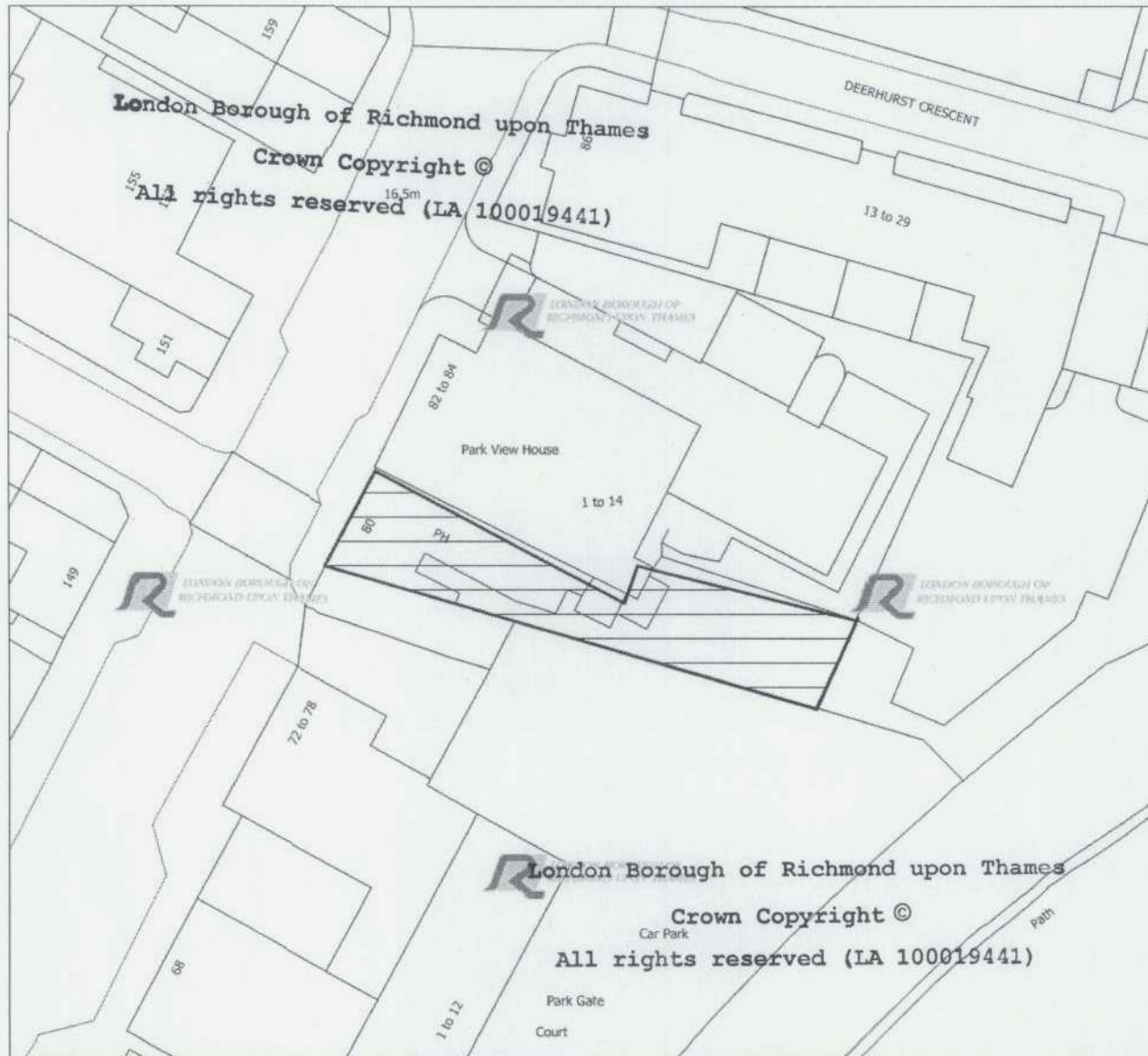


11/1581/FUL
80 HIGH STREET
HAMPTON HILL

FULWELL AND HAMPTON HILL WARD
Contact Officer:
S Graham-Smith



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Proposal: Change of use from A4 (public house) to A5 (take away), to include ground floor extension to rear. Repositioning of associated plant at roof level. New means of access created to upper flat.

