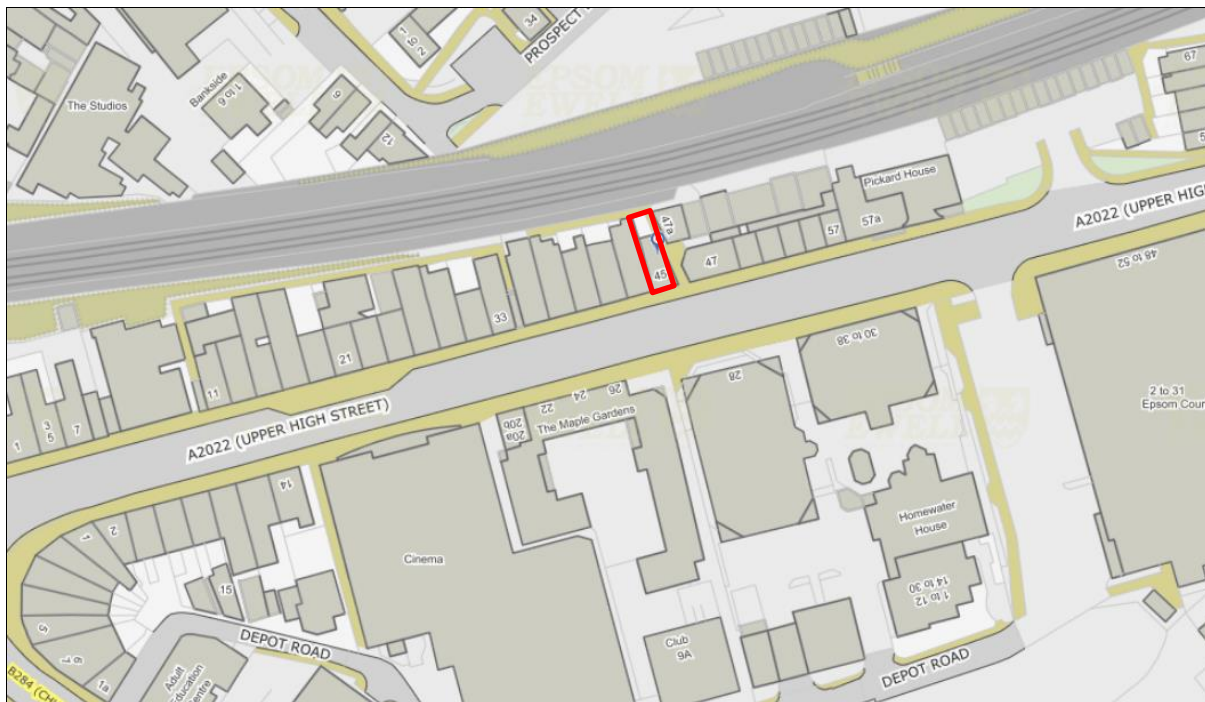


Planning Committee
18 July 2024

Planning Application
Number: 2400605/REM

24/00605/REM - 45 Upper High Street Epsom Surrey KT17 4RA

Application Number	24/00605/REM
Application Type	Minor Material Amendment
Address	45 Upper High Street Epsom Surrey KT17 4RA
Ward	Town
Proposal	Variation of Condition 6 (Opening Hours) of planning permission 19/00826/FUL to allow for extended hours of opening
Expiry Date	19 July 2024
Recommendation	Approval, subject to conditions and informatives
Number of Submissions	None
Reason for Committee	Called in by Member of the Council
Case Officer	Ade Balogun
Contact Officer	Simon Taylor, Interim Manager
Plans, Documents and Submissions	Available here
Glossary of Terms	Found at the following link: Glossary of Terms



SUMMARY

1. Summary and Recommendation

- 1.1. This proposal seeks the variation of condition 6 of 19/00826/FUL to allow an extension of the trading hours for Fireaway Design Pizza to extend to 2am (the next day) on Thursdays, Fridays and Saturday nights.
- 1.2. The site comprises a three-storey end of terrace building, subdivided into retail use at ground floor and residential use at first and second floors, on the north side of Upper High Street and within the Epsom Town Centre Conservation Area. This application relates solely to the ground floor unit which is currently use as Hot Food Takeaway (Pizza Restaurant). The surrounding area is mixed in character and appearance, comprising of retail, commercial and residential use.
- 1.3. This application has been called to Planning Committee by Cllr King, on the grounds of excessive trading hours and resulting noise and likely nuisance. No representation received from neighbours or local residents.
- 1.4. On account of no objection from the Environmental Health Officer and in the absence of complaints, the application is recommended for approval.

