

COMMITTEE REPORT

BY THE EXECUTIVE DIRECTOR FOR ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES
READING BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE: 30 March 2022

Ward: Abbey

App No.: 200142

App Type: FUL

Address: 109b Oxford Road, Reading, RG1 7UD

Proposal: Change of use from sui generis (betting shop) to A3 restaurant with ancillary A5 takeaway and replacement shopfront (Part retrospective)

Applicant: Express Team Ltd

Deadline: 9th April 2021

RECOMMENDATIONS

Refuse full planning permission, for the following reasons:

1. In the absence of evidence to the contrary, the applicant has failed to demonstrate that the construction, odour control measures, noise levels, and running specifications of the kitchen extract flue will not result in noise, disturbance and odours affecting occupiers of surrounding dwellings resulting in harm to the amenity of occupiers of those dwellings. The development is therefore contrary to Policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019.

Informatives to include:

- 1) Refused drawings and details
- 2) Positive and Proactive

1. INTRODUCTION/BACKGROUND

- 1.1 The application relates to a ground floor shop at the end of a terrace located on the south side of Oxford Road and forming the corner with Zinzan Street. Until 2018, the ground floor was occupied by a vacant betting shop 'Ladbrokes' - a *Sui Generis* use. The upper floors are in residential use.
- 1.2 This part of Oxford Road is characterised by retail/commercial activity at ground floor, with residential ancillary uses (to the ground floor use) on the upper floors. Backing on to the site are residential properties in Zinzan Street which are predominantly Victorian terraces. Oxford Road is a busy shopping street and a major route into and out of Reading town centre for vehicles and pedestrians alike.
- 1.3 The building is not listed but is located within Castle Hill/Russell Street/Oxford Road Conservation Area. The site is located within the defined Reading Central Area, but outside of the central core, primary shopping area and office core areas. In addition, the site is also within an air quality management area.
- 1.4 The application was called in by Councillor Page and Councillor Rowland due to concerns regarding the impact on heritage assets and odour/noise disturbance.

Location Plan



Not to Scale

The application site as seen from Oxford Road:



2. PROPOSAL AND SUPPORTING INFORMATION

2.1 Application 180273 granted planning permission for “Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront”. This was approved subject to pre-commencement conditions intended to control the materials used in the new façade and the construction and control of kitchen extraction/ventilation equipment. No such details were submitted and, furthermore, works commenced on site which were not undertaken in accordance with the approved plans. Given that the change of use and associated development occurred without the discharge of conditions, the works are unauthorised.

2.2 In response and given the level of concern raised over the works that had taken place, an Enforcement Notice dated 17 January 2020 was served under ref Legal/SQ /IKEN13003 with the following requirements:

- (a) *“Cease the unauthorised use of the building on the land as a restaurant/takeaway (Use class A3/A5)*
- (b) *Remove, in their entirety, the existing unauthorised shopfronts from the north (Oxford Road) and east (Zinzan Street) elevations including the incorrectly-positioned doorway, display window and transom light and the “ornate timber plinth”, “ornate timber columns” (including corbel mouldings) and “ornate timber panelling”, and restore those elevations to their pre-existing state as shown on the attached Photograph ‘B’ ‘C’ and ‘D’ (Google Streetview images dated June 2018)*
- (c) *Remove the unauthorised air-handling plant installed within the east (Zinzan Street) elevation and restore that elevation to its pre-existing state as shown on the attached Photographs ‘C’ and ‘D’ (Google Streetview image dated June 2018)*
- (d) *Remove the two unauthorised air conditioning units and associated pipework and wiring from the south (rear) elevation and restore that elevation to its pre-existing state as shown on the attached Photograph ‘E’ (Google Streetview image dated June 2018)*
- (e) *Remove from the land all debris and excess building materials resulting from compliance with steps (b) to (d) above”.*

In response, this applicant submitted this application for retrospective planning permission to regularise the works on site. The Enforcement Notice remains in force but has been held in abeyance pending the outcome of this application.

2.3 The current application comprises amended shopfront proposals which are largely based on the previous approval (180273) but with a few changes, most notably the change to a centrally located doorway to the main shopfront and a revised material specification scheme. The proposals also seek to retain the existing kitchen extraction equipment used to treat and reduce fumes.

