

## PLANNING APPLICATIONS COMMITTEE 13 OCTOBER 2016

	<b>APPLICATION NO.</b>	<b>DATE VALID</b>
	16/P2291	07/06/2016
<b>Address/Site:</b>	144 Central Road, Morden SM4 5RL	
<b>Ward</b>	St Helier	
<b>Proposal</b>	Change of Use from Class A4 (Public House) to Class A5 (Hot Food Takeaway) together with shopfront alterations and installation of air condensers and extraction flue	
<b>Drawing No's</b>	'Site Location Plan 7338L-PP-01', 'Proposed Site Plan 7338L-PP-03 Rev D', 'Proposed Floor Plans & Elevations 7338L-PP-04 Rev F', 'Proposed Block Plan 7338L-PP-05 Rev A', 'Proposed Air Conditioning and Ventilation Proposed Sections 327/M/001 Rev P1', 'Plant Noise Assessment Report 19 May 2016', 'Noise Break-Out Assessment Report' & 'Delivery and Servicing Management Plan'.	
<b>Contact Officer</b>	Felicity Cox (020 8545 3119)	

### **RECOMMENDATION**

GRANT PLANNING PERMISSION subject to planning conditions.

### **CHECKLIST INFORMATION**

- Heads of agreement: No
- Is a screening opinion required: No
- Is an Environmental Statement required: No
- Has an Environmental Impact Assessment been submitted: No
- Design Review Panel consulted: No
- Number of neighbours consulted: 49
- Press notice: Yes
- Site notice: Yes
- External consultations: No
- Density - N/A

## **1. INTRODUCTION**

- 1.1 The application is being brought before the Planning Applications Committee due to the level of public interest in the proposal.

## **2. SITE AND SURROUNDINGS**

- 2.1 The subject property is located south of Morden town centre on the corner of Central Road and Abbotsbury Road. The unit is located at ground floor level partly within the original Morden Tavern Building, which is locally listed, but predominantly within a single storey, flat roofed side extension which is not part of the original Morden Tavern Building. The Morden Tavern Building was designed by Sir Harry Redfern as a 'New Model Inn' under the Home Office State Management Scheme with a strong Arts and Crafts influence in its design.
- 2.2 The lawful use of the unit is Class A4 (Public House) with outdoor seating in the adjacent terrace and approved hours of operation for 7am-11pm, although the unit has been vacant since the redevelopment of the tavern. The unit has a floorspace of 114.83 sqm, and is adjacent to a Sainsbury's local supermarket which occupies the remainder of the ground floor of the former Morden Tavern.
- 2.3 There are five flats above which are separately accessed, as well as further residential dwellings to the rear.
- 2.4 There are 11 car parking spaces to the front, of which 2 spaces are dedicated to the subject unit. There is also a loading bay, approximately 15m long, to the front of the premises that is shared with the adjoining Sainsbury's use. A refuse store servicing the ground level commercial units is located adjacent to the eastern end of the building. A bus stop is located outside the entrance to the site on Central Road.
- 2.5 To the north, south, east and west are residential properties. Approximately 100m to the east along Central Road is a small parade of five commercial units. Here, there is a double fronted veterinary surgery, a laundrette, a dry cleaner and a newsagent/convenience shop.

## **3. CURRENT PROPOSAL**

- 3.1 The proposal is for the change of use from Public House to Hot Food Takeaway together with shopfront alterations and installation of air condensers and an extraction flue.
- 3.2 No extension or increase in floor area is proposed. The proposal involves alterations to the external façade of the existing extension (not the original Tavern building). The alterations include the removal of windows/doors on the south-west elevation and replacement door with

new brickwork to match the existing to infill the area of the removed windows.

