113 Ladypool Road and 180 Ombersley Road, Sparkbrook, Birmingham, B12 8LJ

Change of use of ground floor to two restaurants (Use Class A3) and first-floor to two offices (Use Class A2), manager's flat in roof, significant changes to shop fronts and elevations, and erection of two-storey rear extension. (alterations to planning approval reference 2010/04227/PA)

Applicant: Mr A Chouhan
113 Ladypool Road, Sparkbrook, Birmingham, B12 8LJ
Agent: COS Group Design Ltd
44 Croyden Drive, Penkridge, Staffs, ST19 5DW

Recommendation
Approve Subject To Conditions

1. **Proposal**

1.1. Planning permission is sought for a change of use of the ground-floor to two restaurants (Use Class A3) and first-floor to two offices (Use Class A2), manager’s flat in roof (for the manager of the restaurants) and significant changes to shopfronts and elevations. Planning permission is also sought for the erection of a two-storey rear extension.

1.2. The applicant has clarified that the ground-floor units are proposed to operate as restaurants within Use Class A3 and would not operate as hot food takeaways.

1.3. The proposal is a resubmission of the previously approved application reference 2010/04227/PA which was approved on 28th March 2011. The key change between this application and the previous application is that the previous 50-cover restaurant is now proposed to be sub-divided to provide two restaurants with a combined total of covers at 88. A first-floor extension is now also proposed to increase the size of the proposed offices.

1.4. The proposed shopfronts and elevations have been significantly improved from the previously approved drawings, and the current proposal includes traditional timber shopfront features such as pilasters and stall risers, along with transoms and mullions to the glazing. A timber fascia console, and cornice are now also proposed. The first-floor window lintels and cills have also been redesigned to match the original late-Victorian design.

1.5. The proposed manager’s flat would not change from that approved in 2011, and a sound-insulated separation wall would continue to be provided.

1.6. No off-road parking provision is proposed.
2. **Site & Surroundings**

2.1 The application site comprises a two storey building located on the junction of Ladypool Road and Ombersley Road and located within the Ladypool Road local centre.

2.2 The application property is currently subject to a Section 78 and 80 Dangerous Structure Notice, which has been served by Building Consultancy, and the building is currently secured and supported by scaffolding.

2.3 The entire ground floor frontage and a number of internal structural walls have been removed. The first floor façade is in a poor condition with structural cracks visible.

2.4 Ombersley Road is characterised by predominantly residential terraced properties with a small number of retail units on the opposite corner with Ladypool Road. Ladypool Road is an important neighbourhood centre catering for the day-to-day needs to the local community and comprises a variety of retail and commercial uses.

2.5 The nearest residential dwelling is located at No. 178 Ombersley Road, which immediately adjoins the application site. The is a city-owned public car park to the rear of the premises.

3. **Planning History**

3.1 28th March 2011 - 2010/04227/PA - Change of use of ground floor to Restaurant (Use Class A3) and first floor to offices (Use Class A2), manager's flat in roof, installation of new shop fronts, significant elements of repair and re-build, rebuilding of single storey section along Ladypool Road frontage, and extraction flue. – Approved Subject to Conditions.

3.2 13th October 2006 – 2006/04059/PA - Change of use to 1no. dwelling, 1 retail unit (class A1), 1 restaurant unit (class A3), and 2 first floor flats together with external alterations – Approve Subject to Conditions

3.3 11th January 2002 – 2001/05902/PA Change of use of 2no. dwellings, 1no. flats, and 2no. retail units – Approve Subject to Conditions

3.4 25th November 1999 – 1999/03173/PA Change of use to restaurant/takeaway with 2 residential units and balcony rear – Refuse

3.5 There is enforcement history relating to this site:

3.6 2009/0861/ENF – Shop front and roller shutters not installed as per approved planning application 2006/04059/PA – Action held in abeyance pending determination of this planning application

