

Our ref. : AB2240/LPA091222

Planning, Regeneration & Economy
The London Borough of Haringey
Level 6, River Park House
225 High Road
Wood Green
N22 8HQ

9th December 2022

Dear Sir/Madam,

FULL PLANNING APPLICATION – 101 MYDDLETON ROAD, WOOD GREEN, LONDON, N22 8NE

On behalf of our clients, Tesland Investments Ltd., please find enclosed a full planning application relating to the ground floor commercial premises at 101 Myddleton Road, Wood Green, London, N22 8NE.

This planning application which is being submitted to the London Borough of Haringey (the LPA) electronically by way of the Planning Portal website, comprises the following documentation ;

- Completed application forms and ownership certificate.
- Completed Community Infrastructure Levy (CIL) form.
- This covering letter prepared by Beamish Planning Consultancy, incorporating a supporting planning statement.
- Marketing report dated 28th November 2022 prepared by Claridges Commercial Property Consultants.
- Drawing no. 8299/01 Revision A – 1:1250 scale site location plan prepared by Metropolitan Development Consultancy.
- Drawing no. 8299/02 Revision A – 1:200 scale block plan prepared by Metropolitan Development Consultancy.
- Drawing no. 8299/03 Revision C – existing ground floor plan prepared by Metropolitan Development Consultancy.
- Drawing no. 8299/05 Revision B – existing and proposed elevations and sections prepared by Metropolitan Development Consultancy.
- Drawing no. 8299/23 Revision A – proposed ground floor plan prepared by Metropolitan Development Consultancy.

Payment of the statutory planning application fee of £462, plus the Planning Portal service charge fee of £32.20, has been made electronically when submitting this planning application via the Planning Portal website.

Description of application premises and surroundings

The premises which is the subject of this application comprises a currently vacant, ground floor commercial premises which form part of a two-storey mixed use building (comprising a ground floor commercial unit and a 2-bedroom flat above) within a terraced parade fronting Myddleton Road to the north.

The gross internal floorspace of the application premises is approximately 115 square metres and includes a deep rear garden extending to the southern boundary of the premises, which adjoins the rear gardens of residential properties fronting Thorold Road.

The premises have been vacant since March 2020, when the previous commercial occupier, who had occupied the premises (which was known as 'The Step') since February 2012, decided to vacate. Prior to that occupier taking over the premises in February 2012, it had previously been in use for many years (following the granting of planning permission in October 1987) as a public house/bar known as Henley's Bar, which now falls within 'sui generis' use, but which prior to the September 2020 amendments to the Town and Country Planning (Use Classes) Order fell within Use Class A4 (Drinking Establishments).

However, as discussed in considerable detail within the section of this planning statement entitled 'Planning Appraisal' there is a degree of uncertainty as to precisely what the lawful use of the premises was when it was called 'The Step', in terms of whether the primary usage of the premises continued to be as a drinking establishment, or whether the primary usage of the premises changed to become a restaurant/café (formerly Use Class A3, now Use Class E (Commercial, Business and Service)).

The application premises fall within a designated Local Shopping Centre (Myddleton Road), which Table 5 to Appendix 3 (Town Centre Frontages) of the LPA's adopted Development Management Development Plan Document (DPD) confirms includes all commercial premises from 74-136a Myddleton Road and 65-143 Myddleton Road.

The building which is the subject of this planning application is neither statutorily nor locally listed, but does fall within Bowes Park Conservation Area, which was first designated in November 1994. Additionally, the application premises was nominated and subsequently listed as an Asset of Community Value (ACV) on 13th May 2022.

In August 2022 the LPA launched the trial Bowes Green Low Traffic Neighbourhood scheme, which includes Myddleton Road and all surrounding streets. The application premises benefits from a Public Transport Accessibility Level (PTAL) of 4 (on a scale of 0 (worst) to 6b (best)), being 4-minutes' walk from Bowes Park railway station, 9-minutes' walk from Bounds Green underground station (served by Piccadilly line services) and 7-minutes' walk from bus stops served by the 121, 141, 221, 232 and 329 bus services.

