



**REGULATORY
SERVICES
COMMITTEE**

REPORT

26 April 2012

Subject Heading:

P0283.12 – The Brewery, Romford –
Erection of a retail pavilion building for use
within Classes A1, A2 or A3 (shop,
Financial and professional services or
café/restaurant) (received 5 March 2012)

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Policy context:

Local Development Framework
The London Plan
National Planning Policy Statements/
Guidance

Financial summary:

None

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

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

SUMMARY

This report concerns an application for the erection of a retail pavilion for use within Classes A1, A2 or A3 (shop, Financial and professional services or café/restaurant) Uses. A legal agreement is required due to the existence of a previous permission for similar development which has been partly implemented which would conflict with this scheme. Staff consider that the proposal would nonetheless accord with retail, environmental and highways policies contained in the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and approval is therefore recommended.

RECOMMENDATIONS

It is recommended that the application is unacceptable as it stands, but would be acceptable subject to the entering into of a Unilateral Undertaking to secure the following:

- The owner/s (developer/s) of the application site covenanting not to implement further Unit 3 (the third pavilion) approved under P0196.09 and the variation of conditions application - P0565.10
- As appropriate to bear the Council's reasonable legal costs incurred in considering the form of the Unilateral Undertaking.

That Staff be authorised that upon completion of the Unilateral Undertaking, planning permission be granted subject to the following conditions:

1. SC04 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. SC011 No development shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and shrubs on the site, and details of any to be retained, and any proposed topping or lopping, together with measures for the protection in the course of development. The scheme shall specify the size, species, and positions or density of shrubs and trees to be planted, planting methods and planting medium. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development. If within a period of five years from the date of the planting, any tree or shrub or any tree or shrub planted in replacement of it, is removed, up-rooted or destroyed, is diseased or dies, another tree or shrub

of the same species and size to that originally planted shall be planted at the same place.

Reason: To ensure the scheme has adequate landscaping and to ensure that any trees or shrubs planted as part of the landscaping scheme are replaced in accordance with that scheme.

3. SC09 Before any of the development hereby permitted is commenced, samples of all materials to be used in the external construction of the building(s) shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development 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.

4. SC32 The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

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.

5. SC58 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. Unless otherwise agreed in writing these details shall include provision for underground containment of recyclable waste.

Reason: In the interests of the amenity of occupiers of the development and also the visual amenity of the development and the locality generally.

6. Land contamination: Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority;

a) A Phase I (Desktop Study) Report documenting the history of this site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.

b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

c) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise of two parts:

Part A - Remediation Statement which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a "Validation Report" must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA ; and

e) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, "Land Contamination and the Planning Process".

Reason:

To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

7. Before any works commence a scheme for any new plant of 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 properties in accordance with the recommendations of Planning Policy Guidance Note 24 "Planning & Noise" 1994

8. No construction works or construction related deliveries into the site shall take place other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 hours on Saturdays unless agreed in writing with the local planning authority. No construction works or construction related deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the local planning authority.

Reason: To protect residential amenity.

9. Prior to the commencement of the development, the applicants should submit for the purposes of security a revised scheme indicating any changes to the provision of the existing CCTV coverage. Once approved the scheme shall be implemented prior to the occupation of the building in accordance with the approved details and thereafter retained.

Reason: In the interests of public safety in accordance with Policy DC63 of the LDF Core Strategy and Development Control Policies DPD.

10. The premises shall not be used for the purposes hereby permitted other than between the hours of 08:00 and 20:00 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.

11. Prior to the occupation of the building hereby permitted, cycle storage to replace that lost by the development together with space for an additional 3 cycles, shall be provided in accordance with details specifying type and location, which shall have been previously submitted to and agreed in writing by the Local Planning Authority. Once provided, the cycle storage shall be permanently retained in accordance with the agreed details.

Reason: In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability

12. Before any A3 use commences suitable equipment shall be fitted to the extract ventilation system to remove and/or disperse odours and odorous material within those units intended for A3 purposes, 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, and in order that the development accords with LDF Development Control Policies DPD Policies DC61 and DC52.

13. Before any A3 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 Policies DC55 and DC61 of the LDF Development Control Policies DPD.

14. Before any A3 use commences a grease trap shall be provided to the foul drainage system. Thereafter the equipment shall be properly maintained.

Reason: To protect residential amenity for nearby occupiers in accordance with Policy DC61 of the LDF Development Control Policies DPD.

INFORMATIVES

1. **Community Safety - Informative:**

In aiming to satisfy Condition 9 the applicant should seek the advice of the Police Crime Prevention Design Advisor (CPDA). The services of the local Police CPDA are available free of charge through Havering Development and Building Control. It is the policy of the local planning authority to consult with the Borough CPDA in the discharging of community safety condition(s).

2. Reason for approval:

The proposed development is considered to be in accordance with the aims, objectives and provisions of Policies CP17, DC15, DC33, DC55, DC60, DC61, DC63 of the LDF Core Strategy and Development Control Policies Development Plan Document and Policies ROM9, ROM12, ROM20 and ROM21 of the LDF Romford Area Action Plan.