- 3.3 A new extract flue is proposed on top of the flat roof of the existing extension. The low-level extract flue is to be covered in an acoustic enclosure. The extraction flue has been designed to direct the exhaust outlet away from the windows of the upper storey flats. The height of the parapet is also to be raised 400mm to conceal the new extract flue. Three acoustically enclosed air condenser units are proposed to be located on the north-western elevation of the building.
- 3.4 The unit is intended to be occupied by Firezza Pizza, a subsidiary of Pizza Express. The Firezza product offer will be handmade pizza, including healthy options such as vegetarian, gluten free and vegan pizzas, Sides, Desserts and Drinks. There will be no greasy products on the menu and extraction will consist of dough baking steam. The Firezza outlet will use ovens for all cooking operations, which would be limited to baking of pizzas and pre-prepared side dishes such as garlic bread.
- 3.5 The proposed hours of operation are from 11:00am to midnight (00:00am). The use will employ up to 25 full time and part time staff.
- 3.6 It is expected, through company experience that the majority of trade will be via delivery. Delivery will be undertaken via the use of 8 zero-emission electric bikes. Four of these bikes will be stored internally, whilst another four will be securely locked overnight to the side terrace of the premises with a security gate restricting access by the general public. The bikes will be powered by batteries which can be lifted out of the bike, carried internally by hand into the store and securely charged overnight.

#### **4. PLANNING HISTORY**

- 4.1 The site has an extensive site history. The following is the relevant planning history applicable to this application:

14/P4117 – Application to vary Condition 11 (Noise levels) attached to the planning permission granted on appeal under the reference 11/P0815.

11/P0815 - The change of use, extension and conversion of the locally listed public house building [use class A4] to provide 2/3 ground floor units for retail [class A1]; office [class A2]; restaurant [class A3] or public house/bar use [class A4]; the demolition of outbuildings and single storey extensions and a new single storey extension facing Abbotsbury road together with the conversion of the existing residential use on the upper floors to provide 5 flats [3 one bedroom flats and 2 two bedroom]; a new detached building adjacent to 142 central road providing 9 flats [6 one bedroom and 3 two bedroom]; a new building at

the corner of Abbotsbury Road and Blanchland road providing 8 maisonettes [2 one bedroom, 3 two bedroom and 3 three bedroom]; a new terrace of 4 houses [2, three and 2 four bedroom] adjacent to 83 Blanchland Road – Grant Permission (Allowed on Appeal). There is also a unilateral undertaking under S106 that links to the development and which provides for the provision of affordable housing and restricting on-street parking permits for future residents.

## **5. CONSULTATION**

5.1 The application was advertised by means of neighbour notification letters and site notice and notice in the Wimbledon/Mitcham/Morden Guardian.

5.2 There were 9 objections from local residents raising concerns relating to:

- Parking area on site already heavily congested – insufficient parking available for customer collections which will impact residents and lead to detrimental impacts on highway safety.
- Delivery drivers will likely ride over the pavement and grassed entrance – condition should be applied stating correct entrance must be used.
- Delivery of products to shop will result in additional congestion.
- Customers should be restricted from eating close to the outlet - concerns customers will congregate outside shop in adjacent terrace area.
- Hot foot take-away would draw a level of anti-social behavior to the area, including drawing people that are intoxicated.
- Management will need to ensure littering of front garden from customers does not result. There are insufficient waste bins in the area.
- Use would have undue noise and odour impacts on adjacent residents, particularly first and second floor flats, late at night.
- Type of flue proposed would not deal with odour generated and would be incongruous and harmful to visual amenities.
- Condenser type, size and location has not been detailed and will affect the existing listed building status.
- Insufficient information on positioning and dimensions of flue and/or condensers. Needs to be reviewed by LBM Environmental Health officers.
- Odour mitigation treatment has not been specified. If not appropriately addressed will have harmful impact on residents.
- Acoustic protection system should ensure that nearby residents are not unduly affected by noise from extractors and condensers.
- Light pollution will result from the shop and its signs.
- Hot food takeaway should not be allowed within proximity to schools.

- Already over-supply of hot foot takeaways within walking distance of the site.
- Hot food take-away is not in keeping with the renewal and transformation of Morden and counter-productive to the regeneration of the Tavern.
- Opening hours unacceptable due to noise impacts – should be restricted to 10pm at the latest
- Proposed alterations to building would have unacceptable visual impact on listed building and hot food take-away use not in keeping with character of the listed building.
- Insufficient residents consulted.

