

DELEGATED REPORT

Application Number: 21/00001/FUL

Application Site: 1 Ewell House Parade, Epsom Road, Ewell, Surrey, KT17 1NP



Proposal: Change of use from Use Class E to Sui Generis (formally A1 to A5) and installation of chimney extractor

Target Date: 26/02/2021

PLANNING POLICY

National Planning Policy Framework (NPPF) (February 2019)

Local Development Framework Core Strategy (July 2007)

Policy CS5 – The Built Environment
Policy CS6 – Sustainability in New Developments
Policy CS15 – Role of Local Centres
Policy CS16 – Managing Transport and Travel

Development Management Policies Document (September 2015)

Policy DM8 – Heritage Assets
Policy DM9 – Townscape Character and Local Distinctiveness
Policy DM10 – Design Requirements for New Developments (including House Extensions)
Policy DM28 – Existing Retail Centres (Outside of Epsom Town Centre)
Policy DM32 – Parking and Servicing at Existing Retail Centres
Policy DM35 – Transport and New Development
Policy DM38 – Rear Servicing

Ewell Village Conservation Area Character Appraisal & Management Proposals (August 2009)

Health and Wellbeing Strategy (2019 to 2013)

PREVIOUS RELEVANT HISTORY

None.

CONSULTATIONS

9 neighbouring properties have been consulted and 181 objection letters and 2 support letters have been received to date (01/03/2021), summarised below:

- adverse impact upon Ewell Village Conservation Area; does not maintain rural, village atmosphere, large flue visible from The Grove
- close proximity to school; does not promote healthy eating
- increased traffic/car parking implications/safety concerns

- noise and disturbance
- concern about increased antisocial behaviour
- smells and odour; from grills and extractor and fumes from delivery vehicles
- litter
- unsuitable opening hours

A planning site notice was displayed on 01/02/2021.

Statutory, Non-Statutory and Internal Consultations

Epsom and Ewell Borough Council Design and Conservation Officer: Objection. The scale and materiality would appear incongruous against the façade of this well detailed Tudorbethan early C20 building. The stack would project above the eaves making it more prominent and out of character. The listed wall is only about 4 metres from this vertical metal ducting and its setting would be harmed by the relationship. I recommend the application be refused on the grounds that it would cause less than substantial harm to heritage assets including the listed wall, the parade and the Conservation Area, contrary to Paragraph 196 of the NPPF and Policy DM9 and DM10 of the LDF Development Management Policies Document (2015).

Epsom and Ewell Borough Council Planning Policy Officer: Feels there is not really a strong policy basis to refuse the application on, however several material considerations may help sway the balance.

Epsom and Ewell Borough Council Environmental Health Officer: No response received.

SITE AND SURROUNDINGS

1. The site comprises a two storey end of terrace property (with roofspace accommodation) located on the north west side of Epsom Road where it meets High Street. The footpath named The Grove runs adjacent to the side boundary.
2. The surrounding area is mixed in character and appearance consisting of retail, commercial and residential use. The site is located approximately 150 metres from Ewell Grove Primary and Nursery School.
3. The site does not contain a Listed Building, however a Grade II Listed Wall runs along The Grove and is adjacent to the site boundary. The site is located within the Ewell Village Conservation Area. The buildings within this parade (No's 1 – 6 Ewell House Parade) are identified as 'Positive Buildings' in the Townscape Appraisal Map. The site is located within the Ewell Village Local Centre.

PROPOSAL

4. The application proposed a change of use from Use Class E to Sui Generis (formally A1 to A5) and the installation of chimney extractor.
5. Class A of the Use Classes was revoked from 01/09/2020 and Class A1 is replaced with the new Class E and Class A5 is now defined as 'Sui Generis'.

6. This application relates solely to the ground floor unit.

ASSESSMENT

7. The main issues for consideration in relation to this application are as follows:

Principle of Development

8. Paragraph 91 of the National Planning Policy Framework (NPPF) (2019) states [inter alia] that planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

9. Paragraph 92 of the NPPF (2019) states [inter alia] that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community

10. The Council do not have any specific Local Plan policies which relate to takeaways. Notwithstanding this, the Council adopted a Health and Wellbeing Strategy (2019 to 2023) in October 2019. This identified five health and wellbeing priorities for the Borough, the first reading as '1) eating well, reducing our use of alcohol and getting active'.

11. The large number of objection letters from those who live within the surrounding area raised many detailed points which have been fully considered when assessing the impact of this case. The concerns relating to the close proximity of the proposed sui generis takeaway use to Ewell Grove Primary and Nursery School is reiterated across a number of objection letters.

12. It is considered that social sustainability, defined as "a process for creating sustainable successful places that promote wellbeing, by understanding what people need from the places they live and work", should be given some weight in the assessment of this application. The proposal is not considered to meet the objectives of the Council's Health and Wellbeing Strategy (2019 to 2013) in this regard.

