



REGULATORY SERVICES COMMITTEE

REPORT

5 September 2013

Subject Heading:

P1135.13 – 99 Front Lane, Upminster

Change of Use of the existing vacant retail unit to a hot food takeaway (A5) including extract duct.

(Application received 26th September 2013)

Report Author and contact details:

**Helen Oakerbee, 01708 432800
helen.oakerbee@havering.gov.uk**

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	[X]
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 hot food takeaway (A5) 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.

The application has been called before the Regulatory Services Committee by Councillor Gillian Ford for the following reasons:

- Increased Litter
- Increased parking pressures
- The application would increase the number of takeaways, proportionally at odds with the size of the shopping centre
- Increase in antisocial behaviour
- Increased noise in the neighbourhood.

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 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, 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. 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 take-away use hereby permitted shall not be used for the purposes hereby permitted other than between the hours of 09:00 and 23:00 Mondays to Saturdays and 09:00 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 approved 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 properties in accordance with the recommendations of Planning Policy Guidance Note 24 Planning & Noise 1994.

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 normal working hours.

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

INFORMATIVES

1. 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 Approval - No negotiation required

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. 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 hot food takeaway (A5) and the addition of a rear external extract duct.
- 2.2 The proposed use would employ up to 6 members of staff and opening hours are proposed to be 09:00 to 23:00 Monday to Saturday and 09:00 to 22:00 on Sundays and Bank Holidays.

3. Relevant History

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

4. Consultations/Representations

- 4.1 A site notice and a press advertisement have been displayed and expired on 15 November 2013. Neighbour notification letters were sent to 149 local addresses and 86 letters of objection were received raising the following concerns:

- There are too many takeaway/restaurants in the immediate area.
- The Council should encourage different types of businesses into the area.
- Proposal would increase noise, smell and litter in the area.
- Increased parking problems
- Will encourage the loitering of youths in the area leading to anti-social behaviour.
- Proposed take away will devalue properties
- Extract duct will affect the plans to improve the balcony outside the Hall
- Proposed take away would deter people from using The Hall
- No place to put rubbish bins
- Rubbish generated by take away will attract vermin

- 4.2 In response to the above, comments that the Council should encourage different types of businesses into the area and comments regarding too many take-aways in the area are not material planning considerations, as each planning application is determined on its individual planning merits.
- 4.3 The Local Policing Team has been informed of the application but have not submitted any comments by the time of writing this report.
- 4.4 Highways Authority has raised no objection to the proposal as there is an existing lay-by to the front of the shops.
- 4.5 Environmental Health was consulted and recommends various conditions in the event of an approval.

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 and as a result of a call in by Councillor Gillian Ford.

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 A5 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. Staff consider the size of the flue to be acceptable on balance, however members may attach different weight to the potential impact to the rear environment as a result of its size and appearance. 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 11:00 to 23:00 Monday to Saturday and 11:00 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.

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 has 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 Although there may be an increase amount of litter as a result of a take-away, this reason alone would not be sufficient to refuse the application. However Members may wish to add a suitable condition to require a litter management strategy to be submitted for approval prior to the commencement of the use.

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.

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

Human Resources implications and risks:

None.

Equalities implications and risks:

None

BACKGROUND PAPERS

Application forms and plans received on 26th September 2013.