- 2.4 The application was due to be considered by Planning Applications Committee on 23 June 2021. The published minutes of that meeting state:

“It was reported at the meeting that information had been received on the day of the meeting which indicated that the specification of the odour control equipment at the premises was not as stated in the application. In consultation with officers in Environmental Protection it had been agreed that it was not safe to proceed with consideration of the application and that it should therefore be deferred to allow further investigation. Resolved - That consideration of application 200142/FUL be deferred to allow further investigation of the odour control equipment.”. This is discussed further below.

- 2.5 The following plans and supporting documents have been assessed:

Exiting Site and Location Plan 2017 0176
Existing Plan/Elevations 2017 0176
Proposed Plan/Elevations 2017 0176 Rev 3
Standard Block Paving Specification
Received 29th January 2020

Design and Access Statement Rev A
Received 27th July 2020

Odour Control Equipment Specification
Received 29th January 2020

Noise Assessment
Received 21st August 2020

Litter Management Details
Received 29th January 2020

3. RELEVANT PLANNING HISTORY

180273/FUL Amended Description: Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront (revised elevation details). Permitted.

181755/ADV Externally illuminated fascia sign to Oxford Road and Zinzan Street shopfronts and externally illuminated projecting sign fronting Oxford Road. Permitted.

181785/APPCON Application for discharge of conditions 3,4 and 9 of Planning permission 180273. Split Decision.

Enforcement Notice Legal/SQ /IKEN13003 dated 17 January 2020

4. CONSULTATIONS

(i) Statutory

4.1 None

(ii) Non-statutory

4.2 Highways: No comments received.

4.3 Environmental Protection: Have raised concerns relating to the lack of information in respect of noise and odours associated with the kitchen extract system.

4.4 Heritage Officer: No objection subject to material details to be submitted and agreed.

(iii) Public/ local consultation and comments received

4.5 Consultation letters were sent to 17 nearby occupiers (site notice and notice in local paper). Site notices were displayed on 1 April 2021 on the street frontage and again inside the shop window on 26 April 2021.

4.6 No neighbour letters of representation received at the time of writing this report

4.7 Representations from local groups have been received as follows:

4.8 *The Baker Street Area Neighbourhood Association (BSANA):
"BSANA understands that 109B Oxford Road has had previous planning approval for A3 restaurant with ancillary A5 takeaway but that the previous application and decision notice has been withdrawn.*

The present application 200142 is understood to be essentially a re-representation of the previously consented proposals in the circumstances that work proceeded on the earlier consented development in breach of pre-commencement conditions contained in the earlier consent. Hence this application is in part retrospective.

We infer from the Design and Access statement submitted with this application that the breaches of condition have been so extensive that it was agreed to resubmit the earlier consented proposals in a fresh, partially retrospective application with a view to fresh or varied planning conditions being imposed in respect of any issues that remain unresolved.

We do have some strong concerns with this development as it now appears at present, and we wish to draw attention to the following matters that we hope will be addressed.

We are particularly concerned that the restaurant and takeaway has been opened, and is being operated, without prior completion of the shop front, side front and forecourt enhancement works in accordance with the conditionally consented designs. Also that details of the materials being used have not been previously submitted to, and approved by, the Council in accordance with the then current planning conditions for the development. The materials used appear to be of inferior quality and the architectural detailing appears “incorrect” - it certainly does not match that of the earlier approved design.

We are also concerned about the existing advertising signage on the Zinzan Street frontage of these premises. So far as we are aware, the only signage consented is that in decision notice 181755. The visual impact of the existing signage appears excessive and lacking in the restraint that should prevail in a Conservation Area.

The forecourt of the premises has been tarmacked and not brick-paved as in the earlier approved design and the side boundary wall is an eyesore that has not been re-rendered and painted. There is a most unsightly, and possibly hazardous, cluster of loose electric cabling rising from the ground to the first floor level at the left hand corner of the Oxford Road façade. We ask that this eyesore also be addressed in the determination of this application.”

- 4.9 *Reading Conservation Area Advisory Committee (CAAC):*
“CAAC apologise for the late submission of these comments but having commented on 109a Oxford Road (201585/201586) we felt that we should also comment and object to this application.

We note that the application is required because of the failure of the applicant to adhere to approved plans and conditions of approval of the application for change of use from a betting shop to a restaurant/takeaway (180073).

Summary of objection:

We do not believe that this application can be accepted without amendment to the plans because of the central positioning of the front door and the asymmetrical appearance that results.

109b Oxford Road is (with 109a) one of the twin gateways to Zinzan Street. It is similarly within a conservation area and Reading’s HSHAZ pilot area so expectations of a very positive improvement to the appearance of the building apply equally.