Note: Following a change in government legislation a fee is now required when submitting details pursuant to the discharge of conditions, in order to comply with the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations, which came into force from 06.04.2008. A fee of £85 per request (or £25 where the related permission was for extending or altering a dwellinghouse) is needed.

3. The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

REPORT DETAIL

1. Site Description

- 1.1 The application site is located to the west of the existing row of retail units within the Romford Brewery retail and leisure complex in Romford Town Centre. The application site currently comprises part of the parking and pedestrian area within The Brewery development including trees and cycle racks.
- 1.2 The surrounding area is mainly retail (A1) in character with residential properties to the north above ground floor commercial units and mainly flatted blocks on the other side of the ring road (Waterloo Road).

2. Description of Proposal

- 2.1 The proposal is to redevelop the site with a new retail pavilion. As such this represents an amendment of earlier schemes in 2004 and 2007 and those approved in 2009 and, a related application for variation of conditions, in 2010. The latter schemes were for 3 pavilions, of which one has been erected (Costa Coffee house).
- 2.2 The current proposal would be for a single pavilion for use within Use Classes A1, A2 or A3, although the submitted plans show a layout for a Bank within Use Class A2. It is proposed to locate the 282 sq.m pavilion directly opposite the southern pedestrian access between The Brewery and South Street. The pavilion would be approximately 23m wide, 12.6m deep with a flat roof at a height of 4.6m above ground level with the entrance section facing west having a maximum height of 6.1m above ground level. The proposed materials are glass and metal panel cladding. The pavilion would be accessible from both the car park and the pedestrian footway.
- 2.3 It is proposed that the pavilion would provide 20 full-time positions and it would open between 8am and 8pm each day including Sundays and Bank Holidays.
- 2.4 The proposal would result in the removal of existing trees and cycle racks and it is proposed that these would be relocated and two new trees would be planted. Some of the existing ground level car parking spaces would be reconfigured.
- 2.5 Reports have been submitted by the applicant in respect of the trees, impact on the River Rom culvert, contaminated land, noise impact, waste management, extract ventilation system and a Safer Places Statement.
- 2.6 The proposed pavilion would be in a different location from the two units which remain to be implemented under the 2009/2010 approval and would

be approximately double the size. The applicants have submitted a draft Unilateral Undertaking which is to confirm that Unit 3 approved in 2009/2010, which would otherwise be located in very close proximity to the subject pavilion, would not be constructed if this scheme is implemented.

3. **History**

- 3.1 P1207.97 - Construction of hypermarket etc. - approved 12/8/99
- P1081.99 - reserved matters pursuant to P1207.97 - approved 2/11/99
- P1099.99 - reserved matters pursuant to P1207.97 - approved 17/10/99
- P1694.99 - relaxation of conditions attached to P1207.97 - approved 16/3/00
- P1177.00 - construction of bus terminus and petrol station - approved 28/3/01
- P0232.01 - amendment of planning condition attached to P1081.99 - approved.
- P0291.04 – erection of pavilions for A1 and A2 use – refused 22/3/05 – subsequent appeal – approved 6/9/05.
- P0924.07 – erection of three retail pavilions for use within Classes A1, A2 and A3 – approved 5/7/07
- P0323.08 – erection of three retail pavilions for use within Classes A1/A2/A3 – withdrawn 20/5/08
- P0196.09 – erection of three retail pavilions for use within Classes A1/A2/A3 – approved 3/4/09
- P0565.10 – variation of conditions attached to P0196.09 to enable the phased implementation of the three retail pavilions – approved 11/6/10

4. **Consultation/Representations**

- 4.1 106 neighbouring occupiers were notified of the proposal. At the time of drafting the report the consultation period had not ended. Any replies received will be reported orally at the Committee meeting.
- 4.2 The Metropolitan Police Crime Prevention Design Advisor has advised that a suitable condition should be attached regarding the provision of CCTV and has asked for an informative to be attached.
- 4.3 The Environment Agency advise that the proposal would be located sufficiently far from the culvert that it would be acceptable.

5. **Staff Comments:**

- 5.1 The issues in this case are the principle of development, its impact in the streetscene, on residential amenity and parking/highways/servicing. Policies DC15, DC33, DC55, DC61, DC63 of the Local Development Framework Core Strategy and Development Control Policies Development Plan, Policies ROM9, ROM12, ROM20 and ROM21 of the Romford Area Action Plan are considered to be relevant. Also relevant are The London Plan (2011) Policies 2.15, 4.7, 4.8, 7.3, 7.4, 7.5 and 7.6 and the National Planning Policy Framework (NPPF).

Principle of development

- 5.2 The principle of the development of Pavilions to this side of the pedestrian walkway has previously been considered to be acceptable. This application proposes a pavilion which would be approximately twice as big as those previously approved and in a different location and would front onto the car park (as opposed to fronting onto the walkway). Whilst the LDF Core and Development Control Policies and the Romford Area Action Plan Policies have since been adopted and the NPPF has been published, Staff consider that the principle of the proposal would remain acceptable in terms of its proposed land uses in the Town Centre, and, more specifically within The Brewery.