Relevant recent planning history of application premises and surroundings

The most recent planning application relating to the application premises (application ref. HGY/2021/1889 was validated by the LPA in June 2021 and proposed the reconfiguration and part-change of use of the premises to retain a smaller commercial unit and the creation of a 2-bedroom flat to the rear, along with associated operational development including a single storey rear extension, external alterations and the provision of refuse and cycle stores.

That application, which attracted over 200 representations from third parties, primarily objecting to the proposed reduction of commercial floorspace and the associated loss of a community asset, was withdrawn by the applicant in August 2021.

Prior to application ref. HGY/2021/1889, in January 2021 the LPA validated a planning application (ref. HGY/2021/0268) which sought the change of use of the whole application building (i.e. both the ground floor commercial unit and the upper floor residential unit) to create 4 flats and associated operational development, including extensions and alterations.

That application, which attracted over 300 representations from third parties, primarily objecting to the proposals on the basis of the loss of the existing commercial unit, was withdrawn by the then agent in March 2021.

By way of background to the above planning applications, our clients/the applicant had engaged in pre-application dialogue (LPA ref. PRE/2020/0142) with the LPA in the latter part of 2020, including a meeting with Officers on 15th September 2020 and the subsequent provision of written advice, and that written advice is attached as Appendix 1.

Within that written pre-application advice Officers indicated that the lawful use of the application premises was as a café, and on that basis advised that the change of use of the commercial floorspace *“will not be resisted...and the principle of the development is therefore acceptable.”*

With the exception of two express advertisement consent applications (one submitted in December 2011 (application ref. HGY/2011/2296) and the other submitted in December 1991 (application ref. HGY/1991/1303) the only other relevant planning history relating to the premises dates back to October 1987, when the LPA granted planning permission (application ref. OLD/1987/1053) for the change of use of the premises from a shop to a public house, and that permission was subsequently implemented.

It is also noted that, in September 2022, the LPA granted planning permission (application ref. HGY/2022/1399) for the erection of a rear dormer roof extension, and the replacement of the existing fenestration within the first-floor rear elevation with larger fenestration, to the flat located at first floor and loft level directly above the application premises. That permission is yet to be implemented.

Proposals which are the subject of these applications

Planning permission is sought for the change of use of the application premises to flexible Class E (Commercial, Business and Service) usage.

Class E usage would enable the premises to be used for any of the following purposes ;

- a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- c) for the provision of the following kinds of services principally to visiting members of the public—
 - (i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- g) for—
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

This means that the premises could be used as a restaurant/café, or as a community facility, amongst other uses. It should also be stressed that if planning permission was granted for the change of use of the premises to flexible Class E usage, and if we accept that the current lawful use of the premises is as a public house/bar, until that planning permission was actually implemented there would be nothing (in terms of planning legislation) to prevent someone from operating a public house/bar at the premises.

Consequently, the proposed flexible Class E usage of the premises would ‘open up’ the possibility of the premises being occupied for one of many different uses appropriate to a designated local shopping centre location, rather than being restricted to only being used (without requiring planning permission) as a public house/bar.

Of course, should the LPA consider it necessary to do so, a condition could be imposed upon the granting of planning permission for Class E usage preventing the premises from being used for specific uses which would otherwise fall within Class E without requiring planning permission, for example the LPA might consider that it is necessary to prevent the premises being used for purposes falling within Class E(f)(iii), i.e. for any industrial process.

Planning permission is sought only for the change of use of the application premises, and not for any associated operational development

Relevant planning policies and associated guidance

At local level, the Development Plan for the application premises and Borough as a whole currently comprises the Local Plan : Strategic Policies Development Plan Document (DPD) 2013 (with alterations 2017), the Development Management DPD, the Site Allocations DPD and the Tottenham Area Action Plan, all of which were adopted by the LPA in July 2017.

The LPA has commenced work on a new Local Plan which will replace the currently adopted Local Plan documents, but that new Local Plan is at a preliminary stage, with no draft Local Plan published for consultation at this time. Accordingly full weight must continue to be attached to the currently adopted Local Plan documents, as long as they confirm with the content of the more up-to-date London Plan, NPPF and NPPG, as detailed below.