PROPOSAL

2. Description of Proposal

- 2.1. Planning application 19/00826/FUL (dated 20 October 2019) granted approval for the change of use of the existing ground floor retail shop to a hot food takeaway, which is now trading as Fireaway Design Pizza. It was subject to trading hours in Condition 6, these being 11am to midnight, 7 days a week.
- 2.2. This proposal seeks the variation of condition 6 to allow the following trading hours:
 - Sunday to Wednesday: 11am to midnight (unchanged)
 - Thursday to Saturday: 11am-2am next day (2 additional hours)

SITE

3. Description

- 3.1. The site comprises a three-storey end of terrace building, subdivided into retail use at ground floor and residential use at first and second floors, located on the north side of Upper High Street. This application relates solely to the ground floor unit which is currently use as Hot Food Takeaway (Pizza Restaurant) (at the time of the site visit). The

surrounding area is mixed in character and appearance, comprising of retail, commercial and residential use.

4. Constraints

- Built Up Area
- Town Centre
- Local Shopping Area
- Epsom Town Centre Conservation Area
- Classified Road

5. History

- 5.1. There are several planning records relating to the application site and application unit of the site history.

App No.	Description	Status
21/00555/ADV	Internally illuminated fascia sign	Refused 27.05.2021
20/01027/ADV	Internally illuminated fascia sign	Refused 17.09.2020
19/00826/FUL	Change of use from A1 (Shop) to mixed A3 (Restaurants and Cafes)/A5 (Hot Food Takeaway)	Approved 28.10.2019
02/00969/FUL	Conversion of existing flat into two no. 1 bed flats	Approved 14.11.2002
00/00981/FUL	Continued use of unit for Car Hire Service (Sui Generis Use)	Approved 15.02.2001
99/00482/FUL	Retrospective application for a change of use from retail (A1 use) to a taxi/car hire service (sui generis use).	Approved 09.09.1999
95/00657/FUL	Relaxation of condition 2 of 95/0098	Approved 27.11.1995
95/00098/FUL	Change of use from A1 to A3.	Approved 20.03.1995

CONSULTATIONS

Consultee	Comments
Internal Consultees	
Highway Authority	No objection
Conservation	No objection
Environmental Health	No objection
Public Consultation	

Consultee	Comments
Neighbours	The application was advertised by means of a site notice, press notice, and notification to 13 neighbouring properties, concluding on 21 June 2024. No submissions were received.
Ward Member	The item was called into Committee by Cllr King, on the grounds of excessive trading hours and resulting noise and likely nuisance

PLANNING LEGISLATION, POLICY, AND GUIDANCE

6. Legislation and Regulations

- 6.1. Town and Country Planning Act 1990
- 6.2. Environment Act 2021
- 6.3. Planning (Listed Buildings and Conservation Areas) Act 1990
- 6.4. Community Infrastructure Levy Regulations 2010

7. Planning Policy

7.1. National Planning Policy Framework 2023 (NPPF)

- Section 2: Achieving Sustainable Development
- Section 6: Building a Strong, Competitive Economy
- Section 7: Ensuring the Vitality of Town Centres
- Section 15: Conserving and Enhancing the Natural Environment
- Section 16: Conserving and Enhancing the Historic Environment

7.2. Epsom and Ewell Core Strategy 2007 (CS)

- Policy CS1: Sustainable Development
- Policy CS5: The Built Environment
- Policy CS14: Epsom Town Centre

7.3. Epsom and Ewell Development Management Policies Document 2015 (DMPD)

- Policy DM8: Heritage Assets
- Policy DM9: Townscape Character and Local Distinctiveness
- Policy DM10: Design Requirements for New Developments

7.4. Epsom Town Centre Area Action Plan 2011 (Plan E)

- Policy E4: Town Centre Primary Shopping Area and Primary and Secondary Retail Frontages

8. Supporting Guidance

8.1. National Planning Policy Guidance (NPPG)

- Historic Environment
- Noise
- Town Centres and Retail

8.2. Revised Developer Contributions Supplementary Planning Document 2014

- Part 1: Overview
- Part 2: Affordable Housing
- Part 3: Site-Specific Infrastructure Obligations

PLANNING ASSESSMENT

9. Principle of Development

9.1. Variation to the Original Permission

9.2. The principle of the development was established in the original permission and nothing in this application alters this conclusion. The scope of the amendments is material insofar as it involves a variation of a condition that was imposed on the original approval and this is appropriate within the scope of a s73 application.

9.3. Location of Development

9.4. The site is located within the built-up area of Epsom and the principle of development is acceptable, subject to consideration of the principles, objectives, and policies in the CS, the DMPD and supporting guidance and documents.

9.5. Town and Local Centres

9.6. Policy CS14 of the CS aims to improve and allow adaptation of Epsom Town Centre by creating a diversity, richness, and balance of uses, a sense of place. Policy CS15 of the CS and Policy DM28 of the DMPD aim to protect the role, function and needs of the local centres by retaining shopping frontages for retail use.

9.7. The proposed extension of operating hours will allow for an increase the operational window for customers, allowing for improved choice in the night time and this has flow on effects for street activation and surveillance and business viability for the premises. On these grounds, it is supported.

10. Design and Character/Heritage and Conservation

10.1. As the proposal involves changes to the operating hours and there is no change to built form, the proposal would be limited to additional light spill and movement of people within the street. This level of activation is appropriate, and the proposal would not have any undue or additional impact upon the streetscene or Epsom Town Centre Conservation Area.

