

Officer's Report

Application Number	HGY/2022/2583
Type	Full planning permission
Location	Ground Floor Shop, 178, Philip Lane, London, N15 4JW
Proposal	Installation of extraction flue and pergola at the rear and replacement shopfront.
Case Officer	Sarah Madondo
Valid Date	03/10/2022
Applicant	Mr Mirjan Gradica
Agent	Mrs Emine Fezal Yurdakul

RECOMMENDATION

Approve with Conditions

Proposed Development

This is an application for the installation of extraction flue, pergola system at the rear and installation of a new shopfront.

Site and Surroundings

The application site relates to a three storey mid-terraced commercial premises on the ground floor with residential accommodation above; situated on the northern side of Philip Lane close to the junction with Mount Pleasant Road. The site is located within Clyde Circus conservation area and does not fall within the cartilage of a listed building.

Permission is sought for the installation of extraction flue, pergola system at the rear and installation of a new shopfront. Officers note that the proposal also involves the change of use of ground floor shop from Class E to Eb (Food & Drink). The Council recognises that on 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. The former A1 retail and A3 cafes/restaurants uses now fall under a new use class, Class E. Given that the Use Classes Order provides for changes of use within a single use class as not being taken to involve development, a change from retail to a restaurant no longer requires planning permission. As such, this is a material consideration that has been given substantial weight in the consideration of this application.

While this development would normally be subject to assessment against Policy DM43, the change in legislation is a significant material consideration that is considered to outweigh the policy in this instance. Whether or not the development accords with Policy DM43, given that the change of use does not require permission, there would be no reasonable grounds to refuse the formal granting of planning permission.

Design and impact on the character and appearance of the conservation area

The site lies in Clyde Circus Conservation Area and the conservation officers have been consulted and advises that are no objection to principle of the shopfront which has the protection to enhance the character and appearance of the conservation area. In relation to the pengola, there is no objection to the proposal therefore acceptable.

The proposed shopfront would be of a high-quality modern clear glass appearance and the shopfront has been appropriately designed to fit below the sign.

The extractor flue is shown on the submitted plans would not be excessive in bulk. It is considered that the size, location and design of the extractor flu would ensure that it is not visually dominant in appearance and would not be considered to have an unacceptably detrimental impact upon the character and appearance of conservation area, the host building and the visual amenities of the area. Therefore, the local character and visual amenity of the area will be protected.

Details of both noise and odour mitigation have been submitted along with details of maintenance. The proposed measures are considered sufficient to ensure that neighbouring residential occupiers will not be adversely affected by noise or odour as a result of the development. These measures will be secured by suitably worded conditions. Subject to conditions, the proposal is acceptable in amenity terms.

The proposed development is in general accordance with Policies DM1, DM9 & DM43 of the Development Management, Development Plan Document 2017, and policy SP11 & SP12 of Haringey's Local Plan Strategic Policies 2017. The proposed development also accords with the relevant policies of the London Plan 2021 and the NPPF.

Conditions:

- 1 The development to which this permission relates must be begun no later than three years from the date of this decision notice, failing which the permission shall be of no effect.

Reason: This condition is imposed by virtue of Section 91 of the Town and Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.

- 2 The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

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

- 3 The design and installation of new items of fixed plant hereby approved by this permission shall be such that, when in operation, the cumulative noise level LAeq 15 min arising from the proposed plant, measured or predicted at 1m from the facade of nearest residential premises shall be a rating level of at least 5dB(A) below the background noise level LAF90. The measurement and/or prediction of the noise should

be carried out in accordance with the methodology contained within BS 4142: 1997. Upon request by the local planning authority a noise report shall be produced by a competent person and shall be submitted to and approved by the local planning authority to demonstrate compliance with the above criteria.

Reason: In order to protect the amenities of nearby residential occupiers consistent with Policy D14 of the London Plan 2021 and Policies DM1 and DM23 of The Development Management DPD 2017.

- 4 The operation of the approved plant shall be undertaken in accordance with the odour mitigation details and programme of maintenance outlined in the Odour Management Plan and Ventilation and Impact Statement. The mitigation measures shall be installed in accordance with the approved details and shall be maintained thereafter.

Reason: In order to ensure that the proposal does not prejudice the enjoyment of neighbouring occupiers of their properties consistent with Policy DM1 of The Development Management DPD 2017, and for the avoidance of doubt.

- 5 The use of the extract equipment hereby approved shall not commence until the noise control measures outlined in the Odour Management Plan and Ventilation and Impact Statement have been installed. The measures shall be retained as such thereafter.

Reason: In order to ensure that the proposal does not prejudice the enjoyment of neighbouring occupiers of their properties consistent with Policy DM1 of The Development Management DPD 2017, and for the avoidance of doubt.

- 6 The existing pilasters and integral corbel brackets to the existing shopfront must be retained insitu and unaltered unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the special architectural or historic interest of the building consistent with Policy HC1 of the London Plan 2021, Policy SP12 of the Haringey Local Plan 2017 and Policy DM9 of The Development Management DPD 2017.

Informatives:

- **INFORMATIVE: Owners Consent.** The applicant is advised that it is a condition of every consent granted that before displaying any advertisement, the permission of the owner of the land or other person entitled to grant permission must be obtained. To display any advertisement without this permission is an offence, open to immediate prosecution.
- **INFORMATIVE: Land Ownership**
The applicant is advised that this planning permission does not convey the right to enter onto or build on land not within his ownership.
- **INFORMATIVE: Party Wall Act**
The applicant's attention is drawn to the Party Wall Act 1996 which sets out requirements for notice to be given to relevant adjoining owners of intended works on a shared wall, on a boundary or if excavations are to be carried out near a neighbouring building.

- **INFORMATIVE: Hours of Construction Work**
The applicant is advised that under the Control of Pollution Act 1974, construction work which will be audible at the site boundary will be restricted to the following hours:-

8.00am - 6.00pm Monday to Friday

8.00am - 1.00pm Saturday

and not at all on Sundays and Bank Holidays.