

<b>Committee:</b> Development Committee	<b>Date:</b> 12 <sup>th</sup> September 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Shahara Ali-Hempstead		<b>Ref No:</b> PA/13/01392	
		<b>Ward(s):</b> Bow West	

## 1. APPLICATION DETAILS

**Location:** 429B Roman Road, London, E3 5LX

**Existing Use:** Estate Agent (A2 use class order)  
**Proposal:** Change of use of 4sq meters of estate agent (A2 Use Class) to mini cab call centre use (sui generis) at ground floor level.

**Drawing Nos:** 2132\_001 and 2132\_200

**Supporting Documents:** Design, Access and Impact Statement

**Applicant:** Mr Abu Bakkar

**Owners:** Mr J Styles

**Historic Building:** N/A

**Conservation Area:** Driffield Road

## 2. EXECUTIVE SUMMARY

2.1 The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the Core Strategy (2010), the Council's Managing Development Document (April 2013), adopted supplementary planning guidance and documents, the London Plan 2011 and the National Planning Policy Framework and has found that:-

1) The proposed change of use of 4sq meters of estate agent floor space (A2 Use Class) to mini cab call centre only (sui generis) is acceptable as it does not undermine the vitality and viability of the town centre.

2) Subject to the imposition of conditions, the proposed change of use as a mini-cab control office will not result in loss of amenity to neighbouring residents in terms of noise. This is considered acceptable.

3) The proposed mini-cab control office would not result in any detrimental impact on the safety and efficiency of the adjoining highway network and is therefore considered acceptable.

## 3. RECOMMENDATION

3.1 That the Committee resolve to **GRANT** planning permission subject to conditions.

- 3.2 That the Corporate Director Development & Renewal is delegated power to impose conditions on the planning permission to secure the following matters:

**Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in this planning permission.
3. The mini -cab operation shall be conducted as a control room only and no facilities are to be provided on site for drivers waiting for fares or between shifts nor shall the premises be used as a pick up point for customers.
4. No flashing lights shall be fixed to the external face of the building in association with the use hereby permitted.
5. No signage/advertising shall be displayed on the building or within windows of the property in association with the use hereby permitted.
6. Hours of operation 9:00 - 19:00 Monday to Saturday. Closed on Sunday

*Any other planning condition(s) considered necessary by the Corporate Director of Development & Renewal.*

**4. PROPOSAL AND LOCATION DETAILS**

**Proposal**

- 4.1 The application proposes the change of use of 4sq meters of estate agent floor space (A2 Use Class) to a mini cab call centre (sui generis).

**Site and Surroundings**

- 4.2 The application site is located to the rear of 429 Roman Road and is a two storey end of terrace building, located to the northern side of Roman Road. The site is bounded by no. 2 Driffield Road to the north, no. 431 Roman Road to the east, public highway at Roman Road to the south and Driffield Road to the west.
- 4.3 The surrounding area is mixed in character with Victorian terraced houses and a mix of uses, including retail and cafe/restaurant uses along Roman Road. The site lies within the designated town centre; Roman Road East District Centre and Driffield Road Conservation Area and the site and surroundings include no Statutory Listed Buildings.

**Planning History**

- 4.4 The following planning decisions are relevant to the application:

PA/67/00242:

Planning permission granted on 07/01/1968 for the change of use of the premises above from a retail shop and living accommodation to use for storage purposes.

PA/75/00302:

Planning permission granted on 20/02/1975 for the erection of a first floor extension to provide showroom and workshop.

