

Planning Committee

31 May 2018

Reference:
APP/18/00202

Area Team:
South Team

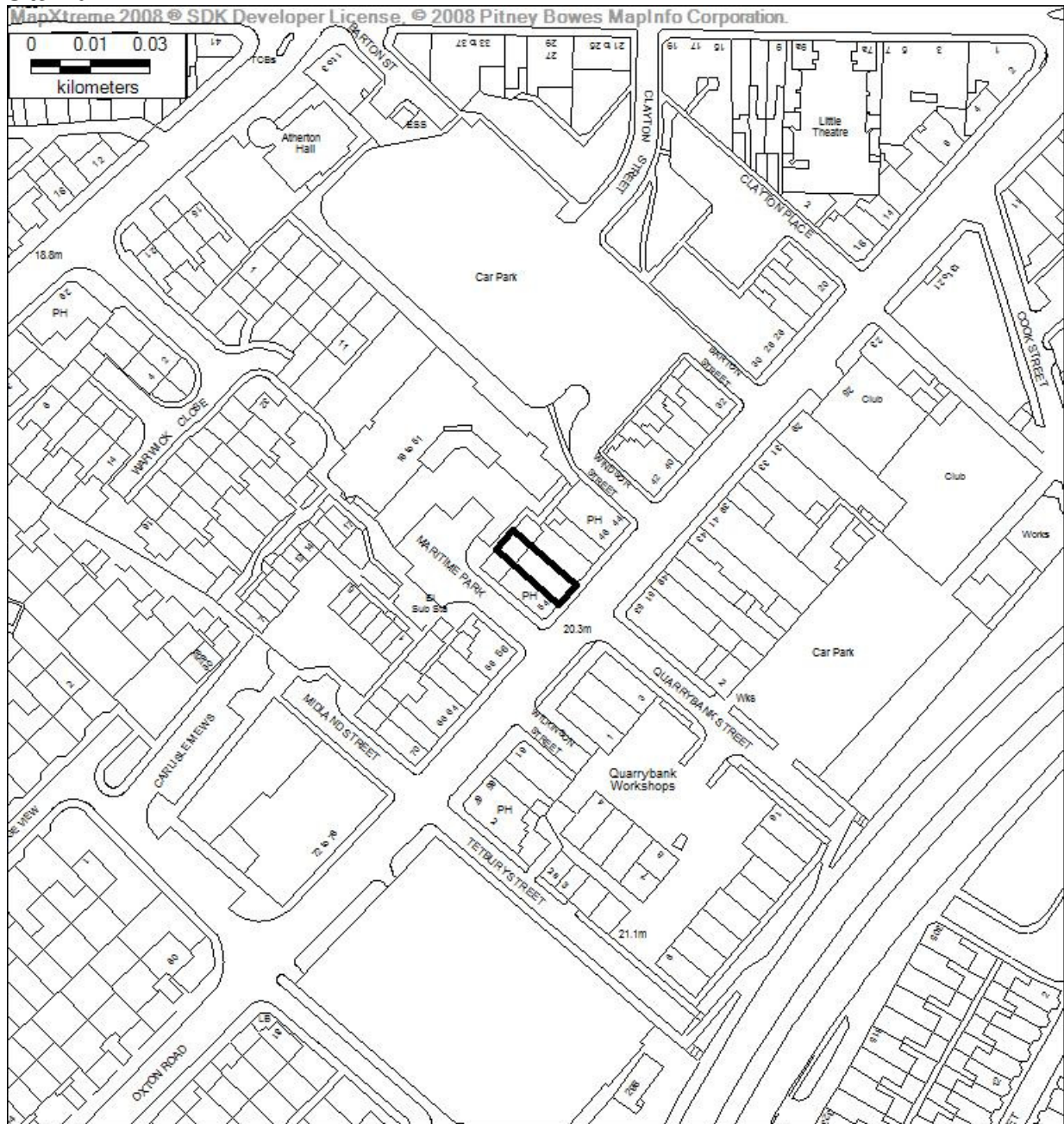
Case Officer:
Mr B Pratley

Ward:
**Birkenhead and
Tranmere**

Location: 52 OXTON ROAD, BIRKENHEAD, WIRRAL, CH41 2TW
Proposal: Change of use to A3 (Restaurant) with retrospective consent sought for external flue to the rear elevation.