Subject to this should this application be granted we would like to be assured that the previous failings will be rectified and if not, enforcement action taken in relation to the appearance of the property, the paving and the extractor fan and ventilation.

1. Elevations

1.1 Shopfront onto Oxford Road

1.1.1 Originally approved plans were for an entrance door to the side of the frontage and one large window. The plans submitted with this application have a central door as per the current situation (see below). The impact of this is that it looks unbalanced as the timber panel on the left hand side of the left window now needs to be reproduced on the right hand side of the right window if the front door position is to be retained. The asymmetrical configuration is only in keeping with a door to the side.

1.1.2 The originally approved plans (amended plan version 3.0) and those now submitted do not have signage across the whole width of the frontage. The signage in place does extend across the whole frontage. Therefore, the signage will also need to be amended when the columns are installed.



1.1.3 The 'mock up', 'faux' columns on the frontage are not consistent with the example photograph included of the Timberland shop in Guildford (see below). Whilst the image may have been illustrative only, this together with the side elevation submitted it clearly gave the impression of a much higher quality frontage.



1.2 Side elevation

1.2.1 Plans for side elevation indicate a scroll at the top of the column on the frontage consistent with the Timberland frontage. The elevation submitted with this application is consistent with the original application.

1.2.2 The originally approved plans (amended plan version 3.0) and those now submitted do not have signage across the whole width of the frontage. The signage in place does extend across the whole frontage. Therefore, the signage will also need to be amended when the columns are installed (see below).



3. Conclusion

3.1 Please reject this application for the reasons stated above.”

Officer Response: *The Council’s previous Heritage Consultant raised no objection to the repositioning of the doorway, and it is not considered that this in itself raises such harm to warrant a refusal within the context of the overall improvements identified in this report. The applicant will be making an application for advertisement consent to amend the signage.*

4.10 Reading Civic Society: No comments received.

5. LEGAL CONTEXT

5.1 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority in the exercise of its functions to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making (NPPF paragraph 12).

5.3 In this regard, the NPPF states that due weight should be given to the adopted policies of the Local Plan 2019 according to their degree of

consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

- 5.4 Accordingly, the National Planning Policy Framework 2019 and the following development plan policies and supplementary planning guidance are relevant:

National Planning Policy Guidance
National Planning Policy Framework (NPPF) 2021

Reading Borough Local Plan 2019

CC1: Presumption in Favour of Sustainable Development
CC7: Design and the Public Realm
CC8: Safeguarding Amenity
EN1: Protection and Enhancement of the Historic Environment
EN3: Enhancement of Conservation Areas
EN6: New Development in a Historic Context
EN16: Pollution and Water Resources
EN17: Noise Generating Equipment
TR3: Access, Traffic and Highway Related Matters
TR5: Car and Cycle Parking and Electric Vehicle Charging
RL1: Network and Hierarchy of Centres
OU5: Shopfronts and Cash Machines
CR1: Definition of the Centre
CR2: Design in Central Reading
CR6: Living in Central Reading

Supplementary Planning Documents and other guidance
Revised Parking Standards and Design SPD (2011)
Design Guide for Shopfronts SPD (2022)
Castle Hill/Russell Street/Oxford Road Conservation Area Appraisal

6. APPRAISAL

Principle of development

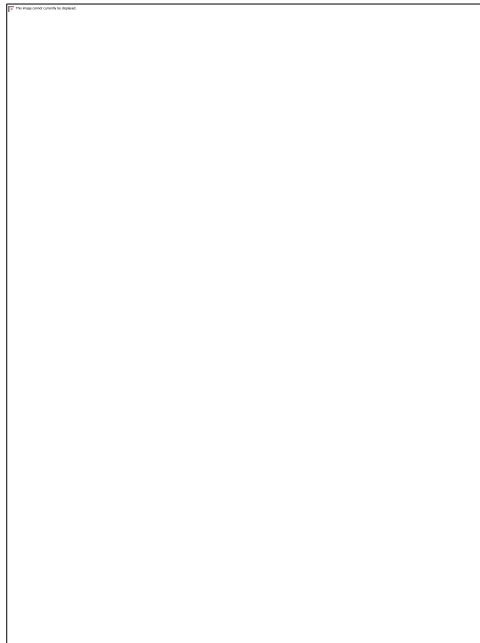
- 6.1 Planning permission was granted at the Planning Applications Committee 30th May 2018 for “Change of use from sui generis (betting shop) to A3 restaurant with ancillary takeaway and replacement shopfront” (application 180273). This application was granted with conditions attached to include material samples and extraction/ventilation details to be submitted prior to commencement of works. The change of use itself from Sui Generis to A3 restaurant with ancillary A5 takeaway was considered acceptable in principle and that remains the case.
- 6.2 Officers worked closely with the applicant during the course of the 2018 application to arrive at a positive recommendation. However, the development was subsequently commenced without discharging the conditions, furthermore the works were not undertaken in accordance with the approved plans. This resulted in a poor visual appearance and gave rise to concerns over noise and odours from the kitchen extraction equipment.