11. Neighbour Amenity

- 11.1. Policy CS5 of the CS and Policy DM10 of the DMPD seeks to protect occupant and neighbour amenity, including noise whilst Paragraph 191 of the NPPF 2023 and Policy CS6 of the CS seek to mitigate and reduce noise impacts.
- 11.2. The original officer report noted the proposed trading hours and raised no objection.
- 11.3. The extension of trading hours is for two additional hours on three days per week, these being when nearby night time premises, such as pubs and nightclubs, will be open. The expectation is that the additional trading hours will attract passing trade or utilise delivery services into the early morning. No noise assessment was submitted with the application but an online review of the premises indicates that operating hours are already until 2am on the specified days.
- 11.4. The surrounding area remains in mixed use, with residential on the upper floors of most retail properties. The railway line extends along the rear of the property. As such, the surrounding area remains unchanged in site context.
- 11.5. There have been no existing complaints with respect to the operation of the existing facility since the granting of the original approval in 2019. The kitchen operates within the approved details in Conditions 3-5 of the original approval and additional trading would be unlikely to attract any additional nuisance. However, it would be envisaged that there would be increased footfall and vehicular traffic associated with the additional early morning trading hours.
- 11.6. However, against the background noise level of Upper High Street (trains will generally not operate after midnight), it is envisaged that the noise levels associated with the additional movements would not be significant and would not be unreasonable. The Council's Environmental Health Officer has reviewed the proposal and raises no objection, noting that "there are several premises with planning consent at this hour and that it is out of the centre of the town." These include American Pizza at 53 Upper High Street (1am on weekends) and Anatolia Kebabs at 51 Upper High Street (2am on weekends). Elsewhere, Papa Johns at 42a High Street trades to 3am on weekends and Pepe's at 20 High Street trades to 1am. No resident submissions have been received either.
- 11.7. On this basis, the proposal is considered to have no adverse impact on neighbouring residential properties and the proposal is acceptable. Condition 6 is amended accordingly. Other issues remain as concluded in the original planning permission 19/00826/FUL.

12. Accessibility and Equality

- 12.1. The Council is required to have regard to its obligations under the Equality Act 2010, including protected characteristics of age, disability, gender,

gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion, or belief. There would be no adverse impacts because of the development.

13. Planning Obligations and Community Infrastructure Levy

- 13.1. The application proposal would not require or attract any form of contribution or levy.

CONCLUSION

14. Planning Balance

- 14.1. The premises have operated in a manner that is conducive to the surrounding mixed-use area on Upper High Street. The proposed trading hours involve two additional hours on three nights per week to accommodate increased evening demand associated with night time activity. The Council's Environmental Health Officer has reviewed the scheme and raises no objection. Condition 6 is therefore amended in accordance with the proposal and the application is recommended for approval.

RECOMMENDATION

To grant planning permission subject to the variation of Conditions 1, 3, 4, 5 and 6 of the original permission (24/00605/REM), as follows:

1) Timescale

(deleted)

2) Approved details

The development hereby permitted shall be carried out in accordance with the plan 1065-01 Rev A, received 23/08/2019.

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

3) Refuse storage

Refuse storage and recycling facilities shall be fully implemented and made available for use at all times in accordance with the Refuse Storage & Recycling Facilities Statement (Received 24/06/2020), as discharged in application 20/00716/COND.

Reason: To ensure the provision of refuse facilities in accordance with Policy DM10 of the Development Management Policies Document (2015).

4) Ventilation and Filtration

Ventilation and filtration equipment must be operated and maintained in full working order in accordance with manufacturer's instructions throughout the proposed use in accordance with the Duct Extraction plans numbered (Received 27/05/2020) and GigaBox Extractor Fan Specification Information (Received 27/05/2020), both as discharged in application 20/00716/COND.

Reason: To safeguard neighbouring residential amenities in accordance with Policy DM10 of the Development Management Policies Document (2015).

5) Noise Attenuation

Noise and vibration measures shall be maintained for the duration of the permitted use in accordance with the Duct Extraction plans numbered (Received 27/05/2020) and GigaBox Extractor Fan Specification Information (Received 27/05/2020), both as discharged in application 20/00716/COND.

Reason: To safeguard neighbouring residential amenities in accordance with Policy DM10 of the Development Management Policies Document (2015).

6) Opening Hours

The premises shall only be open for customers between 11am and midnight on Sunday to Wednesday and 11am and 2am (the following day) on Thursday to Saturday.

Reason: To safeguard neighbouring residential amenities in accordance with Policy DM10 of the Development Management Policies Document (2015).

APPENDICES

1) Variations to the conditions

Condition 1 is amended as the original permission has been commenced. Conditions 3, 4 and 5 have been amended to reflect their discharged status. Condition 6 is amended to reflect the changes sought in this application.

2) Positive and Proactive Discussion

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.