
Committee Date:	06/03/2014	Application Number:	2013/09465/PA
Accepted:	24/12/2013	Application Type:	Full Planning
Target Date:	18/02/2014		
Ward:	Selly Oak		

529 Bristol Road, Selly Oak, Birmingham, B29 6AU

Change of use from retail (Use Class A1) to restaurant (Use Class A3), with associated external alterations.

Applicant: Mr Mohammed Fiaz
c/o Agent
Agent: Design House
580 Moseley Road, Moseley, Birmingham, B12 9AA

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. Planning permission is sought for a change of use of the existing vacant retail unit (use class A1) to create a restaurant (use class A3). A new frontage access to the existing flat above the shop is also proposed.
- 1.2. The proposed opening hours of opening are Monday to Saturday 1000 hours to 2300 hours, and Sundays 1000 hours to 2230 hours. The total number of covers would be 34 people in the 64 square metres unit.
- 1.3. The proposed shopfront alterations include modification of the existing roller shutters to have 65% brick bond cut outs and therefore would meet the required 55% visibility. The proposed recessed shutter coil would be incorporated behind the existing fascia signage. A new access to the flat above the unit would be created where the existing shop entrance door is. The proposed restaurant door would be adjacent to this within the current shop window. The window would be reduced to 2m in width, with small transom lights and a stall riser.
- 1.4. On the rear wing a new extract flue is proposed. This would terminate close to the ridge of the rear wing, just below the eaves of the main building.
- 1.5. The applicant stated that there would be 10 jobs and the flat above would be occupied amongst those working within the restaurant.

[Floor Plans and Proposed Elevations](#)

2. Surroundings

- 2.1 The application site is situated on the Bristol Road within the Primary Shopping Area of the Selly Oak District Centre. The site is a mid terraced property and adjoins A1

vacant retail unit to the east and hairdressers to the west. The parade of shops in this area is made up of a mixture of commercial units including A1, A2 and A3 uses. There are 10 existing A3-A5 uses within this 175m stretch of the Bristol Road.

- 2.2 The unit is vacant and as existing, it is within A1 use (last used as a sandwich shop selling hot and cold sandwiches and baguettes). The upper floors have a residential use currently served by an independent rear access.
- 2.3 On street parking is not permitted directly in front of the site with TRO's in place associated with a bus stop pedestrian crossing.

[Location Map](#)

[Street View](#)

3. Planning History

- 3.1. 18/05/2006– (Ref 2006/01658/PA) - Change of use to A5 hot food take-away– Refused. Reason: The cumulative impact of the proposal when considered in conjunction with the existing number of Class A3-A5 uses in the vicinity would cause harm to the local amenities by reason of late night noise, nuisance and disturbance, and add to existing parking problems in the vicinity.
- 3.2. 08/05/2007 – Appeal ref: A/06/203116 (written representation) – Change of use to A5 hot food take-away. Dismissed. The Inspector upheld the Council's concerns on noise and disturbance, but did not agree there would be an adverse effect on parking.
- 3.3. 02/08/2005 - ENF/1574/05/S - Complaint received regarding installation of tables and chairs and possible change of use. Hot food provided accounted for a very small percentage of the overall daily sales take - Case Closed - following decision that no change of use had occurred from A1 use.

4. Consultation/PP Responses

- 4.1. Adjoining occupiers, ward members, residents associations and Local MP were consulted. A site notice was also displayed. No responses were received.
- 4.2. West Midlands Police – No objection subject to provision of CCTV.
- 4.3. Regulatory Services – No objections subject to recommended conditions to define opening hours (1000 hours to 2300 hours) and to require details of air handling/extraction and odour control equipment to be agreed in writing.
- 4.4. Transportation – No objection. It is not considered traffic & parking demand generated by a restaurant use of this size would differ significantly to that of some consented A1 uses.

5. Policy Context

- 5.1. NPPF (2012), UDP (2005), Draft BDP, SPG Places for All, Shopping and Local Centres SPD (2012), Car Parking Guidelines SPD (2012) and SPG Shop Front Design Guide (1995) and Selly Oak Local Action Plan.

6. Planning Considerations

6.1. The application site falls within the Primary Shopping Area (PSA) of Selly Oak District Centre as identified in the Shopping and Local Centres (SLC) SPD and further endorsed by policy 20.15 of the UDP. These policies seek to manage the growth of restaurants, takeaways and pubs in local centres whilst maintaining the viability and vitality of such centres.