3.7 2008/1618/ENF - Development not in accordance with approved plans - the two units have been knocked into one to create one restaurant – Case closed
4. **Consultation/PP Responses**

4.1. **Adjoining occupiers, ward members and residents associations were consulted.** Site and press notices were also displayed. Objections have been received from 3 local residents. The objections can be summarised as follows:

a) The applicant has previously commenced development without planning permission.

b) The cumulative impact and concentration of hot food uses in the locality are resulting in detriment to residential amenity.

c) The site adjoins No.178 Ombersley Road and adjoining occupiers would experience noise levels not equivalent to a residential dwelling which was there previously. Our neighbours at the rear and front of the property would also experience a disturbance due to noise and increased traffic on the car park.

d) There is no spare parking provision in this area. The traffic movement is already such that there are constant traffic jams and highway safety is already a critical issue for local residents. All witnessed by police and councillors on their visit in 09/12.

e) The design of the proposed elevations would result in the siting of entrance and signage features in close proximity to the entrances to residential dwellings. This is not typical of other corner developments.

f) Residents have raised concerns regarding illegal activities, parking and traffic management on the city-owned rear car park. Residents believe that these activities are associated with the concentration of hot food uses in the locality.

g) Please ensure if planning permission is granted all the conditions that were imposed to planning permission number 2010/04227/PA should be applied again.

h) The proposal would produce vermin and rubbish and would result in Environmental Health problems.

4.2. **West Midlands Fire Service – No objections.**

4.3. **West Midlands Police – No objections.**

4.4. **Transportation – No objections subject to recommended conditions to require that** there is no sale of food for consumption off the premises, as even an ancillary level of hot food takeaway use would not be supported in this location. Further conditions are required to restrict the number of covers to a maximum of 88 across both restaurant units.

4.5. **Regulatory Services – No objections subject to recommended conditions to require noise insulation to be agreed and implemented and for air handling and odour control details to be agreed and implemented.**

4.6. **Cllrs Victorian Quinn, Tony Kennedy, and Mohammed Azim have suggested Planning Committee draw a line under any further restaurants/takeaways in the 'Balti Triangle' and Ladypool Road in particular, residents and traders alike feel the area is already saturated by these businesses and requires a special planning area designation to stop further erosion of the amenity of the area. The uses at this location, in particular, will lead to further traffic and parking problems, and contribute to the already bad littering problem from food containers and debris.**
5. **Policy Context**


6. **Planning Considerations**

6.1. Paragraph 3.8 of the adopted Unitary Development Plan states that the City's environmental strategy is based on the need to protect and enhance what is good in the City's environment and to improve what is less good. The keynote is on quality and paragraph 3.10 of the UDP states that proposals which would have an adverse effect on the quality of the built environment will not normally be allowed.

6.2. **Principle of Use**

6.3. The application site is located within the Ladypool Road Neighbourhood Centre. As such, I consider that the proposed uses would be appropriately located in relation to existing centres. In terms of cumulative impact, and the concerns raised by local residents, I note that the applicant has clarified that the proposed use is for a restaurant use within Use Class A3 and not a hot food takeaway within Use Class A5. Furthermore, I note that there is an extant approval for restaurant use that was approved in 2011.

6.4. A recent survey of the Ladypool Road Neighbourhood Centre found a total of 201 units, of which 134 (68%) were operating within Use Class A1. As such, I consider that the proposal complies with Policy 1 of Shopping and Local Centres SPD, which requires 50% of all ground-floor units to be retained within Use Class A1. I also consider that the proposal complies with Policy 2, and the proposal would not result in significant clustering or an over-concentration of non-retail units that would undermine the retail function of the Primary Shopping Area of the Neighbourhood Centre. As such, and notwithstanding the objections raised, I consider that the proposal is acceptable in principle.

6.5. **Design and Appearance**

6.6. I consider that the scale and mass of the proposed extension would be acceptable and, subject to matching materials being used, would not be likely to cause detriment to the architectural appearance of the property. I note that the proposed shopfronts and first-floor windows have been significantly improved from the previous approval, which is highly desirable. I consider that the proposed shopfront design and first-floor windows would significantly improve the appearance of the property. A condition is recommended to require all materials to be agreed and implemented.