At regional level, the Development Plan comprises the new London Plan, which was published by the GLA in March 2021 following independent Examination in Public and subsequent review by the Secretary of State for Housing, Communities and Local Government.

At national level, the latest National Planning Policy Framework (NPPF) was published by the Government in July 2021 and streamlines previous national planning policy into a consolidated set of priorities, to ensure that planning decisions reflect genuine national objectives, with the principle of sustainable development permeating the framework.

The National Planning Policy Guidance (NPPG) was first published by the Government in March 2014 and is regularly updated, and also streamlines previously published national guidance, which had taken the form of planning policy guidance notes and planning policy statements, into a single document.

Planning appraisal

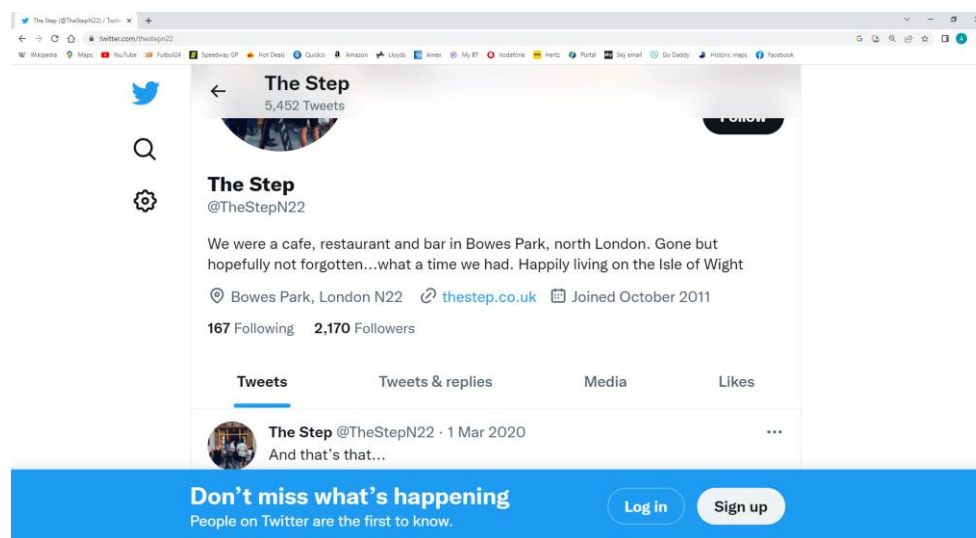
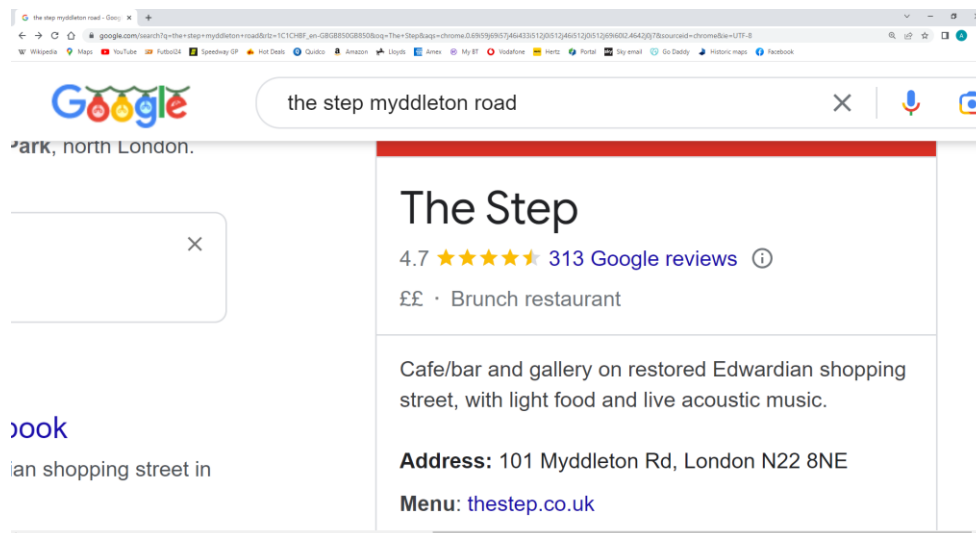
Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan, unless material considerations indicate otherwise.