- 6.3 The works that have taken place are considered to be unauthorised and are subject to the 2020 Enforcement Notice. This current application seeks planning permission for largely the same as that approved under application 180273 but with some changes to details including the centrally located door to the shopfront and revised material specification scheme. Retrospective approval is sought for the kitchen extraction system as installed.

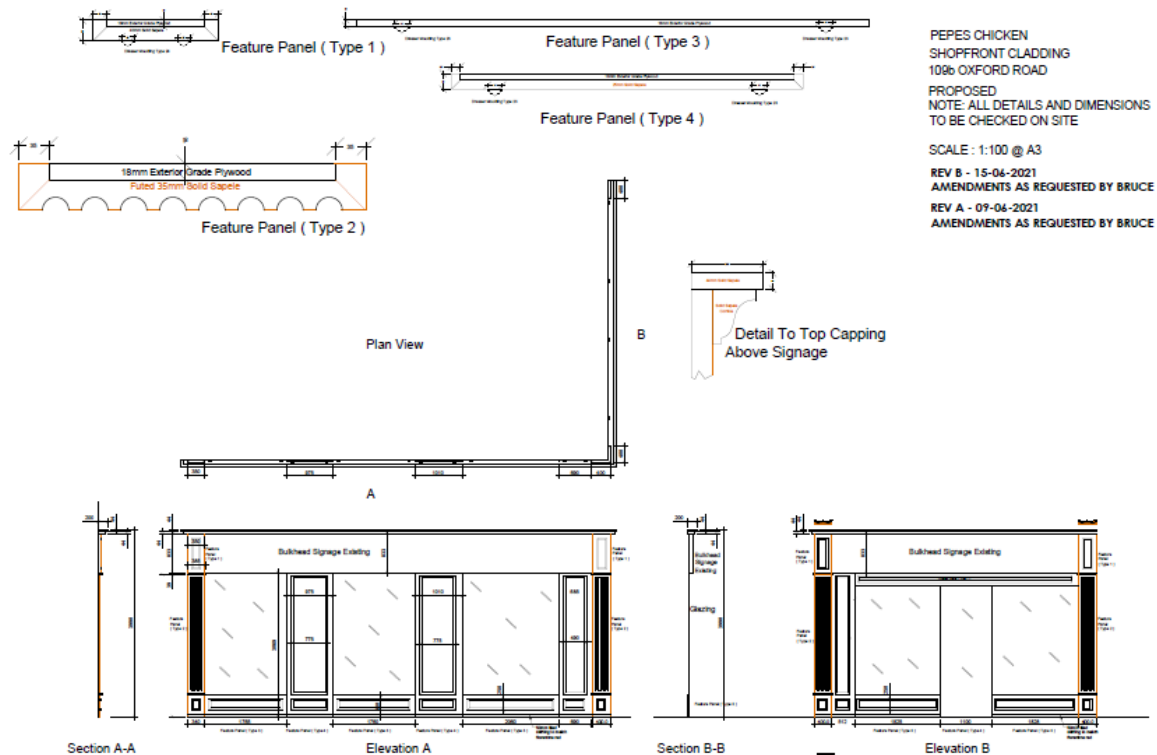
Design and Heritage

- 6.4 The unauthorised works have resulted in a poor-quality appearance and are considered unacceptable in terms of the impact on the character and appearance of the Castle Hill/Russell Street/Oxford Road Conservation Area. This contrasts with the permission (180273) which represented a clear improvement to the appearance of the original 'Ladbroke's' building which had a notably poor appearance and did not contribute positively to the Conservation Area. The specific areas of breach are highlighted as follows:
- The main front door of the shopfront has been installed centrally rather than to the left-hand side (viewed from the street) as shown on the previously approved drawings;
 - The corbel moulding shown on the previously approved drawings is missing from the pilasters;
 - The timber panel above the pilaster corbel shown on the previously approved drawings (at fascia level) is missing;
 - A coated metal infill panel has been installed under the fascia in place of the transom light glazing shown on the previously approved drawings;
 - The timber shopfront panelling shown on the previously approved drawings is missing from much of the shopfront and a painted render finish with pinned-on timber beading has been applied instead;
 - The 'ornate panelling' as annotated on the previously approved drawings, where installed, consists of a manufactured timber board which grooves routed out and painted;
 - The surfacing materials for the front forecourt are not the same as that shown on the previously approved drawings;
 - The opening on the flank elevation shown on the previously approved drawings to be closed off with brickwork remains in use for extraction;
 - Two air conditioning condensers have been mounted to the rear elevation, the position of one obstructs the installation of the air supply system acoustic louvre grille as previously approved.
- 6.5 The proposed plans largely seek to address the above and revert to a design which more closely reflects what was originally granted permission. It is proposed to keep the front door centrally as installed rather than revert to the side and this is considered acceptable, resulting in a balanced composition and being similar to other shopfronts along this part of Oxford Road.
- 6.6 It is also no longer proposed to block up the opening on the flank elevation adjacent Zinzan Street. The applicant has stated that this is only for fresh air intake and this is the same as that for application 201585 at 109a Oxford Road. Given this and that this is an existing small-scale opening, this is not considered unacceptable.

- 6.7 It is proposed to move the air conditioning unit to a lower position on the rear elevation. This would allow for the installation of the air supply system and it would also further minimise its impact visually. Whilst it would be visible when viewed directly from the rear of the site (from the rear yard), it would not be readily visible from Zinzan Street.
- 6.8 Further details of the external architectural appearance have been submitted during the course of the application as follows:
- a sample of the Herringbone brick paving (red) for the front of the shop;
 - a colour chart depicting the 'Florentine' red proposed to paint the timber columns and panels; and
 - a more detailed drawing depicting the timber panel detail (using Solid Sapele timber)



Paving sample and colour chart



Timber panel detail

- 6.9 Further to the above, the applicant has provided a final drawing of the shopfront which also now includes the proposed timber front door painted Florentine red.