13. As such, it is considered that the sui generis takeaway use, by reason of its close proximity to Ewell Grove Primary & Nursery School, is not considered to promote healthy eating or social sustainability, in conflict with Paragraph's 91 and 92 of the NPPF (2019) and the Council's Health and Wellbeing Strategy (2019 – 2013). It is envisaged, that the proposed sui generis takeaway use, is unsympathetic to local character and would fail to function well or add to the overall quality of the area, contrary to Policy CS5 of the LDF Core Strategy (2007) and Policies DM8, DM9 and DM10 of the LDF Development Management Policies Document (2015).

14. It is acknowledged that Policy E9 Retail, Markets and Hot Food Takeaways of the new draft London Plan states [inter alia] that development proposals containing A5/[Sui Generis] hot food takeaway uses should not be permitted where these are within 400 metres walking distance of an existing or proposed primary or secondary school. Further, Paragraph 6.9.7 states [inter alia] that a wide range of health experts recommend restricting the proliferation of hot food takeaways, particularly around schools, in order to create a healthier food environment. The London Plan is not used to assess planning applications in Epsom and Ewell Borough.
15. Policy DM28 (Existing Retail Centres (Outside of Epsom Town Centre)) of the Council's LDF Development Management Policies Document (2015) states that the Council will protect existing retail centres by:
- a) retaining existing shopping frontages in the Shopping Centres (as identified in the Site Allocations Policies Document and on the Proposals Map) predominantly for retail use, so that they continue to provide locally accessible goods and services and employment opportunities of a suitable scale for the size of the centre or catchment area. Proposals for changes of use that threaten the predominance of A1 uses will be resisted; and
 - b) supporting local shops and resisting their loss (particularly convenience shops) in Local Centres.

Unless exceptional circumstances can be demonstrated, development at ground floor level should not lead to an over proliferation of non-retail use, namely those comprising Class A2, A3, A4 or A5 uses. The overall percentage of A1 retail uses should not fall below 50% of the total shopping units within the shopping centre.

16. In February 2020 the Council received a Retail and Commercial Needs Assessment with the findings likely to be reflected in the new Local Plan. The Assessment found that Ewell Village only had two takeaways, therefore it is not considered that an additional takeaway would result in an over proliferation of sui generis takeaway uses.

Impact upon Character and Appearance, the Ewell Village Conservation Area and the setting of the Grade II Listed Wall

17. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid by Local Planning Authorities to the desirability of preserving or enhancing the character or appearance of that area.
18. The National Planning Policy Framework (NPPF) (2019) attaches great importance to the design of the built environment. Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
19. Paragraph 3.7.5 of the Council's Core Strategy (2007) sets out that new development should enhance and complement local character, and be capable of integrating well into existing neighbourhoods. Paragraph 3.7.6 states that the Council will expect developments to be of a high quality, creating a safe environment which enhances the public realm and which positively contributes to the townscape.

20. Policy DM10 (Design Requirements for New Developments (including House Extensions)) of the Council's Development Management Policies Document (2015) states that development proposals will be required to incorporate good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or an area which should be respected, maintained or enhanced include, but are not limited, to the following:

- Prevailing development typology, including house type, sizes, and occupancy;
- Prevailing density of the surrounding area;
- Scale, layout, height, form, massing;
- Plot width and format which includes spaces between buildings;
- Building line build up, set back, and front boundary; and
- Typical details and key features such as roof forms, window format, building materials and design detailing of elevations, existence of grass verges etc.

21. The proposed extractor flue would be visible from both Epsom Road/High Street and the footpath named The Grove. The Ewell Village Conservation Area Townscape Appraisal Map identifies the views from both ends of The Grove as important views within the Conservation Area. It is noted that the mature trees along The Grove would help obscure the proposed extractor flue in the summer months, however it would be in full view in the winter months. It would extend well above the eaves of the existing building. The proposed extractor flue, by reason of its design, height and siting, would be a dominant and incongruous addition that would be visually intrusive within the streetscene and would fail to enhance or preserve the character and appearance of the Ewell Village Conservation Area. The harm would extend to the setting of the Grade II Listed Wall located adjacent to the site boundary and along The Grove.

22. Paragraph 196 of the NPPF (2019) states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that the limited public benefits would not outweigh the harm identified above.

23. As such, it is considered, that the proposal would conflict with the NPPF (2019), Policy CS5 (The Built Environment) of the LDF Core Strategy (2007) and Policies DM8 (Heritage Assets), DM9 (Townscape Character and Local Distinctiveness) and DM10 (Design Requirements for New Developments (including House Extensions)) of the LDF Development Management Policies Document (2015).

Impact upon Neighbouring Residential Amenity

24. Policy DM10 (Design Requirements for New Developments (including House Extensions)) Council's Development Management Policies Document (2015) seeks to safeguard residential amenities in terms of privacy, outlook, daylight/sunlight and, noise and disturbance.