Firstly, before fully appraising the planning merits of the proposal, and as outlined earlier within this planning statement, a degree of uncertainty exists as to what precisely is the lawful use (in planning terms) of the application premises. There is no doubt that until the premises became 'The Step' in February 2012, it had operated as a public house/bar (following the granting of planning permission for such usage in October 1987).

However, prior to amendments to the Use Classes Order which came into force in May 2017, a drinking establishment (Use Class A4) could be converted to a shop (then Use Class A1), financial or professional services (then Use Class A2) or a restaurant/café (Use Class A3) without requiring planning permission to do so.

In light of the above, and based on information available within the public domain, a degree of uncertainty as to precisely how 'The Step' operated (in planning use terms) from when it commenced trading as 'The Step' in February 2012 through to the premises closing in March 2020.

The business entry for the premises, as it still appears on the internet today and as illustrated by the screenshot overleaf, describes the premises as a 'brunch restaurant', comprising a café/bar and gallery. Additionally, as also illustrated on the second screenshot overleaf, the Twitter account relating to premises when it was called 'The Step' states "we were a café, restaurant and bar".



Furthermore, when reviewing the content of the 313 Google reviews of 'The Step', along with the content of the many third-party representations submitted to the LPA in respect of the two recent planning applications (refs. HGY/2021/1889 and HGY/2021/0268), it is apparent how those reviews or representations differ in the words used to describe the use of 'The Step', with many individuals calling it a restaurant, café or bistro, and others calling it a bar or a pub.

Indeed, it is a matter of public record that the group called 'We ♥ Myddleton Road' posted on an internet forum on 3rd February 2021, following the submission of planning application ref. HGY/2021/0268, within which the authors consistently describe the use of 'The Step' as comprising a café/restaurant. The link to that forum, as remains available via any internet search engine today, is <https://bowesandbounds.org/forum/topics/don-t-let-the-step-be-converted-into-flats?commentId=6278630%3AComment%3A235049> and a printed screenshot of the complete forum post is also attached as Appendix 2 to this planning statement.

Additionally, as it is evident from the written pre-application advice provided by the LPA in late 2020, at that time the LPA did not suggest that the most recent/lawful use of the premises was anything other than as a restaurant/café, i.e. a Class E use. It is acknowledged that pre-application advice is not legally binding, but nonetheless the fact that the LPA Officers did not suggest that the lawful use of the premises was as a public house/bar, when one would expect such research to form a fundamental part of the preparation of that pre-application advice, is significant.

On the face of the evidence available within the public domain, it is arguable that when 'The Step' first started trading in February 2012, and as it continued trading until its closure in March 2020, it traded primarily as a restaurant/cafe, with an ancillary bar element. As already outlined, the Use Classes Order which was in place at that time meant that planning permission was not required to change the use of the premises from its former public house/bar use (then Use Class A4) to a restaurant/café use (then Use Class A3).

However, we recognise that, even within the extensive information available within the public domain, there is an absence of absolute clarity as to the precise use of the premises, which in itself suggests that 'The Step' encompassed a mix of uses, and the extent to which each of those elements was ancillary or primary to the other, or whether neither element was ancillary or primary to the other, is unclear.

Certainly, in the same way we recognise the difficulties in proving our contention that 'The Step' traded primarily as a restaurant/cafe, with an ancillary public house/bar element, it must also be acknowledged that there is little evidence available within the public domain which supports the contention that 'The Step' primarily traded as a public house/bar, and that any café/restaurant use was merely ancillary.

Moving on to appraise the planning merits of the proposed change of use, this application seeks planning permission for the change of use of the vacant application premises to an entirely flexible Class E use, which as set out on page 3 of this planning statement encompasses a wide variety of different commercial uses.