PA/99/00561:

Planning permission granted on 03/08/1999 for Change of use from retail shop to estate agents and office (A2)

## 5. POLICY FRAMEWORK

5.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

### 5.2 London Plan 2011

Policies	6.3	Assessing effects of development on transport capacity
	6.13	Parking
	7.1	Building London’s neighbourhoods and communities

### 5.3 Adopted Core Strategy (2010)

Policies:	SP06	Maximise investment and job creation
	SP09	Creating Attractive and Safe Streets and Spaces
	SP10	Creating Distinct and Durable Places
	SP12	Delivering Placemaking

### 5.4 Managing Development Document (MDD) (April 2013)

Policies	DM15	Local job creation and investment
	DM25	Amenity
	DM20	Supporting a sustainable transport network
	DM22	Parking
	DM23	Streets and the public realm

### 5.5 Supplementary Planning Guidance/Documents

Driffield Road Conservation Area Appraisal

## 6. CONSULTATION RESPONSE

6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

6.2 The following were consulted regarding the application:

### London Borough of Tower Hamlets - Transportation & Highways

6.3 *The proposed change will be creation of a 4 sq. m room, from A2 to Sui Generis (mini cab call centre). The applicant has stated that the change of use is solely to accommodate a call centre. Taxis will be positioned remotely and receive jobs via PDA/smartphone from the controller. Although the 4 sq. m use area suggests that customer waiting facilities are not provided, cumulative vehicular traffic and parking on Roman Road and Driffield Road will inevitably be increased as a result of this business regardless of the notion of a remote call centre.*

6.4 *This is primarily related to mini cabs waiting outside cab offices in order to return fares, pick up waiting customers or to return to the office during quiet operational periods. Highways require operational conditions to be secured in order to ensure that vehicles do not wait outside of the unit/complex, no waiting facilities for drivers or customers are provided, no*

*customer/fare collection occurs from the premises and no advertising or flashing lights are to be provided. Moreover, the adjacent road (Driffield Road) has high parking occupancy overnight 104% and 78% during the day; therefore Highways have concerns over public and residential amenity around the site. Subject to appropriate conditions being secured, Highways have no objections in principle to the proposal. Informative: Highways will object to the installation of any advertisement (including trade branding and phone number) and/or flashing lights to promote a minicab service.*

- 6.5 **Officer Comment:** As requested by the Highways Officer, appropriately worded conditions will be imposed on any decision notice, to ensure highways safety within the vicinity is maintained.

## 7. LOCAL REPRESENTATION

- 7.1 A total of 14 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The application has also been publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 4            Objecting: 4            Supporting: 0  
No of petitions received:    1 objecting containing 121 signatories

The following issues were raised in objection that are addressed in the next section of this report:

- 7.2        • Noise and pollution from mini-cab drivers waiting outside the application site

**Officer's Comments** Amenity related matters are discussed in detail in section 8 of this Report.

- 7.4        • Increase in foot traffic

- 7.5        • Increase fumes will erode the façade of the buildings

**Officer's Comments** Amenity related matters are discussed in detail in section 8 of this Report.

- 7.6        • Parking problems associated with the mini-cab use

- 7.7        • Increase traffic will result in accidents

**Officer's Comments** Highways related matters are discussed in detail in section 8 of this Report.

- 7.8        • Mini cab offices already operate within 100 yards of the application site.

**Officers Comments** The issue of competition is not a material planning consideration as such it does not form part of the decision making process.

## 8. MATERIAL PLANNING CONSIDERATIONS

- 8.1 The main planning issues raised by the application that the committee must consider are:
1. Land Use
  2. Amenity
  3. Highways
  4. Human Rights Considerations
  5. Equality Act

