

COMMITTEE REPORT

Planning Committee on
Item No
Case Number

9 August, 2017
03
17/0998

SITE INFORMATION

RECEIVED	6 March, 2017
WARD	Queens Park
PLANNING AREA	Brent Connects Kilburn
LOCATION	111 Chamberlayne Road, London, NW10 3NS
PROPOSAL	Temporary use of land to the rear of 111 Chamberlayne Road for outside seating area
APPLICANT	Yummie Coffee Co Ltd
CONTACT	Walsingham Planning
PLAN NO'S	PLease see condition 2
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	<p><u>When viewing this on an Electronic Device</u></p> <p>Please click on the link below to view ALL document associated to case https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_133022</p> <p><u>When viewing this as an Hard Copy .</u></p> <p>Please use the following steps</p> <ol style="list-style-type: none">1. Please go to pa.brent.gov.uk2. Select Planning and conduct a search tying "17/0998" (i.e. Case Reference) into the search Box3. Click on "View Documents" tab

RECOMMENDATIONS

That the Committee resolve to GRANT planning permission

That the Head of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

Conditions

1. Temporary time limit
2. Carry out the development in accordance with the approved plans
3. Hours of use
4. Restricting access to the road to the rear

Informatives

1. Reference to elements that would be a statutory nuisance and that are covered through separate legislation.

That the Head of Planning is delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

SITE MAP



Planning Committee Map

Site address: 111 Chamberlayne Road, London, NW10 3NS

© Crown copyright and database rights 2011 Ordnance Survey 100025260



This map is indicative only.

PROPOSAL IN DETAIL

This application seeks planning permission to convert the courtyard to the rear of the existing coffee shop for customer usage.

EXISTING

The existing property is a coffee shop. It was originally a shop (A1) but in December 2016, utilised its permitted development rights to change the property into a café (A3) for a period of 2 years. The site is not listed nor within a conservation area. It is however within a town centre as well as a secondary shopping frontage.

SUMMARY OF KEY ISSUES

The key issues the impact of using this outdoor area in association with the coffee shop upon:

1: the character and appearance of the site and surrounding area: The site is within a town centre as well as a secondary shopping frontage and the courtyard to the rear is associated with a commercial unit. It would therefore not be unreasonable to see this form of activity in this area.

2: the amenity of adjacent occupiers: The openings that are immediately adjacent the site but these are to a clinic and not a residential property. There is also a wall that provides some screening. There are other residential windows and openings in close proximity but with a condition to restrict the hours of use, any impact would not be considered harmful. Any noise and disturbance caused in this area would also be subject to Environmental Health legislation.

RELEVANT SITE HISTORY

There are no relevant planning applications but the property did enact their permitted development rights in December 2016 to convert the usage from a shop (A1) to a café (C3) for a period of 2 years

CONSULTATIONS

41 neighbouring properties were notified of the application on 23 March 2017. So far 7 letters or representation have been received and these raised the following issues:

Comment	Response
Impact upon the adjacent clinic (Osteopath) as well as other adjacent businesses	<p>This application is not expected to result in material harm to neighbouring uses. Nevertheless, the application is for a temporary period to allow review in the event material harm arises.</p> <p>It is appreciated that there is a clinic in close proximity but it is also worth noting that the site is a commercial unit within a secondary shopping frontage. The proposed usage would also not generate significant noise and recommended condition 3 would limit the hours of use. The site would also be subject to Environmental Health Legislation.</p>
Impact upon adjacent windows, overlooking,	<p>There are windows adjacent the plot and that look out onto the area but these are to a clinic and not a residential property. There is a wall that is approximately 1.6m in height that provides some separation. It is also worth noting that this degree of overlooking</p>

Document Imaged

	already existing and that recommended condition 3 would limit the hours of use.
Noise and pollution, odour, smoking,	Excessive noise and harm caused through elements such as smoking could be classified as a statutory nuisance. It would therefore be covered and controlled through Environmental Health legislation rather than planning legislation.
Use of the private driveway to the rear	This can be controlled through a recommended condition.
Safety concerns	The use of the area would be subject to health and safety legislation. It is worth noting that this is separate to planning legislation.
Impact upon character and appearance of area.	The tables, chairs and umbrellas would be readily visible as would people using this area but they would not be considered harmful. The existing fences would provide some screening and this area is obviously associated with a commercial premises. It would therefore not be out of keeping and would not cause harm to the character and appearance of the site or surrounding area.
Bin storage area	The bins are stored in between the two closet wing projections at the side of the building. The use of this area would therefore not have a harmful impact upon this element.

POLICY CONSIDERATIONS

For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Development Plan in force for the area is the 2010 Brent Core Strategy, the 2016 Brent Development Management Policies Document and the 2016 London Plan (Consolidated with Alterations since 2011).

The following are also relevant material considerations:

National Planning Policy Framework 2012

London Plan 2011

Brent's Draft Development Management Policies

DMP1 - Development management General Policy

DMP2 – Supporting strong town centres

DMP3 – Non retail uses

DMP12 - Parking

DETAILED CONSIDERATIONS

- 1.1 The area in question is to the rear of an existing coffee shop. It is currently empty and is generally unused. What is being proposed seeks temporary consent to change this area into an outdoor space associated with the coffee shop until December 2017. This would include the

insertion of 8 tables and 22 chairs and associated umbrellas which would measure at most 2.5m in height. As the change of use of this area would be of benefit to the coffee shop and would help to attract customers who wish to sit outside, the proposed change could be considered acceptable in principle but there are issues that need to be considered and assessed

1.2 The main issues for consideration are:

1: The impact upon the character and appearance of the site and surrounding area:

2: The proposed change of use and the impact this would have on the adjacent properties:

Character and appearance

1.3 The proposed tables and chairs would be visible from the adjacent road and adjacent properties. The proposed umbrellas would also project above the existing fence line but they would not be an incongruous feature. The area in question is currently concrete and it backs onto a commercial premises and what is being proposed would bring some variation and would preserve the overall character and appearance of the site and surrounding area.