25. The hours of use have been specified on the application form as:

- Mon – Sat: 1000 – 0000 (Midnight)
- Sun & Bank Holidays: 1000 – 2300

26. It is considered that the surrounding late night activity within the surrounding area generally ceases at around 2200 Mon – Thu & Sun and 2300 Fri & Sat. It is considered that the proposed opening hours could give rise to people congregating outside the proposed takeaway, particularly as the opening hours appear to extend beyond other night time businesses e.g. The Famous Green Man Public House, leading to increased noise and disturbance to the occupants of surrounding residential properties and the wider Ewell Village Local Centre.
27. The applicant has failed to demonstrate that the proposal would not result in an unacceptable detrimental impact on the amenity of occupants of nearby residential properties, in terms of supporting information to demonstrate the effective control of fumes and odours prior to the cooking of any hot foods on the premises; and noise and vibration attenuation measures to be adopted from the proposed extractor chimney.
28. Furthermore, the applicant has failed to demonstrate appropriate refuse and recycling facilities and details of measures to demonstrate how litter or waste arising from customers will be prevented from accumulating in the vicinity of the premises.
29. As such, it is considered that the proposed would conflict with Policies CS5 and CS6 of the LDF Core Strategy (2007) and Policies DM10, DM32, DM35 and DM38 of the LDF Development Management Policies Document (2015).

Impact upon Highways and Parking

30. Paragraph 109 of the NPPF (2019) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
31. Policy DM35 (Transport and New Development) of the Council's LDF Development Management Policies Document (2015) states that the impact of new development on the transport network will be assessed against other plan policies and transport standards.
32. The existing bay car parking spaces outside No's. 1-6 The Parade is unrestricted in terms of who uses the space (limited to two hours), therefore whilst there may be some increased comings and goings from a sui generis takeaway use in comparison to a Class E retail use, any impact is not considered to be severe that it would warrant grounds for refusal.
33. As such, it is considered that the proposal would comply with the NPPF (2019), Policy (CS16 (Managing Transport and Travel) of the LDF Core Strategy (2007) and Policy DM35 (Transport and New Development) of the LDF Development Management Policies Document (2015).

RECOMMENDATION:

Refuse for the following reason(s):

1. The proposed sui generis takeaway use, by reason of its close proximity to Ewell Grove Primary & Nursery School, is not considered to promote healthy eating or social sustainability, in conflict with Paragraph's 91 and 92 of the NPPF (2019) and the Council's Health and Wellbeing Strategy (2019 – 2013). It is envisaged, that the proposed sui generis takeaway use, is unsympathetic to local character and would fail to function well or add to the overall quality of the area, contrary to Policy CS5 of the LDF Core Strategy (2007) and Policies DM8, DM9 and DM10 of the LDF Development Management Policies Document (2015).
2. The proposed extractor flue, by reason of its design, height and siting, would be a dominant and incongruous addition that would be visually intrusive within the streetscene and would fail to enhance or preserve the character and appearance of the Ewell Village Conservation Area in conflict with the NPPF (2019), Policy CS5 of the LDF Core Strategy (2007) and Policies DM8, DM9 and DM10 of the LDF Development Management Policies Document (2015). The harm would extend to the setting of the Grade II Listed Wall located adjacent to the site boundary and along The Grove. The limited public benefits do not outweigh the less than substantial harm, in conflict with Paragraph 196 of the NPPF (2019).
3. The proposed opening hours, to 0000 (midnight) Monday – Saturday and to 2300 Sunday & Bank Holidays, would lead to increased noise and disturbance to the occupants of nearby residential properties and the wider Ewell Village Local Centre, in conflict with Policy DM10 of the LDF Development Management Policies Document (2015).
4. In the absence of sufficient information to demonstrate otherwise, namely details of the control of odours and smells, noise and vibration attenuation measures from the proposed extractor flue, refuse/recycling facilities and waste collection measures, the applicant has failed to demonstrate that the proposal would not result in an unacceptable detrimental impact on the amenity of occupants of nearby residential properties, in conflict with Policies CS5 and CS6 of the LDF Core Strategy (2007) and Policies DM10, DM32, DM35 and DM38 of the LDF Development Management Policies Document (2015).

INFORMATIVES:

1. In dealing with the application, the Council has implemented the requirement of the National Planning Policy Framework (NPPF) to work with the applicant in a positive and proactive way. We have assessed the proposal against all material considerations, including planning policies and any representations that may have been received and whilst planning permission has been refused regard has been had to the presumption to approve sustainable development where possible, as set out within the NPPF.
2. The following submitted drawings and documentation were considered as part of the assessment of this application:

TSL/THR/01/01 Existing & Proposed Plans (Received 04/01/2021)

TSL/THR/01/04 Proposed Front & Rear Elevation (Received 04/01/2021)

TSL/THR/01/05 Proposed Side Elevations (Received 04/01/2021)

TSL/THR/01/06 Block Plan (Received 04/01/2021)

Signature of Case Officer:	EC
Date:	01/03/2021