reason of noise impact, hours of operation, vibration and fumes between and within developments.

7.4.2 With regard to the impact upon neighbouring properties consideration must be given to potential implications in terms of operating hours and noise and disturbance, particularly in view of the fact that some residential properties are located on the upper floors of the parade

7.4.3 The application site is located in an area which is characterised by commercial premises where a certain level of activity and associated noise is to be expected. Staff are of the view that a use such as that proposed is more suitably located within a town centre location than within a predominantly residential setting and that the amenities of residents living within the town centre are not normally expected to be as high as for residents living in purely residential locations. It should also be noted that there are no residential units at first floor as this part of the parade forms part of the Cranham Community Hall.

7.4.4 The application property lies within a row of commercial premises which forms part of retail core of the Front Lane Major Local Centre. From the site visit it was observed that Front Lane is a heavily trafficked road with high ambient noise levels. Given the nature of this road, there is no reason to believe that these observations are unusual. It is reasonable to assume, given the location of the application site that the ambient noise level would remain reasonably high in the evening, Sundays and Bank/Public Holidays.

7.4.5 It is Staff's view that the proposal would not result in significant noise and disturbance from pedestrian movements over and above existing conditions. If minded to grant planning permission, conditions will be placed for the following aspects: opening hours and trading days. In this instance, opening hours are proposed to be 7:00 to 23:00 Monday to Saturday and 7:00 to 22:00 on Sundays and Bank Holidays.

7.4.6 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 on a relatively busy main road with arguably higher ambient noise levels throughout the week. Consideration has been given to a closing time of 22:00 on Sundays and Bank Holidays and is considered to be acceptable. The opening hours proposed are the same as judged acceptable under application reference P1135.13.

7.4.7 Staff consider the extract duct to the rear to be acceptable in terms of its potential impact on neighbouring amenity as it is sufficiently set away from neighbouring dwellings. Conditions would be attached in respect of odour and noise.

7.5 *Highways / Parking Issues*

7.5.1 The application site has no off-street car parking facilities for customers. There is currently lay-by parking available to the front of the premises and a Pay & Display car park within a short distance of the site, which is adequate. The site is accessible by a variety of transport modes including public transport, walking, cycling and the car. For these reasons it is considered that the proposal would pose no adverse effect on the function of the highway. The Highways Authority has no objection to the proposal. 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.

7.6 *Other Issues*

7.6.1 Issues relating to litter and anti-social behaviour have also been raised as objection to the proposal. Staff do not have any evidence available to suggest that the premises and immediate area is prone to anti-social behaviour and cannot therefore refuse the application based on the assumption that this would be the case in the future.

7.6.2 Staff do not consider the restaurant use to result in an unacceptable amount of litter.

7.6.3 The applicant has indicated that refuse waste will be securely stored in a secure environment inside the unit and collected by an external refuse company on a time scale which suits the end user. A suitable condition will be added in order to provide details of the location prior to the implementation of the proposed use.

7.6.4 Comments relating to glass carriers slipping on build-up grease is not considered a material planning consideration as it is covered elsewhere in health and safety legislation.

8. Conclusion

8.1 The proposed change of use and provision of flue is considered to be in accordance with the aims, objectives and provisions of Policies CP4, DC16, DC33, DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document, Policies 2.15, 4.7 and 4.8 of the

London Plan and the National Planning Policy Framework (NPPF). It is recommended that planning permission be granted.

IMPLICATIONS AND RISKS

Financial Implications and risks:

This report concerns only material planning issues.

Legal Implications and risks:

The application site comprises land which is in Council ownership, which is not a material planning consideration.

Human Resource Implications:

None

Equalities and Social Inclusion Implications:

The Council's planning policies are implemented with regard to Equalities and Diversity and its duty to promote equality under Section 149 of the Equality Act 2010. In this case there are no equality issues raised that would impact on the determination of the proposal under the planning acts.

BACKGROUND PAPERS

1. Application forms and plans received 14/04/14.