Whilst, for the reasons already detailed, we believe there is uncertainty as to whether the most recent/lawful use of the premises was solely as a public house/bar, nonetheless in the absence of any definitive argument or evidence to the contrary we recognise that both adopted policy DM50 (Public Houses) of the LPA's Development Management DPD, and adopted policy HC7 (Protecting Public Houses) of the London Plan, are of relevance when appraising the proposed change of use.

Development Management DPD policy DM50 states that, in respect of proposals for the redevelopment or change of use to other uses that would result in the loss of a public house/bar, the LPA will refuse such proposals unless it can be demonstrated that ;

- a) The public house is no longer financially viable, as set out through a thorough marketing campaign;
- b) All feasible options for re-provision of the public house on site have been explored; or
- c) The redevelopment of the site would secure an over-riding public benefit.

The thrust of policy DM50 is also largely repeated in policy HC7 of the London Plan, with the latter also advising that applications which propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is ["authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future."](#)

In appraising the proposals against the development plan policies outlined above, it is important to remind ourselves that the premises have remained vacant since the operators of 'The Step' vacated the premises in March 2020, almost three years ago. Additionally, as has been extensively documented within the public domain, the hospitality sector, and in particular public houses, which were already experiencing difficulties previously, has been hit very hard by the coronavirus pandemic, and, more recently, by the ongoing cost of living crisis, which has resulted in many public houses/bars either not reopening since the pandemic or closing subsequently.

Reflecting the requirements of the development plan, this submission includes a comprehensive marketing report prepared by Claridges Commercial Property Consultants, who were instructed to (and immediately commenced) marketing the application premises in June 2021, and that marketing has continued without interruption up to the present day.

As detailed within that marketing report, the premises were first marketed for commercial rent, either with or without the rear yard area, and then, in February 2022, also marketed for sale (including the rear yard area), and the sale price has also been reduced during the extensive marketing period. Within the marketing report, Claridges outline how the price at which the premises has been marketed is below the market value, including by citing local comparables, and highlight the incentives offered by the instructing client (the applicant) to make the premises as commercially attractive as possible.

The marketing report details how, during the continuous marketing period from June 2021 up to 28th November 2022, 52 enquiries relating to the premises were received, resulting in 23 inspections by either individuals or organisations potentially interested in the premises (note that one party carried out 3 inspections). Page 6 of the marketing report details every viewing which took place, including the feedback received from the prospective occupier, and the marketing evidence shows that 2 offers, matching the commercial rental price at which the premises, were received, one from a day nursery, and the other from a company (registered as 'licensed restaurants' called Keoz Lounge Ltd.

The latter offer did not proceed as the company failed reference and anti-money laundering checks, whilst it is understood that the day nursery operators are still interested in occupying the premises but require the certainty of knowing that planning permission is in place for such usage (which would fall within Class E(f)), which would be provided by the approval of this planning application.

From the list of viewings within the marketing report it is also evident that whilst 2 potential public house/bar operators (Sam Williams, who viewed the premises with a view to operating a 'lounge bar', and Tom Smith, who viewed the premises with a view to operating a 'gin distillery and bar'), both did not proceed with their initial interest on the basis that they felt there was not enough footfall/the location was not busy enough to make their proposed business economically sustainable.

Furthermore, other than those 2 individuals, no other individuals who viewed the premises wished to use it as a public house or bar. Indeed, the marketing evidence demonstrates that the uses sought by most interested parties fell with Use Class E, including as a hairdressers, restaurant/café, bakery or shop.

Accordingly, the robust marketing evidence clearly demonstrates that, despite the premises being marketed continuously for almost 18 months for both rental and sale, no interested party has made an offer to operate a public house or bar from the premises. Consequently, it has been demonstrated that the use of the premises as a public house or bar is both unrealistic and no longer financially viable, in accordance with requirement (a) of local policy DM50 and the requirements of London Plan policy HC7.

With regards to the second criteria of local policy DC50, the premises has been offered on a shell basis, with or without the rear yard, and on both a commercial rental and freehold sale basis. Therefore, all flexible options for the re-provision of a public house/bar have been fully explored.

