

OFFICER REPORT FOR DECISION UNDER DELEGATED AUTHORITY

APPLICATION NO: P1285.22

WARD : Elm Park

Date Received: 5th August 2022

ADDRESS: 17 Elm Parade Shops
Elm Park Avenue
Hornchurch

PROPOSAL: Installation of extraction unit to facilitate the change of use from Use Class E(a) (Display or retail sale of goods, other than hot food) to Use Class E(b) (Sale of food and drink for consumption (mostly) on the premises)

DRAWING NO(S): Site Location Plan
Existing View
Existing Ground floor Plan
Proposed Ground floor Plan
Proposed Ground Floor Plan
Proposed Ground Floor Plan
Proposed Ground floor Plan
PROPOSED GROUND FLOOR PLAN S-2022-01
PROPOSED VIEW S-2022-02
PROPOSED VIEW & PLAN S-2022-03

RECOMMENDATION : It is recommended that **planning permission be GRANTED** subject to the condition(s) given at the end of the report

SITE DESCRIPTION

The application site is located on the north side of Elm Park Avenue (also known as Elm Parade) in Elm Park ward in Hornchurch.

The property is comprised of a ground floor retail unit ('Food Point') of approx 94sqm GIA within a 3-storey terrace building with residential on the upper floors.

Vehicle access is provided to the rear via Benhurst Avenue leading to a hard-stand area used for shared parking and servicing.

The site is within the primary frontage of the Elm Park District Centre (nos. 13 - 26), and does not contain or affect the setting of any heritage assets.

DESCRIPTION OF PROPOSAL

The application further seeks permission for the installation of an extraction unit. This would be in connection with the proposed use of the premises as Class E(b) for the use for sale of food and drink for consumption (mostly) on the premises.

It should be noted that as the existing and the proposed use of the premises both fall within Class E, such change of use could be undertaken without the need for planning permission. Planning history has been checked for the site and it does not appear that the current Class E use of the premises is restricted.

RELEVANT HISTORY

P0812.22 - Change of use from Use Class E(a) (Display or retail sale of goods, other than hot food) to Sui Generis (Mix use of E(b) (Sale of food and drink for consumption (mostly) on the premises, and Takeaway)
Refuse 18-07-2022

CONSULTATIONS/REPRESENTATIONS

Neighbours were notified via letters. Four objections were received, which raised the following issues:

- Oversaturation of fast food places in the area, which the change of use will add to
- Hygiene and sanitation issues intensifying in the area
- Late opening hours
- Lack of parking provision for drivers/staff

Metropolitan Police Service - No objection subject to the following conditions:

1) Prior to commencement, a full and detailed application for the Secured by Design award scheme shall be submitted to the Local Planning Authority and the Metropolitan Police NE Designing out Crime Office, demonstrating how Secured by Design certification will be achieved for this scheme

2) Once approved in writing by the Local Planning Authority, in consultation with the Metropolitan Police Designing out Crime Officers, the development shall be carried out in accordance with the agreed details

Reason: in the interest of creating safer, sustainable communities

Recommend including a Secure by Design informative.

LBH Environmental Health - Environmental Health recommend refusal unless appropriate conditions to deal with noise issues are submitted. These can be requested as pre-commencement conditions, which the applicant has indicated agreement to.

LBH Waste & Recycling - Businesses should have a suitable waste collection/contract to meet the requirements of the business. This could be required by condition.

RELEVANT POLICIES

National Planning Policy Framework (2021)

6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
9. Promoting sustainable transport

Havering Local Plan (2016-2031)

Policy 3 Housing Supply

Policy 13 Town centre development

Policy 23 Transport Connections

Policy 24 Parking provision and design

Policy 26 Urban design

Policy 34 Managing pollution

Policy 35 Waste management

MAYORAL CIL IMPLICATIONS

Not CIL liable.

STAFF COMMENTS

In accordance with the current criteria for sites visits, an in-person site visit was not undertaken. Site photos were sent in by the agent to support the application. In determining this planning application, Google street view, aerial view images and submitted drawings were used to assess the site constraints.

