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Dear Sir

Proposed change of use at Ground Floor 40 Wigmores North, Welwyn Garden City, AL8 6PH from A1 to Sui Generis (Nail Bar) for Eva Spa Nails

We are instructed to submit an application on behalf of Eva Spa Nails who seek planning permission to use the above ground floor shop unit as a nail bar. These businesses are recognised as being a Sui Generis Use whereas the property, whilst now vacant, benefits from an A1 use.

A pre-application submission was made recently on behalf of the applicants. It advised that, as judged against either the existing adopted Local Plan policy or that of the emerging plan, the loss of No 40 from A1 use would be contrary to policy owing to the resultant ratio of A1 to other uses in the shopping frontage of which it is a part. Specifically, it would fall below the 50% threshold of the existing plan (where it is designated as part of a Mixed Use Frontage in the Primary Core) and the 30% threshold of the emerging plan (where in it is designated as part of a Secondary Frontage).

In this regard there appears to be agreement that with 40 in A1 use the adopted Local Plan 50% figure is already breached, and the breach would increase were it to change to a non-A1 use. Judged against the emerging policy the ratio of A1 uses as existing is above the 30% threshold, but would just dip below it were a non A1 use introduced at the application property. In simple numeric terms, therefore, the proposal does conflict with policy.

The pre-app response did, however, advise that policy also recommends that marketing evidence should be provided to justify making exceptions to policy and the lack of such evidence indicated that a formal application was likely to be refused. The advice was that marketing should be at least for 12 months to demonstrate lack of demand for A1 use. Marketing did in fact commence on 9th October 2018 and the 'To Let' board was displayed on the 12th so the marketing,

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which continues, is now into its 14th month. We return to the results of that exercise below, but it is also important to consider the nature of the proposed use.

Nail Bar

Nail Bars are a relatively recent phenomenon and certainly long post-date the origin of Use Classes Order and were not that common when it was last overhauled in the 1980's. Whilst not an A1 use they are very much akin to a hairdresser's which is. They provide a beauty/grooming service, they merchandise related products, they tend to operate by appointment, and they are found in shopping centres. Indeed, they often operate in conjunction with hairdressers further confirming their similarity as a business model. They are clearly a reason to visit a shopping centre as a destination in themselves rather than somewhere to browse or take in as part of a general trip.

Consequently, the fact that they may be Sui Generis, and by definition not A1, is not in itself reason to reject a proposed nail bar. This is a view reflected by an Inspector in a recent (08/10/19) appeal decision, a copy of which is attached. Whilst all proposals are to be considered on their individual merits his observations on the merit of a nail bar and appropriateness to a shopping centre were as follows:

6. *"Nail Bars do not fall within the Class A1 definition of shops and hence are a sui generis use. However, hairdressers are classed as A1 and I consider nail bars to be a comparable use and equally appropriate in a shopping area. It is conceivable that an over-saturation of nail bars could harm the functioning of a shopping centre. However, I do not consider this to be the case here. I can find no harm from the use and, whilst I noted one other nail bar along Roman Road, would not consider there to be an over concentration. Because a nail bar is a sui generis use, the proposal would conflict with the terms of adopted and emerging development plan policy. However, the lack of harm is a material consideration that indicates to me that the appeal should be decided otherwise than in accordance with the development plan.*

Conclusion

7. *The nail bar contributes positively to the vitality and viability of the Roman Road East district centre and, on balance, I conclude that in this instance approval is justified. Consequently, I conclude that this appeal should be allowed."*

(APP/ES900/W/19/ 3234593)

Having looked at 451 Roman Road E3 5LX it is also interesting to note that the previous occupant of the premises was Barüch a womens' clothes shop. The difficulties being experienced by high street clothes retailers, and the competition which they face from on-line platforms is well publicised, and it is no surprise that the former occupant of No 40 Wigmores North was a menswear shop.