In respect of the local provision of public houses/bars, we note that only 75 metres from the application premises no. 120a Myddleton Road (known as Bohem Tap Room) is currently in lawful use as a drinking establishment, having been granted planning permission in March 2017 (application ref. HGY/2017/0514).

Turning to criteria (c) of policy DM50, given that the application premises has now been vacant for over 33 months the restoration of the premises to active commercial usage would undeniably make a positive contribution to the vitality and viability of the Local Shopping Centre which it forms part of. Indeed, precisely that point has been raised by the vast majority of objectors to the most recent planning applications relating to the premises.

Indeed, the proposed flexible Class E usage of the premises would be fully compliant with both adopted Development Management DPD policy DM41 (New Town Centre Development) and policy DM43 (Local Shopping Centres) as well as the NPPF, with paragraph 86 of the NPPF stressing how *"planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to growth, management and adaptation."*

We also note how many objectors to the most recent planning applications objected to those previous proposals on the basis that they would have resulted in the loss (or reduction in floorspace) of a restaurant/café or community facility. We would assume that those objectors would not object to the proposed flexible Class E usage of the premises, given that this would facilitate the usage of the premises for a wide range of defined (within the glossary within Annex 2 of the NPPF) main town centre, including potentially the use of the premises as a restaurant/café or as a community facility (the full list of uses falling within Class E, as defined by the Use Classes Order, is set out on page 3 of this planning statement).

As referenced earlier within this planning statement, Myddleton Road and many neighbouring streets fall within a trial Low Traffic Neighbourhood (LTN), which first started operating in August 2022. Both at the present time, and in the future if that LTN was made permanent at the conclusion of the trial period, it is recognised that the LTN has a considerable impact upon passing trade. Indeed, that is another reason why the proposed change of use to flexible Class E usage should be considered favourably, as the granting of planning permission for such flexible usage would broaden the scope of potential commercial operators who could operate from the premises (without needing to obtain planning permission to do so), with some of those operators less reliant upon passing trade.

Finally, we recognise that the application premises was successfully nominated as an Asset of Community Value (ACV), with the premises being listed on 13th May 2022. The owners (our clients) formally notified the LPA of their intention to sell the premises on 27th May 2022, triggering the interim moratorium period which concluded on 8th July 2022. Although the ACV list maintained by the LPA does not indicate this, we are aware that a local group formally notified both the LPA and the applicant that it wished to be treated as a potential bidder.

We are also aware that since that notification, a funding campaign to enable the local community to purchase the premises commenced and remains ongoing, and we understand that the campaign is awaiting news as to whether a bid for a Government Grant has been successful. It should however be stressed that the full moratorium period concluded on 27th November 2022.

Nonetheless, if the bid for a Government Grant is successful then we would expect that potential purchase to progress to completion, and this planning application (which of course is likely to take at least 8 weeks to be determined) will not impact upon any such purchase, indeed as planning permission runs with the land rather than the applicant the granting of planning permission would only be of further benefit to those purchasers.

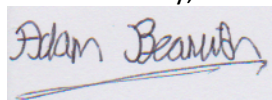
Conclusion

For the reasons set out within this submission, planning permission should be granted for the proposed change of use of the application premises to a flexible Class E use. The marketing evidence provided as part of this submission demonstrates that the use of the premises as a public house or bar is both unrealistic and no longer financially viable (putting to one side the uncertainty as to the precise nature of the most recent usage of the premises), whilst the proposed flexible Class E usage of this vacant premises would make a positive contribution to the vitality and viability of the Myddleton Road Local Shopping Centre which the premises forms part of.

The granting of planning permission should be subject to the imposition of appropriate, necessary and reasonable conditions, the content of which we welcome discussions with the Case Officer to whom this planning application is allocated.

We trust that the LPA will expedite the validation of this planning application upon receipt, but should any further information or clarification be required please do not hesitate to contact us.

Yours faithfully,



Adam Beamish
BA (Hons), DIP TRP, MRTPI