6.2. Principle of Use

6.3. The SLC-SPD minimum threshold for A1 use of all ground floor units within Primary Shopping Areas is 55%. The latest survey (September 2013) shows that within Selly Oak PSA 60% of the units are in A1 use. The proposed change of use from A1 to A3 is therefore acceptable in principle as A1 units in the PSA would still be above the 55% minimum threshold. Whilst there is no maximum threshold on A3 uses, policy 5 of the SLC-SPD requires account to be taken of clustering, type and characteristics of nearby uses, size and type of unit, and character and function of the centre when assessing new A3 uses.

6.4. The main considerations would therefore relate to the impact of the proposed A3 use on character of the centre, on the residential amenity of neighbouring properties, impact on the design/appearance of the scheme and safety of public highway.

6.5. Impact on character

6.6. The site lies within a very busy District Centre characterised by high level of student accommodation due to the nearby University of Birmingham. At 536 Bristol Road (just opposite the application site), there is a 96 student bedroom accommodation under construction (2010/05797/PA).

6.7. A site visit revealed that within a 175m stretch of the Bristol Road, there are 10 existing A3-A5 uses but reasonably spread. The application site is a small A1 unit adjacent to another A1 unit (a hair dresser) to the west and a vacant A1 unit to the east. As such, and given that the application site is located within a centre where 60% of the units in PSA are in A1 use, I consider that the proposal would not result in any undue clustering or over concentration of A3 uses in the locality. In my opinion, Policy 5 is complied with.

6.8. The 2007 appeal dismissal for the proposed takeaway use is relevant, as such a use is not so distinct from the currently-proposed restaurant use. The takeaway was dismissed on the grounds of noise and disturbance. However, without the more frequent comings and goings of customers (and any associated vehicles) of a takeaway, I am not convinced the restaurant use in this busy local centre could now be deemed to have an unacceptable impact on local amenity.

7. Conclusion

7.1. I consider that the proposed shopfront and roller shutter design is acceptable, and that the proposed alterations to the shopfront would be in keeping with the parade. Planning conditions are attached to provide details of the entrance doors and ensure

that the roller shutters are powder coated to an agreed colour, with 'brick bond' type open slats, prior to commencing use and kept as such thereafter.

7.2. The nearest residential property is located at first floor of the application premises. The proposed flue by virtue of its location at the rear of the property and large wings/extensions on the rear of neighbouring properties means it would not be visible from the street. It is furthermore noted that this type of equipment is commonplace within district centres. Therefore I consider that the proposed flue would not have an adverse impact on visual amenity, nor would its position, scale and materials (subject to conditions detail submission).

7.3. Impact on Residential Amenity

7.4. The proposed flue would terminate above the level of the flat windows on the rear. Regulatory Services have raised no objections to the proposal, subject to conditions relating to opening hours and details of air handling and odour control equipment. I concur with this view, and I consider that, subject to the attached conditions being met, that the proposal is not likely to cause detriment to residential amenity by way of noise or odour.

7.5. Impact on Highway Safety

7.6. The site lies in an area where on street parking is not permitted directly fronting the site, with TRO's in place associated with a bus stop and pedestrian crossing. No off street parking is offered, as is the case for the majority of similar uses at this location. I note that regular buses and trains serve this location throughout the day. Additionally, unrestricted on street parking can be found within nearby residential side streets, although demand is very high.

7.7. The Car Parking Guidelines SPD for restaurant uses in this location recommends a maximum of 1 space per 9 covers. Therefore, based on the stated 34 covers, a demand for up to 3-4 spaces is suggested. However, Transportation have raised no objections to the proposed change of use. They do not consider that traffic and parking demand generated by a restaurant use of this size would differ significantly to that of the existing A1 use. I concur.

7.8. Crime Prevention (Security)

7.9. The West Midlands (WM) Police have raised no objections subject to added security measures such as installation of a CCTV system capable of receiving quality colour images that are identifiable and to evidential standards. I acknowledge the WM Police's CCTV requirement for security however; the site is in a busy local centre location where certain degree of natural surveillance would be expected. In addition, I consider that it would be unreasonable to attach such a condition due to the proposed operating hours combined with the scale of the proposed A3 use. CCTV could potentially be requested under a different regime such as licensing.

8. Recommendation

8.1. The proposal complies with the objectives of the policy context as set out above, does not have an adverse impact on the amenity of the area and is recommended for approval subject to the attached conditions.