### **Land Use:**

- 8.2 The proposal is for the change of use of a ground floor measuring 4sq meters from estate agent (Use Class A2) to a mini cab control room (Use Class Sui Generis).
- 8.3 The application site is located within designated town centre; Roman Road East District Centre. Policy SP01 of the Core Strategy (2010), states that district centres should contain a wide range of shops and services to meet the needs of the local community. Policy DM1 of the Managing Development Document (2013) supports a diverse mix of town centre uses in District centres.
- 8.4 Policy SP06 of the Core Strategy (2010) seeks to achieve an increase in provision of employment space for small and medium businesses to support the Borough's economy. Supporting a sustainable economy is also one of the pillars of the National Planning Policy Framework which specifies that local authorities should not place unreasonable burdens on operation of businesses.
- 8.5 The proposed change of use to a mini-cab call centre would result in the partial loss of the existing A2 use, which is currently being operated as a letting agent. A2 uses are considered to be an appropriate town centre use pursuant to policy DM1 of the MDD. However, the proposed new sui generis use, a mini cab call centre, is also considered to be an acceptable town centre use, given that the proposed activities of a call centre would be similar to an office type (A2/B1) use, the change of use is considered acceptable and compatible with the area and its general commercial usage.
- 8.6 The restricted use would not result in any reduction of a retail floorspace and therefore will not undermine the Roman Road East District Centre.
- 8.7 As such, it is considered that the mini cab call centre use is acceptable as it does not undermine the role of the town centre and its viability and vitality in line with policy SP06 of the Core Strategy (2010).

### **Amenity**

- 8.8 Part 4 b of policy SP10 of the CS and policy DM25 of the MDD seek to protect the residential amenity of the residents of the borough. These policies seek to ensure that existing residents adjacent to the site are not detrimentally affected by noise.
- 8.9 The applicant has applied for the mini-cab control office to operate from 9:00am to 7:00pm Monday to Saturday and closed on Sunday. Residential properties are located to the north and south of the application site.
- 8.10 The application proposes the use of 4sq metres of the floor space as a mini-cab control office only, with no facilities provided on site for drivers waiting for fares or between shifts or as a pick up point for customers. A condition restricting any form of advertisement will also be imposed to ensure that the premise is not advertised and is used as a call centre only with no access to the public.
- 8.11 Given the minicab office proposes to operate as a remote office only with no vehicles coming to the office at any time, it is considered that subject to the imposition of suitable conditions, the proposed use of part of the premises as a mini cab control office will not result in the loss of amenity to surrounding residential occupiers or impact upon the local highway network. The proposal is considered to accord with policy SP10 of the Core Strategy 2010 and policy DM25 of the Managing Development Document (April 2013).

## **Transport & Highways**

- 8.12 The NPPF and Policy 6.1 of the London Plan 2011 seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing highway network.
- 8.13 CS Policy SP08 & SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.14 Council's Highways Officers have advised that the mini-cab centre should have the following restrictions imposed to prevent potential for cabs being drawn to the site and congesting the highway:
- No waiting facilities for drivers or customers are provided, no customer/fare collection
  - No advertising of services on site, this covers no telephone number/address and no flashing light
- 8.15 The area suffers from heavy car parking stress, however subject to the application of suitable conditions restricting the use to that of an operating centre only, it is not considered that there will be any adverse impact on the surrounding highway network.
- 8.16 The mini-cab control office would complement the borough's public transport provision. It is not foreseen that there will be any impact on the traffic flow as the mini cab will operate as a control centre only with no cars parking, dropping or picking up customers from the site. It is considered that if the use of the mini-cab call centre is controlled in order to ensure it operates as a control base with no pick up at the site it would be in accordance with Policy DM25 of the Managing Development Document (April 2013).
- 8.17 Therefore, the use of the mini-cab call centre would not result in any impacts on the safety and efficiency of the highway network and it is therefore considered acceptable in terms of policy SP09 of the Core Strategy which seeks to ensure highway safety and efficiency.

## **Human Rights Considerations**

- 8.18 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:-
- 8.19 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- o Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - o Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and

- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "*regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole*".

- 8.20 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 8.21 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 8.22 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 8.23 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.24 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified. Officers have also taken into account the mitigation measures governed by planning conditions.

### **Equality Act consideration**

- 8.25 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:
1. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.26 In this instance there are no specific equalities that have been identified.

## **9.0 CONCLUSIONS**

- 9.1 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