Applicant: Savills for Edgewest Lambeth Ltd

Application received: 16th May 2011

Main development plan policies:

UDP – First Review: BLT 2, 4, 11, 16, 30; TRN 2; CCE 15: TC8, 9

LDF Core Strategy: CP7

Emerging DPD: DM DC1, DC5, TC3, TC4, TC5, HD1, HD3, TP1, TP2

Present use: Vacant Public House (The Jenny Lind)

Summary of Application:

The proposal is for a change of use from a public house to a takeaway and follows a previous refusal on the grounds of the adverse effect on amenity and the loss of a cultural/entertainment facility. In the light of imminent changes to Council policy it is not considered that pursuing the loss of facility ground would be prudent as the proposal would not be contrary to the replacement policy. The argument made by the applicant that amenity would not be unreasonably affected has been considered but is not sufficient to overcome this reason for refusal.

Recommendation: Refusal

Site, history and proposal:

1. The property is a vacant two storey building fronting the High Street and was formerly the Jenny Lind public house. Bushy Park is to the rear. The adjoining property to the north is a fairly recent development containing flats, Park View House, above a shop (Budgens). Immediately to the south is an access road leading to a public car park to the rear and on the other side of it is another recent development containing Sainsburys, Costa Coffee and the new Hampton Hill library. The property is a Building of Townscape Merit and is located in a Conservation Area and a Mixed Use Area.
2. A planning application was made at the end of 2010 for permission for a change of use to a takeaway together with a rear extension and roof top plant (Ref 10/3735/FUL). This application was considered by the Planning Committee on 14th April 2011 and although recommended for approval the Committee decided to refuse the application on the following grounds:
 - The proposal would have an adverse effect on the amenity of nearby uses, and surrounding residential areas including a cumulative adverse effect. As such the proposal does not meet the criteria of Emerging Policy DM TC 5, The Evening Economy, of the Development Management Plan, Local Development Framework.
 - In the absence of marketing evidence which clearly demonstrates that the building or site is no longer suitable for a cultural or entertainment use, the proposal is contrary to policy CCE 15, Retention of indoor recreation, cultural and entertainment facilities, of the Richmond upon Thames Unitary development Plan : First Review 2005.
3. This new application proposes the same change of use and alterations but includes additional information on marketing and the applicants response to the reasons for refusal.

Public and other representations:

4. Dr Vincent Cable MP has expressed concerns relating to the use being out of character, the adverse impact on residents amenity, the impact on traffic and parking, litter and possible anti social behaviour.
5. Councillor Eady has submitted a report which points out that a takeaway of the size proposed is likely to attract large numbers of customers which have a negative effect on the existing parking situation and road safety. The marketing evidence is not considered to make a convincing case.
6. The Friends of Bushy and Home Parks objects on the grounds of litter and the impact on wildlife
7. The Hampton Hill Town Centre Manager representing the Hampton Hill Traders Association

objects on grounds similar to those listed below.

8. At the time of writing this report one letter of support and 304 objections have been received, the majority being from local addresses. The objections cite the following reasons:
 - Litter, noise and fumes
 - Overprovision of such uses
 - Out of character
 - Increased parking and traffic problems
 - Adverse impact on Bushy Park
 - Inappropriate use
 - Loss of public house
 - Anti-social behaviour
9. The merits of the applicants and potential users of the property are questioned and other non planning matters are also raised.

Amendments:

10. The initial submission of this application failed to include amendments to the extract flue which had previously been submitted as an amendment to the first application and this has now been remedied.

Professional comments:

11. Apart from the additional information submitted, the application is the same as previously considered and the matters which have been raised were debated at the time. In considering this new application it is necessary to assess whether the new information overcomes the previous reasons for refusal and any other material change in circumstances.
12. The second reason for refusal was based on policy CCE 15 of the Unitary Development Plan First Review. In response to this the applicants have provided additional information relating to the marketing of the property and have stated that the previous use as a public house does not fall within the category of indoor cultural or entertainment use. The information submitted for this application indicates a marketing period which began in May 2009 and the first planning application was made in December 2010, at which time the applicants owned the site.
13. Since the previous refusal on this site the examination has taken place, in May 2011, of the draft Development Management Plan which contains the policies which will replace those in the Unitary Development Plan First Review. A number of changes were proposed just before and during the Examination. Policy DM TC 4 which will replace policy CCE 15 was corrected prior to the examination after a minor omission, but was not otherwise altered. The Examiner indicated at the Examination that he is not intending to propose any further changes in his report which is due in July. The Council therefore is using the submitted version of the DMDPD together with the proposed changes for development control purposes until the final version is adopted in September 2011 and maintains that this now has considerable weight in any decision making. Bearing in mind that an appeal is likely in the event of refusal and the appeal would not be concluded before September 2011, when policy CCE 15 will be replaced, it would not be prudent to rely on a refusal on the basis of that policy in the knowledge of its imminent replacement.
14. Policy DM TC 4 (as amended) states, in relation to public houses:

Changes of use from public houses will not be permitted unless

 - (a) there is another public house within convenient walking distance or
 - (b) The public house use is inappropriate in terms of access or neighbourliness or
 - (c) The proposed new use would provide a community service or function.

15. As there is another public house opposite the site my view is that criterion (a) is satisfied and therefore that the proposal would not be contrary to this policy.

16. The other reason for refusal was based on policy DM TC 5 of the Development Management Plan. This states the following:

Uses that support the evening economy such as cinemas, leisure, restaurants, bars, pubs or other similar uses will be supported if

- (a) They are compatible with other town centre policies including CP 5, 8, 9, and Policy DM TC 1 'Larger Town Centres', Policy DM TC 2 'Local and Neighbourhood Centres and Areas of Mixed Use', Policy DM TC 3 'Retail Frontages'. DM TC1 is of special importance, as it encourages the improvement of the provision of the leisure, cultural and tourism offer.*
- (b) They add diversity to the evening economies of those areas identified as requiring diversification (Richmond and Twickenham town centres).*
- (c) There is not an adverse effect on the amenity of nearby uses, and surrounding residential areas including a cumulative adverse effect.*

17. The Committee clearly felt that the proposed use would not satisfy criterion (c). The applicant has noted concern over the possible impact of litter and stated that there would be a strict litter management programme which could be the subject of a condition in the event of an approval. It is also pointed out that there is a willingness to supply additional litter bins. The town centre is considered to be an appropriate location for such a use and the impact on amenity would be less than that caused by the existing lawful use as a public house.

18. In relation to the question of litter, the assurances now given are similar to those at the time of the previous refusal. The Committee clearly felt, particularly taking into account the proximity of Bushy Park, that a takeaway outlet of this size and consequent number of possible users could result in a large amount of litter, not all of which would be satisfactorily dealt with by the mitigation proposal. Bearing in mind the close proximity of Bushy Park in particular, I believe that the concern remains.

19. Although takeaway outlets are regularly found in High Street locations, Hampton Hill has only had relatively small operators in the past. The size of the operation proposed is clearly far larger than the existing takeaways, a fish and chip shop towards the southern end of the High Street, a Chinese takeaway in the centre and a kebab shop near the northern end. The concern is that a large operation such as that proposed will have an impact which will damage the character of the High Street and this is clearly felt to be the case by the large number of local residents who have objected to the planning application. Although the applicant claims that the impact on amenity would be less than a public house use, I would disagree that this is necessarily the case. The contrary is suggested by the current Use Classes Order which allows a takeaway to become a public house or bar without the need for planning permission but not vice versa.

20. On the basis of the above comments I am not satisfied that the original reason for refusal is overcome by the comments made by the applicant and see no obvious reason to approve the application accordingly.

Conclusion:

21. The proposal is for a change of use from a public house to a takeaway and follows a previous refusal on the grounds of the adverse effect on amenity and the loss of a cultural/entertainment facility. In the light of imminent changes to Council policy it is not considered that pursuing the loss of facility ground would be prudent as the proposal would not be contrary to the replacement policy. The argument made by the applicant that amenity would not be unreasonably affected has been considered but is not sufficient to overcome this reason for refusal.

I therefore recommend **Refusal** on the following grounds:

The proposal would have an adverse effect on the amenity of nearby uses, and surrounding residential areas including a cumulative adverse effect. As such the proposal does not meet the criteria of Emerging Policy DM TC 5, The Evening Economy, of the Development Management Plan, Local Development Framework.

Standard informative:

IL05 - Decision Drawings – Site plan and 3028-01, 02, 03, 3063-01, SME/2009/Hampton-P-1A, 2B and Elevs received on 16th May 2011 and 30189/1F showing details of extract system received on 30th June 2011.