Environmental Health In response to comments from EH officers and submitted concerns, the applicant supplied additional noise reporting (Plant Noise Assessment Report & Noise Break-Out Assessment Report prepared by Auricl Acoustic Consulting). The applicants propose to use the Kitchavent 2000 Odour Abatement System for odour management and details of acoustic enclosures for both the kitchen extract and three condenser units were provided to LBM Environmental Health. Upon review of this information, Environmental Health has not objected to the proposal and has recommended conditions securing the implementation of the odour management system, and conditions requiring compliance with noise levels and the Acoustic reporting, and Delivery and Servicing Management Plan.

- 5.3 Transport planning – officers have no objections to the proposed change of use. Officers have advised that the level of parking is appropriate given the established use of the site and anticipated traffic movements. Transport officers have recommended a condition requiring compliance with the Delivery and Servicing Management Plan.

## **6. POLICY CONTEXT**

### **6.1 London Plan (2015)**

The relevant policies in the London Plan (2015) are:

2.8 [Outer London - Economy]; 4.1 [Developing London's economy]; 4.7 [Retail and Town Centre Development], 6.3 [Assessing effects of development on transport capacity]; 6.9 [Cycling]; 6.10 [Walking]; 6.11 [Smoothing traffic flow and tackling congestion]; 6.12 [Road network capacity]; 6.13 [Parking]; 7.2 [An inclusive environment]; 7.3 [Designing out crime]; 7.4 [Local character]; 7.5 [Public realm]; 7.6 [Architecture]; 7.8 [Heritage Assets & Archaeology], 7.14 [Improving air quality]; 7.15 [Reducing noise and enhancing soundscapes];

### **6.2 Merton LDF Core Planning Strategy (2011)**

The relevant policies in the Merton LDF Core Strategy (2011) are: CS 3 [Morden Sub-Area], CS 7 [Centres]; CS11 [Infrastructure]; CS 12

[Economic Development]; CS.14 [Design]; CS.18 [Active transport]; CS.19 [Public transport]; and CS.20 [Parking; servicing and delivery].

### 6.3 Merton Sites and Policies Plan (2014)

The relevant policies in the Merton Sites and Policies Plan (2014) are:  
DM R1 Location and scale of development in Merton's town centres and neighbourhood parades  
DM R5 Food and drink/leisure and entertainment uses  
DM D2 Design considerations in all developments  
DM D4 Managing Heritage Assets  
DM EP 2 Reducing and mitigating noise  
DM E1 Employment areas in Merton  
DM E4 Local employment opportunities  
DM T2 Transport impacts of Development

## **7. PLANNING CONSIDERATIONS**

7.1 The key issues arising from the application is the suitability of the application site for a hot-food take-away and loss of a public house; design and impact upon the character and appearance of the locally listed building, the impact of the proposal in terms of traffic, parking, and access, the impact of the proposal on the amenity of surrounding residents.

### 7.2 Principle of Development

Core strategy policy CS 7 Centres and Sites and Policies Plan Policy DM R2 Development of town centre type uses outside town centres states that town centre type uses will only be permitted outside of a town centre where it does not compromise the vitality and viability of Merton's town centres. The site is not located within a designated town centre, neighbourhood parade or shopping frontage, however town centre type uses have been established on the site under permission ref: 11/P0815, with the unit specifically approved for A4 uses. It is acknowledged the unit would have Permitted Development rights to change use to A1, A2 & A3 uses.

7.3 Policy DM R5 Food and drink / leisure and entertainment uses states that proposals for hot food takeaways would need to demonstrate they would not have an unacceptable impact on local amenity and the general environment, car parking, traffic congestion and road safety. Proposals which results in an over-concentration of hot food takeaways (A5 uses) will not be permitted as this would detract from the ability to adopt healthy lifestyles. This is particularly relevant given Abbotsbury Primary School is within close proximity to the site.