It is noted that a similar scheme was refused under P0812.22, which sought the change of use from Class E(a) to sui generis for the use as a hot food takeaway. The scheme was refused due to the overprovision of sui generis takeaways within the area and limited information provided regarding the extraction unit, which LBH Environmental Health recommended for refusal for that reason. The application differs in that it will be a restaurant (Class B(b)) and details of the extraction unit have been provided this time.

Amended plans were received, which provided more details relating to the extraction unit. The plans show the apex of the exhaust above the roof line when viewed from the front and further shows that the pipe will be clamped to the chimney. No further changes to the unit such as the position were included. As such, given that additional detail was clarification only, further neighbour notification was not judged to be necessary.

PRINCIPLE OF DEVELOPMENT

Policy 13 of the Havering Local Plan outlines that the Council will support development proposals within town centres if they are appropriate to the scale and function of the town centre, does not harm the town centre's viability and vitality, promotes a wider retail offer, provides active frontages at ground floor level and makes effective use of upper floors. While now defunct as a use class, the Local Plan supports the change of use from A1 (shops) and A2 (financial and professional services) if development complements the other shopping uses within the town centre, does not reduce the proportion of A1 and A2 frontages, has no impact on the surrounding amenity. In addition, the policy outlines that the Council will seek to resist the loss of shops.

It is noted that the change of use will result in the loss of a retail unit. However, following changes to the use classes order, the introduction of the new Class E use class enables a wider range of uses to take place without the requirement for planning permission. The premises is stated as being intended to be used within Class E(b) of the use classes order, which does not require planning permission and the LPA does not therefore consider that Policy 13 can reasonably be applied. In addition, the proposed use as a restaurant would retain the active frontage and would continue in supporting street activity/footfall within the area. The opening hours provided would also continue to support the street activity and will be open during retail hours.

In the light of the previously refused application for a hot food takeaway here, an informative will be applied to the decision notice reminding the applicant that the premises may only operate within the restrictions of Class E (b) and not as a hot food takeaway without the benefit of further planning permission.

DESIGN/IMPACT ON STREET/GARDEN SCENE

The proposal does not explicitly apply for a new shopfront and limited details are provided in this regard; the same with regard to external signage. An informative will be added to remind the applicant that separate consent is required for such development.

With regard to the proposed extraction unit, this comprises a large flue which extends up the entire rear elevation of the building. Whilst it projects above the ridge, given the height and design of the block, it would nevertheless not be readily visible from Elm Park Avenue. Whilst the flue will be visible from the rear of the site and residential units on upper floors of Elm Park Parade, it is not a particularly unusual feature to be seen at the rear of commercial units in a town centre location and given its degree of screening from wider public vantage points is, on balance, considered acceptable. Its fixing to an existing chimney stack alleviates some of the overall visual effects.

However, it is considered that a condition to require the extract unit to be finished matt black rather than with a galvanised finish would help to mitigate its visual impact, and that this is a reasonable requirement given the flue is higher than would usually be expected (owing to the existing dormer window at roof level).

IMPACT ON AMENITY

Policy 13 of the Havering Local Plan states that development will only be supported if it has no significant adverse impacts on surrounding amenity in terms of anti-social behaviour, noise, odour, waste, management and highways and parking. Amenity considerations relating to noise and pollution are further supported by Policy 34 of the Local Plan.

The proposed use as a restaurant raises no immediate amenity concerns as it is noted that the surrounding area consists of a variety of Class(b) restaurants and sui generis takeaways and the proposed use should not represent a harmful impact to residential amenity, particularly the dwellings situated directly above the unit.

It is noted that the use proposed appears to be permitted development. However, as the applicant refers to the proposed use in the description of development, staff consider that opportunity could be reasonably taken to condition the proposed opening hours. The proposed opening hours of 07:00-23:00 is considered acceptable and it is noted that a number of cafes/restaurants within the area open from 07:00 such as Royal Breakfast Bar cafe opposite and Rose cafe located on The Broadway round the corner from the site. A condition will be attached to the decision notice restricting the hours of opening to those times.

The extraction unit will be installed on the existing chimney, extending upwards towards the roofline. The position of the chimney is close to the shared boundary of no. 17 and no. 18 and would be situated close to the windows of the dwellings above nos. 17 and 18 Elm Parade. The extraction unit is affixed to an existing chimney and this will provide it with some degree of separation from the nearest adjacent windows. It appears likely, but not conclusive, that upper floor windows on second floor and at roof level closest to the flue are in non-habitable use. On balance, and subject to further conditions regarding noise and vibration from the flue, it is considered that the proposal is acceptable.