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- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the prior submission of roller shutter details
 - 3 Requires the prior submission of shop front design (doors) details
 - 4 Limits the hours of operation: 1000 to 2300 hours Monday to Saturday, and 1000 to 2230 hours Sundays including Bank Holidays.
 - 5 Requires the prior submission of extraction and odour control details
 - 6 Requires the prior submission of amended rear elevation plans
 - 7 Limits the approval to 3 years (Full)
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Case Officer: Stephen Ssejjemba

Photo(s)

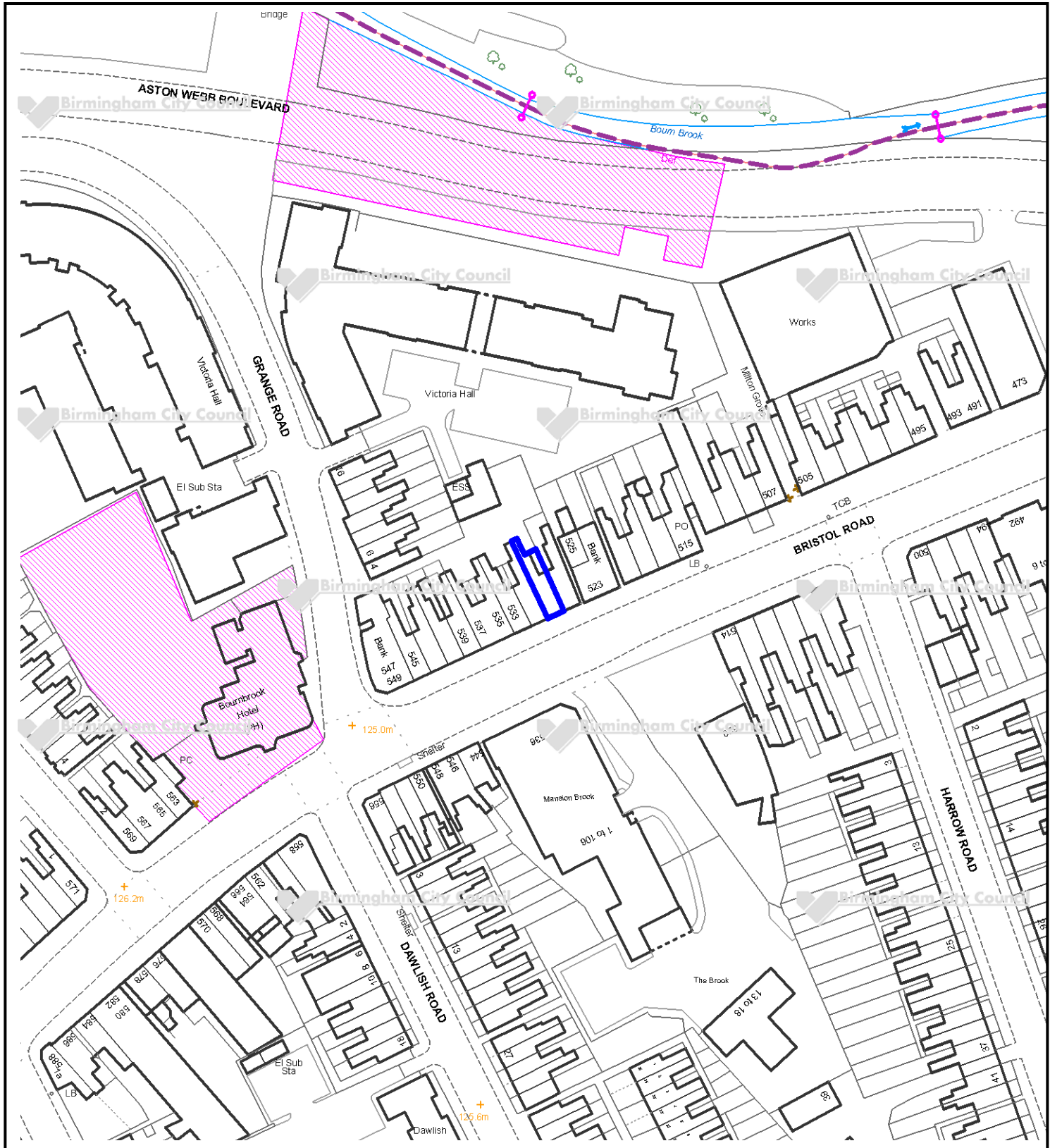


Figure 1 - Frontage of application site



Figure 2 - Rear of application site

Location Plan



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