7.4 From an assessment of current hot food take-away uses in the area, officers consider that the proposal would not result in an over-concentration of hot food take-away stores (nearest hot food take-away approximately 350 metres away, with only two A5 uses within a 400m radius of the site). Therefore, the use is not considered to detract from

the ability for residents to adopt healthy lifestyles in accordance with Policy DM R5 (f) of the Sites and Policies Plan.

- 7.5 Although surrounded by residential development, it is considered that through the appropriate installation of acoustic enclosures to condenser units and flue extracts, along with installation of appropriate odour control mechanisms in accordance with Environmental Health recommendations, the proposed use would not result in an unacceptable impact on local amenity in accordance with the relevant London Plan and Merton policies.
- 7.6 Loss of Public House  
Policy DM R5 states that proposals that will result in the loss of a public house will only be permitted where the applicant can demonstrate to the council's satisfaction that the public house is no longer economically viable and there are alternative public houses located within 800m of the site.
- 7.7 Historically a Public House was located at the site until a conversion and new-build, mixed-use scheme was constructed. Prior to the redevelopment, the pub had been closed since 2010 and had been occupied by squatters. Enterprise Inns who originally owned the premises commenced marketing in July 2009 to sell the public house.
- 7.8 The new unit has subsequently been vacant since it was constructed under the redevelopment scheme and has been fully marketed locally and nationally since October 2014. The applicants supplied detailed marketing evidence which showed a continued and active marketing campaign since October 2014 which has included marketing the site for alternative use classes (including A1 A2 A3 uses) through a variety of marketing platforms. Other users were also considered, subject to change of use.
- 7.9 The marketing report details that during this campaign, the site has failed to gain any interest from any A4 Class occupier. In terms of alternative A Class users, there have been sporadic viewings by mostly A1 occupiers. However, these viewings have not led to occupation and feedback from these parties have highlighted concerns over costs to fit-out the premises (as it is offered in shell form) in addition to lack of footfall in the area restricting potential for retail occupiers.
- 7.10 The site or parts of it has therefore been on the market since summer 2009 and has not attracted any serious viable interest from Class A4 occupiers or, in the case of the application part of the former Morden Tavern, alternative A class users. It is considered that the site is currently unlikely to be occupied by an A4 use in the foreseeable future. In light of the potential of the use to generate employment opportunities and secure the long term viable use of the unit, it is considered the employment generating benefits from the use would be of greater

community and economic benefit than the unit being left vacant and therefore the loss of the public house is considered to be acceptable in this instance.

7.11 Design & Appearance

Core strategy policy CS14 and SPP Policy DMD3 require well designed proposals that will respect the appearance, materials, scale bulk, proportions and character of the original building and its surroundings. SPP Policy DMD4 require proposals to conserve and where appropriate enhances Merton's heritage assets and distinctive character.

7.12 The alterations to the façade only relate to the side extension and no alterations to the original listed building are proposed. The alterations on the fenestration/doors of the unit would be replaced with fenestration and materials that complement those of the listed building. The raising of the parapet has been designed to conceal the majority of the new flue and is still considered to be of an appropriate scale and height to complement the overall design and character of Morden Tavern.

7.13 A suitably worded condition is proposed requiring the details of the colour and finish of the external condenser units and acoustic cover to the flue to be submitted for Council approval to ensure these additions blend in with the external façade of the building.

7.14 Based on the above, it is considered that the proposal will conserve the character and appearance of the Morden Tavern in accordance with SPP Policy DMD4.

7.15 Management of Noise Impacts

SPP Policy DM E1 stipulates that new uses should not unacceptably affect local amenity. SPP Policy DM EP 2 requires that noise generating developments should be appropriately located so as to minimise impacts on noise sensitive land uses. Given the proximity of the site to the residential areas, objections have related largely to concerns about noise from the extraction flue, condenser units and customers/staff.