HIGHWAY/PARKING

Local Plan policy 23 states that the Council supports development which ensures safe and efficient use of the highway and demonstrates that adverse impacts on the transport network are avoided or, where necessary, mitigated.

The proposed use of the premises is stated to fall within Class E(b) and this would mean that such use could be undertaken as permitted development. To align with the intended use, the premises could not be used as a take away without the further grant of planning permission. In the light of the intended use, no objection is raised on parking and highway grounds, given the use could operate without need for specific consent and parking demands are not expected to

be materially different from that associated with an alternative form of Class E use. Delivery requirements are also not expected to be materially different from any other Class E use that could operate from the premises.

KEY ISSUES/CONCLUSIONS

For the reasons outlined above, the proposal is considered to be acceptable, subject to conditions.

RECOMMENDATION

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

1. SC4 (Time limit) 3yrs

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. SC32 (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:-

For the avoidance of doubt and to ensure that the development is carried out as approved.

3. SC27 (Hours of use) ENTER DETAILS

The premises shall not be used for the purposes hereby permitted other than between the hours of 07:00 and 23:00 on Mondays to 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.

4. Non Standard Condition 1 (Pre Commencement Condition)

Before the development hereby permitted commences details of a scheme shall be submitted to and approved in writing by the local planning authority which specifies the provisions to be made for the control of noise emanating from the site. Such scheme as may be approved shall be implemented prior to first occupation and thereafter retained in accordance with such details.

Reason:-

To prevent noise nuisance to adjoining/adjacent properties.

5. Non Standard Condition 2 (Pre Commencement Condition)

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.

6. SC49 (Waste disposal A3 uses) (Pre Commencement Condition)

No building shall be occupied or use commenced until details of a waste management scheme is submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the method and location of refuse and recycling 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 first occupation or commencement of the use hereby approved and retained permanently thereafter.

Reason:-

Insufficient information has been supplied with the application to judge how waste will be managed on site. Submission of this detail prior to occupation in the case of new building works or prior to the use commencing in the case of changes of use will protect the amenity of occupiers of nearby premises.

7. SC50 (Extract ventilation for A3 uses) (Pre Commencement)

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 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:-

Insufficient information has been supplied with the application to judge the technical specifications of the extract ventilation system. Submission of this detail prior to commencement of the use will protect the amenity of occupiers of nearby premises.

8. SC51 (Noise & vibration of A3 uses)(Pre Commencement)

No building shall be occupied or use commenced until a suitable mechanical ventilation system is installed in accordance with a scheme to control the transmission of noise and vibration which has been previously submitted to and approved in writing by the Local Planning Authority. Thereafter, the equipment shall be properly maintained and operated in accordance with the scheme during normal working hours.

Reason:-

Insufficient information has been supplied with the application to judge the technical specifications of the mechanical ventilation system. Submission of this detail prior to occupation in the case of new building works or prior to the use commencing in the case of changes of use protect the amenity of occupiers of nearby premises.

9. Non Standard Condition 3 (Pre Commencement Condition)

The metal flue hereby approved shall be finished in no other colour or finish other than matte black.

Reason:-

In order to ensure that the development has a satisfactory visual impact.

INFORMATIVES

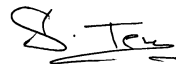
1 Approval following revision ENTER DETAILS

Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: In accordance with paragraph 38 of the National Planning Policy Framework, improvements required to make the proposal acceptable were negotiated with the Agent via email 9th November 2022. The revisions involved extending the extraction unit beyond the roofline. The amendments were subsequently submitted on 15th November 2022.

2 Non Standard Informative 2

The applicant is reminded that this application is made on the basis that the proposed use of the premises will fall within the provisions of Class E(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended). The use of the premises for purposes falling outside of this use class, including any use of the premises as a hot food takeaway, will require the separate grant of planning permission. If you are unsure whether your intended manner of use of the premises falls within Class E(b) you are advised to check the lawfulness of the intended use through an application for a Certificate of Lawful Use.

Authorising Officer: Suzanne Terry



01-02-2023