Applicant: Mr Constantine Badea
Agent : N/A

Site Plan:



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Development Plan designation:

Traditional Suburban Centre

Planning History:

No planning history.

Summary Of Representations and Consultations Received:REPRESENTATIONS:

Having regard to the Council Guidance on Publicity for Applications 44 notifications were sent to adjoining properties. A site notice was also displayed. At the time of writing this report a petition of objection has been received. A covering letter, written by the Regional Service Manager for Regenda Homes, has been submitted with the petition. Regenda Homes own the building to the rear of the application site, which is used as Independent Living accommodation for people over the age of 60. The issues raised in this letter are as follows:

1. The proposed external flue will be less than 5 metres away from their site.
2. The flue will be an unsightly addition to the streetscape.
3. The residents feel that the businesses opening hours will create increased noise levels and impact on their health and well-being.
4. The proposal will result in increased levels of traffic and parking problems.

CONSULTATIONS:

Highways - No objection

Environmental Health – No objection subject to conditions.

Director's Comments:**REASON FOR REFERRAL TO PLANNING COMMITTEE**

A qualifying petition of objection with 57 signatures has been received.

INTRODUCTION

The application seeks planning permission for the use of the premises as an A3 (restaurant). The application also seeks consent for an external flue that has been partially installed.

PRINCIPLE OF DEVELOPMENT

The proposal is acceptable in principle subject to the provisions of Policy SH2 of the adopted Wirral Unitary Development Plan, and supplementary guidance in SPD3 and the National Planning Policy Framework.

SITE AND SURROUNDINGS

The site is located within the Birkenhead (Oxton Road) Traditional Suburban Centre. There is no planning history for this property and the applicant is unsure of its use prior to his purchase in 2011. The ground floor has been unused since at least 2009. The first floor is within residential use.

The Richmond Public House is located to the south west of the site; the neighbouring site to the north east houses an accountants. The surrounding area comprises a mixture of shops, take-aways, restaurants and public houses. Dwellings to the rear of the site are used as Independent Living accommodation for people over the age of 60.

POLICY CONTEXTPolicy SH2 – Criteria for Development in Traditional Suburban Centres

Within the Traditional Suburban Centres Listed below (n.b. includes Birkenhead (Oxton Road), proposals falling within Class A1, Class A2 and Class A3 of the Town and Country Planning (Use Classes) Order 1987, will be permitted subject to satisfying the following criteria:

- (i) The proposal, together with other recent or proposed development does not undermine the vitality or viability of any Key Town Centre or Traditional Suburban Centre as a whole or

- (ii) other town centre outside the Borough boundary;
- (ii) The proposal does not generate traffic in excess of that which can be accommodated by the existing or proposed highway network;
- (iii) The proposal meets highway access and servicing requirements and includes off street car parking in line with Policy TR9 and cycle parking in line with Policy TR12;
- (iv) The siting, scale, design, choice of materials and landscaping is not detrimental to the character of the area;
- (v) Proposals for A2 uses should incorporate the provision of a shop front and permanent window display;
- (vi) The proposal does not cause nuisance to neighbouring uses or lead to loss of amenity , as a result of noise disturbance, on-street parking or delivery vehicles – where necessary a suitable condition will be imposed on hours of opening/operation;
- (vii) Where a proposal for Class A3 use is located on a street containing similar establishments, cumulative levels of noise and disturbance, from both the existing and proposed activities, should not exceed a level likely to be detrimental to the amenity of the area;
- (viii) Proposals for Class A3 uses should include measures to mitigate smells and internally generated noise – these measures should not be visually intrusive in the street scene and should be fully installed before the business commences trading.

SPD3 – Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments

SPD3 states that restaurants, drinking establishments and hot food takeaways are generally acceptable within traditional suburban centres provided they do not harm nearby residential properties. It recommends a 40-metre separation distance from the main elevation of a dwelling house or a building used solely for self-contained flats when measured along a public highway.