7.16 A Noise Impact Assessment and additional Noise Break-Out Assessment Report was supplied by the applicant that has demonstrated acceptable noise levels can be achieved from internal sources as well as from the proposed external plant through appropriate sound insulation and acoustic enclosures, in accordance with Merton policy requirements. Environmental Health has recommended conditions securing the implementation of the proposed acoustic attenuation measures to ensure the amenities of residents are preserved and undue noise impacts do not result.



- 7.17 The applicants have reported that based on company experience it is anticipated that the majority of trade will be via delivery (only 10% via pick-up collection). The proposed electric bikes emit little noise and are emission free. Each scooter will take approximately two minutes to load and depart for a delivery. Environmental Health have recommended a suitably worded condition be applied only allowing for the use of electric bikes for food deliveries to ensure delivery movements do not result in undue noise pollution.
- 7.18 The applicants have supplied a Delivery and Servicing Management Plan detailing how the delivery service will be carefully managed and operated to prevent amenity impacts on residents. This includes provision of an indoor team area for staff, strict policies restricting staff from being outside the store when not loading goods, no activity being permitted outside the store after 21:00, and no loitering, smoking or communication allowed outside the store at any time.
- 7.19 Taking into consideration the Firezza site management proposals, it is considered that the noise impacts from visitors and staff arriving and leaving the site may be less intrusive than that which would otherwise be generated from an A4 use operating on the site. It is therefore considered that with appropriate conditions, the use can be operated without harming the amenity of neighbours.
- 7.20 Odour Issues  
SPP Policy DM EP4 seeks to minimize pollutants and to reduce concentrations to levels that have a minimal adverse effect on people and the local area.
- 7.21 Defra's Guidance on the 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (Defra, 2005) contains an assessment procedure for identifying the potential risk of odour impacts from commercial kitchen operations. The risk rating for cooking type and grease loading relates to the type of cooking methods employed in the kitchen and the type of food prepared. The Firezza outlet will use ovens for all cooking operations, which would be limited to baking of pizzas and pre-prepared side dishes such as garlic bread. The grease loading and odour emissions from the preparation and cooking of pizzas are rated low.
- 7.22 To manage odour, the applicant has proposed the Airclean Kitchavent 4000 or similar system which has been considered by Environmental Health to be an acceptable measure to filter out and reduce fumes and odours from the proposed pizza take-away use. Environmental Health officers have also recommended a suitably worded condition restricting the A5 use to the sale of pizza as the main food category.
- 7.23 In view of the above it is considered that with suitable conditions requiring the implementation and management of the odour

management systems, there will be no adverse odour or health issues arising from the proposal.

7.24 Parking and Servicing

SPP Policy DM T2 and Core Strategy policy CS 20 stipulate that new uses should have parking and access appropriate to the site and its surroundings and not unacceptably affect the operation of neighbouring businesses, traffic movement and road safety.

7.25 There are 11 car parking spaces to the front of the site, of which 2 spaces are dedicated to the subject unit. There is also a loading bay, approximately 15m long, to the front of the premises that is shared with the adjoining Sainsbury's use. All servicing activity is expected to occur during the normal working day. Firezza generates a relatively low demand for deliveries as items are grouped together / consolidated. The number of deliveries at the development will be up to 8 per week. This is in line with the number of deliveries that would be expected at the site given its lawful permitted use as a public house with permitted development rights for A1, A2 and A3 use.

7.26 A Delivery and Servicing Management Plan was provided by the applicant. LBM Transport Officers have reviewed the proposal and supporting reporting, and have advised they have no objections to the proposed change of use. The proposal has appropriate car and bicycle parking provision based on the established use of the site, and access and anticipated vehicular movements will not unacceptably impact the operation of neighbouring businesses, traffic movement and road safety.

7.27 In accordance with the recommendations of Transport Officers and concerns from residents, all delivery drivers will be required to use the main vehicular access point to enter and exit the site. The applicant has stated that delivery drivers will not be allowed to use pedestrian footways or access ramps in the vicinity of the site. Drivers will be required to dismount from the edge of the car park in front of the store. These requirements are detailed in the Delivery and Servicing Management Plan, which the business management will be required to adhere to through a suitably worded condition.