Impact upon living conditions

1.4 Due to the siting and distance to the nearby windows, the proposed tables, chairs and umbrellas would not cause a harmful loss of light or significant sense of enclosure. There are concerns raised by neighbours with regards the possible increase in noise and overlooking and this has been expanded upon below:

1.5 Noise

Due to the proximity to residential and commercial premises, especially an adjacent clinic, the use of this area and the noise that it would produce is a concern to some of the neighbours. The Council's Environmental Health Officers are however of the opinion that any harm could be mitigated through an appropriately worded condition that would limit the hours of operation. Excessive noise would be subject to Environmental Health legislation dealing with statutory nuisance, specifically the Environmental Protection Act 1990 .

1.6 It appears that the applicant was aware of these possible issues and the impact upon the adjacent properties prior to the submission of this current application as they voluntarily asked for a temporary trial period. The applicant has asked to use this area until December 2017 and this should give a fair representation as to the impact it would have on the adjacent clinic and other surrounding properties.

1.7 Overlooking

There are windows adjacent the site that would be affected by the proposed change of use but any impact would not be considered significantly harmful. The windows supply light and outlook to a clinic and not a residential property. There is also a wall that provides some degree of separation.

Highways

1.8 The property was previously a shop and is currently a coffee shop and there would not be a significant increase in the number of people using the premises as to have a harmful impact upon the road network. There is some concern from neighbours that pedestrians could utilise and access the road to the rear but the agent has confirmed that this would be restricted and controlled by staff. It has also been addressed through recommended condition 4. The scheme would not cause harm in terms of highway safety.

Permitted development

1.09 In December 2016 the site invoked their permitted development rights and altered the use of the building from A1 to C3 for a period of 2 years. This was carried out under Part 4, Class D of the General Permitted Development Order. The wording of the permitted development criteria does not place restrictions upon elements such as outdoor seating; it states that a use falling within Class A1 (shops) can alter to a flexible use falling within Class A3 (restaurants

and cafes). As this legislation uses the words “building and any land within its curtilage,” it is open to debate as to whether the proposed outdoor seating area could be incorporated under these rights. The agent for the application has made reference to their permitted development rights during correspondence with the council and has advised that they would consider this course of action.

- 1.10 What can be carried out utilising permitted development rights is a material consideration and is given weight, so a trial period to ascertain the actual impact is considered a reasonable course of action.

Conclusion

- 1.11 The site is a commercial premises located within a secondary shopping frontage. The area that is to be altered is to the rear and is clearly associated with a commercial usage. There are a number of windows and openings in close proximity but the proposed change of use would not be likely to result in material harm to neighbours. It is already possible to look into the adjacent openings to the clinic and recommended condition could control the hours of use. It is also worth noting that elements such as the creation of noise can be controlled through separate Environmental Health legislation. The scheme would therefore preserve the character and appearance of the site and surrounding area but to ascertain the actual impact, a trial period is recommended.



Application No: 17/0998

To: Mr Millett
Walsingham Planning
Bourne House
Cores End Road
Bourne End
SL8 5AR

I refer to your application dated 06/03/2017 proposing the following:
Temporary use of land to the rear of 111 Chamberlayne Road for outside seating area
and accompanied by plans or documents listed here:
Please see condition 2
at 111 Chamberlayne Road, London, NW10 3NS

The Council of the London Borough of Brent, the Local Planning Authority, hereby GRANT permission for the reasons and subject to the conditions set out on the attached Schedule B.

Date: 28/07/2017

Signature:

A handwritten signature in black ink that reads "Alice Lester".

Alice Lester
Head of Planning, Transport and Licensing

Notes

1. Your attention is drawn to Schedule A of this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
2. This decision does not purport to convey any approval or consent which may be required under the Building Regulations or under any enactment other than the Town and Country Planning Act 1990.

DnStdG

SUMMARY OF REASONS FOR APPROVAL

- 1 The proposed development is in general accordance with policies contained in the:-
Development Management Policies 2016:-
 - 1 To assist applicants the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website and offers a pre planning application advice service. The scheme does not comply with guidance [and no pre application discussions were entered into]. The local planning authority delivered the decision in a timely manner.

- 1 The use of the land marked red on the location plan and subject to this application shall cease on or before 31 December 2017. A letter confirming when this trial period shall start as well when it has ended shall be sent to the LPA.

Reason: To ascertain the actual impact on the living conditions of the surrounding properties and to conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the following approved drawings:

Floor plan, Details of tables and chairs, Details of umbrella

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The use of the outdoor seating area shall not be used by customers except between the hours of:-

09.00 hours and 18.00 hours Mondays to Sunday.

Outside of these hours, the umbrellas shall be taken down and stored in a horizontal position.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties.

- 4 At no time shall customers enter or exit the site to or from the road to the rear.

Reason: In the interest of preserving neighbouring amenities

- 5 The umbrellas shall be no higher than 2.5m above ground level.

Reason: in the interests of neighbouring amenity.

INFORMATIVES

- 1 Please be advised that the creation of excessive noise and anti social behaviour could be classified as a statutory nuisance and subject to Environmental Health legislation.

Document Imaged

DocRepF
Ref: 17/0998 Page 10 of 11

Any person wishing to inspect the above papers should contact Matt Redman, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937