Design/Impact on Street

- 5.3 While the proposed pavilion would be double the size of the approved Units, this would be only in respect of the width of the unit with the depth and height remaining roughly the same as that previously approved.
- 5.4 When viewed from outside the site, the pavilion would again, appear relatively small, against the background of the existing two/three storey grey/white buildings. The proposed building would be similar to the approved pavilions which would provide effectively rectangular boxes reflecting the existing square/rectangular form of the existing Commercial development at The Brewery. As single storey units which are at eye-level, the developers have sought to use materials which are of high quality and interest. The proposed pavilion would, unlike the previous pavilions, look outwards onto the car-park area with an entrance feature and, if subsequently granted consent, advertising. It would nonetheless have an entrance from the pedestrian walkway and it is considered that its additional width would not of itself result in it having an unacceptable impact on visual amenity in the streetscene/pedestrian environment.
- 5.5 A Unilateral Undertaking has been submitted by the applicants to effectively quash the implementation of Unit 3 of the 2009/2010 approval. The location of Unit 3 would have been extremely close to the proposed pavilion such that, in Staff's view, this would, together with the new pavilion, have appeared cramped and ill-conceived, adversely impacting on visual amenity. Conversely Unit 2, which would continue to maintain a reasonable distance and relationship with the proposed pavilion could still be implemented without appearing as an afterthought.

Impact on Amenity

- 5.6 The proposed pavilion would be located approximately 250m from the nearest residential property to the north of the application site. It is not considered that day-time or evening activity would result in any significant adverse impact on residential occupiers, given that they are located within a Town Centre where there is a generally a higher level of activity at those times.

Highway/Parking

- 5.7 Although the proposal would result in the loss of 8 car parking spaces, the previously approved scheme allowed for the removal of 12 spaces. On this basis and given the total number of remaining spaces within The Brewery, it is considered that this element of the scheme is acceptable. There are no other parking or highways issues raised by the proposal
- 5.8 Servicing of the Unit would be in accordance with The Brewery's current waste management scheme which would be acceptable.
- 5.9 In line with Annex 6, cycle parking would need to be re-provided within The Brewery and would be subject to a suitable planning condition.

Section 106 agreement

- 5.10 The proposed Unilateral Undertaking would remove the applicant's ability to fully implement an existing planning permission. This is necessary due to the proposed pavilion being sited within very close proximity of the approved Unit 3 and as this pavilion would effectively replace Unit 3. If both units were to be implemented, it is Staff's view that they would appear cramped and unevenly spaced detached units which would appear un-coordinated such that they would have an adverse impact on visual amenity in the streetscene.

Other Issues

- 5.11 Trees – The proposal would result in the loss of 4 small trees and their replacement with two trees to the flanks of the building. There are a number of trees to the walkway and car park and it is considered that the proposal would result in an acceptable level of replacement planting.
- 5.12 Secured by Design – The Metropolitan Police Crime Prevention Design Advisor has advised that a suitable condition should be attached regarding the provision of CCTV and has asked for an informative to be attached.
- 5.13 Impact on River Rom culvert – The Environment Agency advise that the proposal would be located sufficiently far from the culvert that it would be, subject to their Engineer's confirmation, acceptable.
- 5.14 The proposal is liable for the Mayoral Community Infrastructure Levy. This a fixed rate tariff calculated on the basis of the new floorspace formed. The payment required here equals £5,640 based on 282sq.m of floorspace at £20 per square metre. This payment is secured by way of a Liability Notice which will be issued with the Decision Notice should planning permission be granted.

6. **Conclusions**

- 6.1 The proposal is for the erection of a detached building (pavilion) for uses within A1, A2 and A3 Use Classes within the town centre. It is considered that the proposal would be acceptable in principle and that the details of the scheme are acceptable in accordance with Policies DC15, DC33 and DC61 of the LDF Core Strategy and Development Control Policies and ROM9, ROM12, ROM20 and ROM21 of the LDF Romford Area Action Plan as it would not, subject to the non-implementation of Unit 3 under P0196.09/P0565.10, result in any adverse impact on visual amenity or residential amenity or any adverse impact on highways/servicing etc.

IMPLICATIONS AND RISKS

7. **Financial Implications and risks:**

- 7.1 None

8. **Legal Implications and risks:**

- 8.1 A Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted by the developer/owner to prevent the implementation of Unit 3 of Planning Approval P0196.09/P0565.10, this will need to be considered.

9. **Human Resource Implications:**

- 9.1 None

10. **Equalities and Social Inclusion Implications:**

- 10.1 The Council's planning policies are implemented with regard to Equalities and Diversity. The building would be provided with level access.

BACKGROUND PAPERS

1. The planning application as submitted or subsequently revised including all forms and plans.
2. The case sheet and examination sheet.
3. Ordnance survey extract showing site and surroundings.
4. Standard Planning Conditions and Standard Green Belt reason for refusal.

5. Relevant details of Listed Buildings, Conservation Areas, Article 4 Directions.
6. Copy of all consultations/representations received and correspondence, including other Council Directorates and Statutory Consultees.
7. The relevant planning history.