8. **SUSTAINABILITY AND ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS**

8.1 The proposal does not constitute Schedule 1 or Schedule 2 development. Accordingly, there are no requirements in terms of an Environmental Impact Assessment (EIA).

9. **CONCLUSION**

9.1 Based on an analysis of A5 uses in the area, the proposal for a hot food take-away is not considered to result in an over-concentration of

take-aways in the area. Although the proposal would result in the loss of an A4 use, the proposed hot food take-away would generate employment opportunities and enable the occupation of unit that has been vacant since its construction. Through the imposition of suitable conditions relating to the site management, odour control and noise levels, it is considered that the proposed hot food take-away use can operate without harming the amenity of neighbouring residents or having a negative impact on neighbour businesses. Consequently it is considered that the proposal accords with relevant planning policy and that subject to suitable conditions the proposal is recommended for approval.

**RECOMMENDATION Grant planning permission subject to conditions.**

Conditions

- 1) A1 Commencement of works
- 2) A7 Built according to plans; 'Site Location Plan 7338L-PP-01', 'Proposed Site Plan 7338L-PP-03 Rev D', 'Proposed Floor Plans & Elevations 7338L-PP-04 Rev F', 'Proposed Block Plan 7338L-PP-05 Rev A', 'Proposed Air Conditioning and Ventilation Proposed Sections 327/M/001 Rev P1'
- 3) B1 External Materials to be Approved
- 4) D02 Hours of Opening/Use  
The use hereby permitted shall not be open to customers except between the hours of 11:00 and 24:00 on any day and no staff shall be present at the premises one hour after the closing time.
- 5) D08 Deliveries  
No deliveries, loading, unloading or other servicing activities associated with the commercial units hereby permitted shall take place before 07.00 hours and after 19.00 hours Monday to Saturday or before 09.00 hours and after 17.00 hours on Sundays or Public Holidays.
- 6) Non-standard condition  
Use as a hot food take-away (Use within Class A5) is subject to the premises being restricted to the sale of pizza and/or other oven baked food and the sale of other hot would require variation of the condition.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London

Plan 2015 and policies DM D2, DM EP2 and DM EP4 of Merton's Sites and Policies Plan 2014.

7) Non-standard condition

The odour abatement for the extract system shall be the Airclean Kitchavent 4000 or similar that will provide equal or greater filtration for grease, odour and smoke and the system shall be maintained and operated in accordance with the manufacturer's instruction manual/guidance such as to restrict cooking odours.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2015 and policies DM D2, DM EP4 of Merton's Sites and Policies Plan 2014.

8) Non-standard condition

Noise levels, (expressed as the equivalent continuous sound level) LAeq (10 minutes), from the new plant/machinery associated with the new external odour control/mechanical/extraction plant shall not exceed LA90-10dB at the boundary with the closest residential property and shall be switched off by midnight on any day.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2015 and policies DM D2 and DM EP2 of Merton's Sites and Policies Plan 2014.

9) Non-standard condition

All plant and mechanical equipment shall be maintained and operated in accordance with the manufacturer's instruction manual/guidance.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2015 and policies DM D2, DM D3, and DM EP2 of Merton's Sites and Policies Plan 2014.

10) The recommendations contained within the report by Auricl Acoustic Consulting, dated 16 August 2016, Project No.13129 and document reference R/NBA/1/160816, which related to noise breakout at the premises, shall be implemented before the use commences and shall be permanently retained.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2015 and policies DM D2 and DM EP2 of Merton's Sites and Policies Plan 2014.

- 11) The use shall operate in accordance with the provisions of the service and delivery plan submitted with the application and only electric bikes shall be used for food deliveries.

Reason: To safeguard the amenities of the area and the occupiers of neighbouring properties and ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2015 and policies DM EP2, DM T2 & DM T3 of Merton's Sites and Policies Plan 2014.

- 12) NPPF Informative

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