APPEARANCE AND AMENITY ISSUES

Paragraph 3.3 of SPD 3 states that proposed uses within Use Classes A3 should be at least 40 metres away from the main elevation of a dwelling house or a building used solely for self-contained flats, when measured along the public highway. In this instance, when measured along the highway, the customer entrance will be 32 metres to the closest residential dwelling. However, the Richmond Public House is already located between the site and this dwelling. Given this, and the fact that the site is within a traditional suburban centre, it is considered that the proposed use would not have a significantly greater impact on the occupants of nearby residential occupants than the existing commercial uses.

The residential accommodation at first floor level is understood to be within the same ownership as the ground floor. Nonetheless, in the event that ownership is in the future separated, it is recommended a condition is attached to the permission requiring the submission of a suitable noise insulation scheme.

The flue is typical of the type of structures that can be found in centres such as this and other such flues can be found within the surrounding area. Whilst it is acknowledged that it is a tall structure, this is necessary given the requirement for it to transport fumes from the kitchen to above the height of the eaves. The flue will be painted black to reduce its visual impact.

The Council's Environmental Health Division has no objection to the proposal, subject to the imposition of conditions. It is therefore considered that the flue would not have a detrimental impact on nearby residents as a result of odours. The representation from the Regional Service Manager for Regenda Homes states that the flue will be less than 5 metres from their site. It should be noted, however, that this measurement is to the site boundary. The flue will be approximately 13 metres to the nearest residential dwelling.

The application forms confirm that the restaurant will be open from 8am until 11pm Mondays to Saturdays, and not at all on Sundays and Bank Holidays. These opening hours are considered to be reasonable given the sites location within a traditional suburban centre. It is recommended that these hours are secured by condition, with opening hours on Sundays and Bank Holidays from 9am until 10.30pm.

The applicant has confirmed that bins will be stored within the rear yard and taken to the highway by

way of an existing gate.

SEPARATION DISTANCES

Separation distances do not apply in this instance, as the proposal does not result in the creation of new residential dwellings.

HIGHWAY/TRAFFIC IMPLICATIONS

The Council's adopted parking standards (SPD4) set out maximum limits and the proposal does not exceed these. The applicant has confirmed that parking for deliveries is available to the front of the site.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

There are no Environmental/Sustainability issues relating to these proposals.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

The proposed A3 (Restaurant) use is considered to be acceptable within this Traditional Suburban Centre and will not have a significantly greater impact on the occupants of nearby residential dwellings than the existing commercial uses. The proposal therefore complies with Policy SH2, SPD3 and the provisions of the NPPF.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed A3 (Restaurant) use is considered to be acceptable within this Traditional Suburban Centre and will not have a significantly greater impact on the occupants of nearby residential dwellings than the existing commercial uses. The proposal therefore complies with Policy SH2, SPD3 and the provisions of the NPPF.

Recommended Approve
Decision:

Recommended Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 21 February 2018 and listed as follows: unreferenced floor plans.

Reason: For the avoidance of doubt and to define the permission.

3. The premises shall not be open for business outside the hours of 08.00 and 23.00 Monday to Saturday and 9.00 and 22.30 Sundays and Bank Holidays.

Reason: In the interests of residential amenity and to comply with Policy SH2 of the Wirral Unitary Development Plan

4. A suitable noise insulation scheme between the ground floor and the residential accommodation (adhering to 'Building Regulations Approved Document E - Resistance to

the passage of sound') shall be submitted in writing to and approved by the Local Planning Authority, prior to the commencement of any building/renovation work.

Reason: in the interests of the amenity of occupants of the upper floors of the building, and to comply with Policy SH2 of the Wirral UDP.

5. A suitable scheme of fume extraction shall be submitted in writing to and approved by the Local Planning Authority prior to the commencement of the use hereby authorised. When designing the fume extraction system reference should be made to the Defra document: 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.

Reason: in the interests of residential amenity and to comply with Policy SH2 of the Wirral UDP.

6. Amplified music shall not be played at a level that will cause unreasonable disturbance to the occupants of any properties in the vicinity. The premises shall not be used for the performance of live music.

Reason: in the interests of the amenity of neighbouring residential dwellings, and to comply with Policy SH2 of the Wirral UDP.

7. The flue hereby permitted shall be painted black, and shall be maintained in that colour in perpetuity.

Reason: in the interests of the visual amenity of the site and its surroundings, and to comply with Policy SH2 of the Wirral UDP.

Last Comments By: 26/03/2018

Expiry Date: 18/04/2018