The appeal Inspector also considered the concentration of any one use. Attached is an Experian Goad Plan prepared by brasier freeth and which accompanied that firm's marketing exercise. As can be seen, in the area covered there are no nail bars but there are three estate agents in Wigmores North alone and two more close by. There are also two existing hairdressers but none in Wigmores North.

The addition of a nail bar can but only add to the shopping offer and would complement perfectly the existing outlets, whether they be A1, A2, A3, A4, A5 or Sui Generis, which already exist in this part of the shopping centre by adding to its vitality and viability and certainly much more than a vacant unit which has failed to attract an A1 Use. We now turn to the matter of marketing.

Marketing

As established above, the premises achieved 12 months advertising in Mid-October this year and are now well into their second year. The marketing has been handled by the established and reputable firm of brasier freeth which has several offices in London and Hertfordshire including in Welwyn Garden. Attached is a letter from Jack Woolf a surveyor in that firm.

Mr Woolf sets out the nature of the marketing campaign and the response since October 2018. His conclusion is that despite a full and comprehensive marketing campaign on a local and national scale, his firm can find no demand from retailers for these premises which are considered to be "a relatively poor location in the town with low footfall".

It is interesting to note that of the 9 substantive enquiries only 3 were for A1 retail uses (including a hairdressers). It is also noteworthy that regarding the proposal for a 'Men's Clothing and Barbering' outlet a reported problem was that the potential occupant's decision rested on what brands they could, or could not, offer for fear of competition locally. A further indication of the struggle and problems in the high street for sales of clothing.

It is also relevant that there has been no substantive interest, current applicants aside, since 3rd May which is just over six months ago and half-way through the marketing period. This is despite the property remaining on web sites, and ongoing direct circulation to the firms' databases and forums.

As Mr Woolf concludes, his firm has *"been able to agree terms with a nail bar and beauty salon operator which will create employment and vitality and will be retail in character attracting regular short term visits by customers....."*

Other Matters

The pre-app response concluded by adding that no information had been submitted in respect of noise, odour and extraction equipment to be installed on the premises. In this regard the unit is a purpose-built shop on the ground floor of a 1960's telephone exchange. There is a service/parking area to the rear (which serves the shop) and what appears to be telecoms equipment on the roof and to the rear.

The applicant advises that it is their intention to use a combination of an air conditioning system with a Vnuk air freshener system to control the temperature and quality of the air in the shop. Should the change of use application be successful a system would be specified and if any external equipment requires express planning approval then the necessary documentation can be submitted. The various pubs, restaurants etc in the vicinity have successfully incorporated extraction systems and there is no reason to assume that it can not be done in this instance.

Conclusion

It is not disputed that were the application premises to slip from A1 Use it would conflict with the relevant (adopted or emerging) policies for Wigmore's North; albeit that the linear frontage is already below the A1 50% threshold. However, it has always been accepted that the questions of vitality, viability and marketing are material considerations and the need for marketing, and the lack of evidence as part of the pre-app submission, influenced that response.

A nail bar is classified as Sui Generis but its suitability in a shopping centre cannot be disputed and is endorsed by the appeal decision cited above. It is also now very clear that no interest has materialised for an A1 Use and the reported reasons for an operator who wished to sell clothing is indicative of the difficulties faced by such operators. The other A1 users who expressed serious interest were a barber and an e-cigarette shop both of whom were critical of footfall and the size of the unit.



A nail bar would bring this vacant unit back to life, create employment and broaden the offer in this part of the shopping centre. The conflict with policy is more apparent than real. It is 'definitional' whereas close examination of the nature of the use, supported by comprehensive marketing, justifies an exception because there is not likely to be any actual harm occasioned to the shopping centre. It is therefore, commended for approval.

Yours faithfully

Director (Managing)

Attachments:

Marketing Letter & Appendices

Site Location Plan

Pre-App Response

Appeal Decision APP/8E5900/W/19/3234593