6.7. **Impact on Residential Amenity**

6.8. I note the concerns raised in relation to the position of the entrance to the office. I do not concur that this would be adjacent to the entrances of residential dwellings, however, as the manager’s flat would provide a degree of separation between the entrances to the proposed units and the nearest dwelling at No. 178 Ombersley Road; I consider that this concern has been addressed. Regulatory Services have raised no objections to the proposal subject to conditions to define opening hours, and to require a scheme of noise insulation to be agreed and implemented. I concur with this view and, I consider that the proposal is not likely to cause
significant detriment to residential amenity in a manner that would justify the refusal of the submitted application.

6.9. I consider that the bedroom sizes of 26.5 sq metres and 11.5 square metres for the proposed manager’s flat are acceptable, and comply with the recommended bedroom sizes outlined within Places for Living SPG. A condition is recommended to require that this is used as a manager’s flat only, and not as a family dwelling. I note that no amenity space is to be provided for the proposed flat. However, given that the property is located within an existing centre, I consider that this would be acceptable.

6.10. **Impact on Highway Safety**

6.11. I note the concerns raised in relation to the lack of proposed off-road parking. However, I note that there is a city-owned car park to the rear that would be available during the evenings, which I consider is likely to be the peak-time for the proposed use. Transportation have pointed out that a hot hood takeaway use at either ground-floor premises would not be supported as short-stay inconsiderate and unlawful parking near the junction of Ladypool Road and Ombersley Road is likely to result in significant detriment to highway safety. However, Transportation have raised no objections to the proposed ground-floor A3 uses and first-floor A2 uses in this location, subject to conditions being added to prevent the sale of food for consumption off the premises, and for the number of covers to be limited to a maximum of 88 across both ground floor restaurants. I concur with this view and, subject to the attached recommended conditions being met, I consider that the proposal is not likely to cause significant detriment to highway safety in a manner that would justify the refusal of the application.

6.12. **Other Issues**

6.13. I note the concerns in relation to potential vermin and litter. These are matters that could be controlled through Environmental Health legislation should these occur at the premises, and given the conditioning out of any ancillary A5 takeaway uses, a litter bin condition is not necessary. Finally, the absence of objection from the Police and Fire and Rescue Services is noted.

7. **Conclusion**

7.1. The proposal complies with the objectives of the policy context as set out above and is recommended for approval subject to the attached recommended conditions.

8. **Recommendation**

8.1. Approve Subject to Conditions

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1. Limits the hours of use for the restaurant(s) and offices to 0800-2330 Monday to Saturday and 1000-2230 on Sundays and Bank Holidays.

2. Prevents food to be sold for off site consumption

3. Requires the prior submission of noise insulation details between the residential and non-residential areas of the premises.
4 Requires the prior submission of extraction and odour control details
5 Requires the prior submission of sample materials
6 Requires the prior submission of boundary treatment details
7 Prevents the implementation of the approved development if planning approval reference 2013/00262/PA is implemented.
8 Limits the maximum number of Customers/Covers to 88.
9 Requires that the flat-roof is not used for any purpose including, but not limited to, a smoking area, a terrace or an amenity space.
10 Requires the scheme to be in accordance with the listed approved plans
11 Limits the approval to 3 years (Full)

Reason for Approval

1 Birmingham City Council grants Planning Permission subject to the condition(s) listed below (if appropriate). The reason for granting permission is because the development is in accordance with:
   Policies 8.6 & 8.7 of the Birmingham Unitary Development Plan 2005; Places for All (2001), which has been adopted as Supplementary Planning Guidance; Shopping and Local Centres 2012, which has been adopted as a Supplementary Planning Document; and the National Planning Policy Framework.

Case Officer: Jamie Whitehouse