Background papers:

Application forms and drawings

Letters from interested parties

Previous application (Ref 10/3735/FUL)

Planning Committee – 28 July 2011

Addendum

The Addendum details amendments made to the agenda reports since their publication. It may include corrections to the report, additional information (such as extra informatives and conditions) and late correspondence received in relation to the agenda items.

Page 1-5, 11/1581/FUL, 80 High Street Hampton Hill

- Corrected location plan for page 1 (see below)
- Delete last sentence of paragraph 19
- Additional representations – Since the report was written an additional 75 objections have been received from local residents as well as an objection to the loss of the public house from CAMRA. A petition objecting to the application with 89 signatures has been submitted. A spreadsheet indicating the number of parking spaces available in the car park to the rear at certain times of the day has also been submitted.

Residents objections can
be linked to DMTCA under
of general disturbance / adverse impact
on amenity

Reasons for - in part on Part
title / disturbance, traffic generation
obstructs



Page 7-20, 10/3307/FUL, Rosedale House, Rosedale Road, Richmond

Omit reason NS01 and replace with:

Inadequate provision is proposed to be made for parking, access and drop off and collection of pupils thereby prejudicing the free flow of traffic and highway and pedestrian safety, contrary to policies TRN2 and TRN4 and CCE11 of the Unitary Development Plan: First Review, CP5 of the Core Strategy and DM TP2 and TP8 of the Draft Development Management Plan.

Omit reasons for refusal NS04 and NS05 and replace with:

Inadequate provision is proposed to be made for sports, play and recreational facilities thereby resulting in a scheme that fails to provide a suitable quality education facility and play space for the children, and that will result in the unacceptable intensification of the central courtyard, thereby causing undue noise and disturbance to nearby residents to the detriment of their level of

amenities. The scheme would therefore be contrary to policies CCE10, CCE11, BLT16 and BLT 30 of the Unitary Development Plan: First Review, CP18 of the Core Strategy and DM DC5 and OS8 of the Draft Development Management Plan.

The following late letters of representation have been received:

Zac Goldsmith – Support for application. Considers that the proposals will be of substantial benefit to the community. They will allow the conversion of an underused building and provide additional school places which the borough needs. The Boy's school is thriving and the Girls school is similarly well-regarded and the application received warmly by local people.

5 letters have been received in support of the application. The reasons for supporting the application are as follows:

- Borough needs new schools so this will be a great asset
- Siting of the school adjacent to the Boys school is ideal for integration and for sharing facilities.
- Existing boys school has no real impact on traffic within the local area
- Falcons Boys school of actively encouraging parents not to use cars and advocating public transport, walking or cycling or using school coach and arrangement with Richmond Athletic Association (RAA) to enable drop off means the school has no impact on Kew Foot Road or those surrounding roads.
- RAA have had their lease with the Crown since 1885 and although it is due to be renewed, they are sure renewal won't be a problem.
- RAA have a good relationship with Falcon's Boys school and are willing to extend this to the Girls school.
- Relocation would provide a much needed independent girl's school in the area.
- Approving application would reduce traffic and encourage cycling to the school.
- RAA arrangement means that local residents are not affected by congested school runs.
- Policy of keeping traffic out of the surrounding roads is rigorously enforced by the boys school.
- Example of close proximity of Denmead Prep/Hampton (Boys) school and The Lady Eleanor Holles (Girls) school which benefit from a close and efficient relationship with adjacent proximity which suits parents.
- Would help meet the shortfall of nursery places within the Borough.

Letter was received from the Agents (GeraldEve) on the 27th July.

Comments were received on the Officer report which has been noted and they have suggested a condition that would allow the application to be granted:

"In the event that off site recreation, parking, pick up and drop off facility at the Richmond Athletic Ground as set out in the application,

does not continue or cannot be used in accordance with the provisions of the agreed Travel Plan, the school (Class D1) use hereby permitted shall cease, unless alternative provisions within the Travel Plan are agreed in writing “.

Having sought their own legal advice, they consider that this condition would meet the test of Circular (11/95). They propose this condition in the full knowledge of the consequences should the school no longer be able to use the arrangements that are in place after 2016 with regards to drop off, collection, play, sport and access. They are aware that they would have to agree alternative arrangements with the Council or cease to operate the school.