- 6.10 It is considered, in consultation with the Council’s Conservation and Urban Design Officer, that the proposals would represent an opportunity to enhance this building, with the ground floor colours sympathetic to the upper floor and the shopfront restored to a more traditional form which respects the age and character of the host building. Similarly, the proposal to replace the tarmac with a charcoal colour paving would also improve the appearance when viewed from Oxford Road.
- 6.11 The design and heritage aspects of the proposals are considered to comply with Policies EN1, EN3, CC7, CR2 and the recently adopted Design Guide for Shopfronts SPD (2022)

Impact on neighbouring amenity (including environmental protection matters)

- 6.12 Policy CC8 seeks to prevent development from having a detrimental impact on the living environment of existing residential properties through noise and disturbance, dust, smells, fumes and vibrations. Policy EN17 requires that any noise generating equipment should be designed to read at least 10dBA below the existing background level as measured at the nearest sensitive receptor.
- 6.13 The main issue in terms of residential amenity is noise and odours from the extraction equipment associated with the use. It is not uncommon for

restaurants and hot food takeaways to be located close to residential accommodation and for fumes and smells to be dealt with by means of extraction equipment. It is noted that in this regard, whilst planning application 180273 included a specific condition requiring further ventilation and extraction details to be submitted prior to works commencing, these details were not provided. Furthermore, there are concerns that the system that has been installed (and which the current application retrospectively seeks to retain) does not satisfactorily control odour emissions.

- 6.14 Information had been received on the day of the 23 June 2021 Planning Applications Committee meeting in respect of this current application, which indicated that the specification of the odour control equipment at the premises was not as stated in the current application. This led to the application being deferred to allow further investigation. The applicant has been invited to submit further detail in terms of the current system that is installed but has not submitted anything meaningful since in this regard.
- 6.15 A noise assessment has been submitted. This currently shows the level is 20dBA above the required level but recommends an indoor or external silencer which the Environmental Protection Officer considers should reduce the level sufficiently to meet the Council's plant noise criteria of 10dB below background - and be significantly quieter than the existing system.
- 6.16 The information received on 23 June 2021 suggested that the installed system in fact falls well short of the specifications which the submitted noise and odour reports stated as being necessary to avoid noise and odour concerns. As things stand, it remains far from clear as to the extent of the shortcomings of the installed system (which the retrospective application seeks to retain in its current form) and therefore if any works could be carried out to bring it up to the required standard. Indeed, it may not be possible and a wholly different system may be required. Given the considerable degree of uncertainty that exists, it is considered that the current application fails to demonstrate that the retention of the existing system would avoid harm to the amenity of adjoining dwellings in terms of noise and odour, contrary to policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019.
- 6.17 Despite the fundamental concern over the extraction equipment identified above, other relevant matters include the proposed hours of use of the premises. These remains as previously approved under application 180273: 11:30-23:00 Sunday - Thursday and 11:30 - 23:30 Friday-Saturday. This is not considered unreasonable given the operating hours of other nearby establishments and this could be secured by condition. The use of the premises incorporating hot food takeaway might generate additional usage over and above the current use, especially in the evening hours, however, it is not considered that this would be so significant as to be detrimental to neighbouring residential properties especially in view of the existing hot food takeaway businesses nearby in this parade of shops which are of a similar character.

Highway Matters

- 6.18 This site is situated on A329 Oxford Road which is a main transport corridor in and out of Reading and is a busy public transport route between central Reading and the west. It is located in Zone 2, Primary Core Area, of the Revised Parking Standards and Design SPD. This zone directly surrounds the

Central Core Area and extends to walking distances of 2 kilometres from the centre of Reading.

- 6.19 Oxford Road and the surrounding road network all have extensive parking restrictions preventing on-street parking. A residents' permit parking scheme operates in the area thereby restricting and monitoring unauthorised parking.
- 6.20 In accordance with the Council's adopted Parking Standards and Design SPD, the proposed restaurant use would generate a parking demand of 1 space per 5sqm whereas the proposed take-away use would generate a parking demand of 1 space per 40sqm. There is no off-street parking associated with the site however the parking demand generated by the proposal could be suitably accommodated within the short stay parking bays on Oxford Road and nearby public car parks as is currently the case with other similar uses in the street.
- 6.21 There are therefore considered to be no transport objections to the proposals in accordance with Local Plan Policies TR1, TR3 and TR5 and the Revised Parking Standards and Design SPD 2011.

7. CONCLUSION

- 7.1 Having regard to the Development Plan, material considerations and all matters raised, the Local Planning Authority considers that, whilst the proposals would visually enhance the character and appearance of the conservation area, insufficient evidence is available within the application to demonstrate that the construction, odour control measures, noise characteristics, and running specifications of the existing kitchen extract flue would avoid causing noise, disturbance and unpleasant odours to occupiers of surrounding dwellings. It has also not been established what, if any, alterations could be made to the system to ensure that it performs in such a way as to avoid harm to the amenity of these neighbouring dwellings. The development is therefore contrary to Policies CC8, CR6, EN16 and EN17 of the Reading Borough Local Plan 2019 and is recommended for refusal on that basis.

The Implications of Refusal

- 7.2 The use remains unauthorised, as does the existing shopfront and kitchen extract. It is not possible to separate these elements and the application must be determined as it stands. The Enforcement Notice dated 17 January 2020 is still in force and can be enforced through the courts. It should be noted however that this leaves an undesirable situation whereby the heritage benefits would not be realised because the Enforcement Notice requires the return of the site to its pre-existing state - i.e. the 'Ladbroke's' shopfront configuration. An alternative approach would be to quash the existing notice and serve a new one targeting the kitchen extraction system.
- 7.3 It is however hoped that the likelihood of further enforcement action would motivate the applicant to resolve matters in respect of the kitchen extraction system by reapplying to secure permission for the shop front with a good quality heritage design and a high standard of noise and odour control.

Case Officer: Ethne Humphreys

Proposed Floor Plan and Elevations

The contractor is responsible for checking dimensions, tolerances and references. Where an item is covered by drawings to different scales the larger scale drawing is to be worked by. Do not scale drawing. Figure dimensions to be worked to in all cases. All fit out manufacturers to take direct measurements on site before commencing work. Architect will not be held responsible for any deficiencies in the survey and any furniture misfits.

Drawing no. 3.0
 Project: 1018 Oxford Road, RG1 7UD
 Drawing: PROPOSED PLAN / ELEVATION
 Job no. 2017-0174
 Drawn: GS
 Date: 27-01-2020
 Scale: 1:100 @A3

REV A - 09-04-2021
 AMENDMENTS AS REQUESTED BY BRUCE

Drawing no. 4.0
 Project: 1018 Oxford Road, RG1 7UD
 Drawing: PROPOSED ELEVATIONS
 Job no. 2017-0174
 Drawn: GS
 Date: 27-01-2020
 Scale: 1:50 @A3

Proposed Elevations