Page 27-30, 11/0622/FUL, 24 Castelnau, Barnes

- Additional condition recommended:
“The external alterations hereby permitted, in particular the removal of the non-original windows and the restoration of the original front chimneys, shall be completed in their entirety before the dwelling house hereby permitted is occupied.
REASON: To ensure that the improvements to the appearance of the building are undertaken in accordance with the terms of the application.

- Representation from occupier of the building, raising the following planning issues (this representation has been circulated direct to Members):
 - A decision on the application should be deferred until the Development Management Plan has been adopted;
 - Querying the status of letters received in support of the application;
 - The report is inaccurate, at para.17, in stating that the units that would be lost are not 1-bedroomed. In fact, two of the units are 1-bedroomed;
 - This is the third application within three years, which is a drain on public money;
 - What weighting is attached to the ‘environmental, street scene, transport and parking benefits’ in comparison to ‘the loss of units’. In particular, how will the parking situation be improved when the existing forecourt can accommodate five cars, but is only used to park two cars and the proposed house may require space for three cars.

Page 45-48, 11/2090/TEL, Second Avenue s/o 314 Mortlake High Street, Mortlake

- The address of the proposal, as stated on the agenda, is incorrect. It should be ‘Second Avenue, side of 310/314 Cowley Mansions’.

- E-mail from Councillor Stockley, set out below:

"I write to express my concern of the location of this box compared to other areas possibly more suitable within the ward. We have discussed this frequently on the phone and unfortunately I am on holiday and therefore unable to speak on behalf of these residents at the planning meeting this Thursday. I write to raise the following issues and would appreciate that this is included in the addendum for the planning committee:

- Timelines: According to the on-line council information this application was received and stamped on 27th June. I understand the council have to make a decision within 56 days to ensure this is not accepted by default. However, due to the incorrect address on letters initially sent to residents it has meant these residents and home owners have not had the appropriate time to raise their concerns with their council. I understand from discussion with you that to extend the timeline or put this decision on the next planning committee agenda would mean we would be outside the deadline and the application would be accepted by default. However, by my calculation, 56 days from 27th June takes us to 25th August and ask again if it is possible that this could be discussed at the meeting on the 18th August?

- Letters of objection: residents have informed me that their written letters have not been included on line and also are not included in the written report by Matthew Rees which goes to the planning committee. Please can we ensure these letters are included in the addendum with this email? I also understand from Zac Goldsmiths office that Matthew has agreed that letters of objection will be considered up until mid August. However if the planning committee agree the application on the 28th July how will these letters be considered? I am concerned that we are sending out a very dangerous impression to our residents. How can we listen to their objections if delegated powers have already agreed an application?

- Having read the report detailed by Matthew Reese - residents do not believe that the current siting of this BT cabinet is in keeping with the street and believe it harms the street scene of occupiers of this road. The design does not respect the local character or contribute positively to onlookers in this conservation area.

- On speaking to residents they are understanding that such boxes are necessary, however have asked that the dept look at other areas where they feel it does not impact so greatly on residents homes. I understand they have suggested that the box be moved to a position on Mortlake High Street, which you mentioned that due to the fact there are Buildings of Townscape Merit may not be possible. However, residents have sent me photos of an area currently with a BT box which is opposite offices and could provide a preferable site for this box. It would be out of sight of residents view and would be on a busy road which already has this type of street furniture.

I appreciate your assistance on this application, however as a local authority we need to ensure residents views are heard above those of these companies and at this time they are greatly concerned that this has not been the case. I understand the meeting will still be going ahead this Thursday and I am sorry I cannot be there to speak on their behalf about this, but I ask that

the committee review the location of this box on Second Avenue and address the issues above with regards to errors in communication to residents.”

- Four further representations received since report was drafted, raising the following issues:
 - Flawed consultation process, as the application has been booked in as ‘side of 316 Cowley Mansions’ when it should be 310 Cowley Mansions (see above), and asked for the matter to be deferred to the next meeting;
 - Restriction of pavement width;
 - Security risk posed by box being located adjacent to boundary wall;
 - Size of the cabinet has been represented inaccurately as smaller than it actually will be;
 - Wrong to assume that existing foliage will screen the cabinet;
 - There are other, more appropriate sites, for example next to the existing BT box, closer to Mortlake High Street.