

Planning Sub-Committee A

Wednesday 30 January 2019

6.30 pm

Ground Floor Meeting Room G02, 160 Tooley Street, London SE1 2QH

Membership

Councillor Lorraine Lauder MBE (Chair)
Councillor Jane Salmon (Vice-Chair)
Councillor Richard Leeming
Councillor David Noakes
Councillor Sandra Rhule
Councillor Martin Seaton
Councillor Michael Situ

Reserves

Councillor Karl Eastham
Councillor Eleanor Kerlake
Councillor Sarah King
Councillor Graham Neale
Councillor Kath Whittam

INFORMATION FOR MEMBERS OF THE PUBLIC

Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

Babysitting/Carers allowances

If you are a resident of the borough and have paid someone to look after your children, an elderly dependant or a dependant with disabilities so that you could attend this meeting, you may claim an allowance from the council. Please collect a claim form at the meeting.

Access

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Contact: Gerald Gohler on 020 7525 7420 or email: gerald.gohler@southwark.gov.uk

Members of the committee are summoned to attend this meeting

Eleanor Kelly

Chief Executive

Date: 22 January 2019



Planning Sub-Committee A

Wednesday 30 January 2019
6.30 pm

Ground Floor Meeting Room G02, 160 Tooley Street, London SE1 2QH

Order of Business

Item No.	Title	Page No.
1.	INTRODUCTION AND WELCOME	
2.	APOLOGIES	
3.	CONFIRMATION OF VOTING MEMBERS	
	A representative of each political group will confirm the voting members of the sub-committee.	
4.	DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS	
	Members to declare any interests and dispensations in respect of any item of business to be considered at this meeting.	
5.	ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT	
	The chair to advise whether they have agreed to any item of urgent business being admitted to the agenda.	
6.	MINUTES	1 - 4
	To approve as a correct record the minutes of the meeting held on 20 November 2018.	
7.	DEVELOPMENT MANAGEMENT ITEMS	5 - 9
	7.1. 2-3 BLACK SWAN YARD, BERMONDSEY STREET, LONDON SE1 3XW	10 - 24

Item No.

Title

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**7.2. DULWICH PICTURE GALLERY, GALLERY ROAD, LONDON
SE21 7AD**

25 - 43

Date: 22 January 2019

EXCLUSION OF PRESS AND PUBLIC

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

Planning Sub-Committee

Guidance on conduct of business for planning applications, enforcement cases and other planning proposals

1. The reports are taken in the order of business on the agenda.
2. The officers present the report and recommendations and answer points raised by members of the committee.
3. The role of members of the planning committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework.
4. The following may address the committee (if they are present and wish to speak) for **not more than 3 minutes each**.

- (a) One representative (spokesperson) for any objectors. If there is more than one objector wishing to speak, the time is then divided within the 3-minute time slot.
- (b) The applicant or applicant's agent.
- (c) One representative for any supporters (who live within 100 metres of the development site).
- (d) Ward councillor (spokesperson) from where the proposal is located.
- (e) The members of the committee will then debate the application and consider the recommendation.

Note: Members of the committee may question those who speak only on matters relevant to the roles and functions of the planning committee that are outlined in the constitution and in accordance with the statutory planning framework.

5. If there are a number of people who are objecting to, or are in support of, an application or an enforcement of action, you are requested to identify a representative to address the committee. If more than one person wishes to speak, the 3-minute time allowance must be divided amongst those who wish to speak. Where you are unable to decide who is to speak in advance of the meeting, you are advised to meet with other objectors in the foyer of the council offices prior to the start of the meeting to identify a representative. If this is not possible, the chair will ask which objector(s) would like to speak at the point the actual item is being considered.
6. Speakers should lead the committee to subjects on which they would welcome further questioning.
7. Those people nominated to speak on behalf of objectors, supporters or applicants, as well as ward members, should sit on the front row of the public seating area. This is for ease of communication between the committee and the speaker, in case any issues need to be clarified later in the proceedings; it is **not** an opportunity to take part in the debate of the committee.

8. Each speaker should restrict their comments to the planning aspects of the proposal and should avoid repeating what is already in the report. The meeting is not a hearing where all participants present evidence to be examined by other participants.
9. This is a council committee meeting which is open to the public and there should be no interruptions from the audience.
10. No smoking is allowed at committee.
11. Members of the public are welcome to film, audio record, photograph, or tweet the public proceedings of the meeting; please be considerate towards other people in the room and take care not to disturb the proceedings.

The arrangements at the meeting may be varied at the discretion of the chair.

Contacts: General Enquiries
 Planning Section, Chief Executive's Department
 Tel: 020 7525 5403

 Planning Sub-Committee Clerk, Constitutional Team
 Finance and Governance
 Tel: 020 7525 7420



Planning Sub-Committee A

MINUTES of the Planning Sub-Committee A held on Tuesday 20 November 2018 at 6.30 pm at Ground Floor Meeting Room G02, 160 Tooley Street, London SE1 2QH.

PRESENT: Councillor Lorraine Lauder MBE (Chair)
Councillor Jane Salmon (Vice-Chair)
Councillor Richard Leeming
Councillor David Noakes
Councillor Sandra Rhule
Councillor Martin Seaton

OTHER MEMBERS PRESENT: Councillor Peter Babudu
Councillor Richard Livingstone

OFFICER SUPPORT: Margaret Foley (Legal Officer)
Dipesh Patel (Development Management)
Sarah Parsons (Development Management)
Craig Newton (Development Management)
Pip Howson (Transport Policy)
Gerald Gohler (Constitutional Officer)

1. INTRODUCTION AND WELCOME

The chair welcomed councillors, members of the public and officers to the meeting.

2. APOLOGIES

There were apologies for absence from Councillor Michael Situ.

3. CONFIRMATION OF VOTING MEMBERS

Those members listed as present were confirmed as voting members for the meeting.

4. DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS

There were none.

5. ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT

The chair asked the clerk to give notice of the following additional papers circulated prior to the meeting:

- Addendum report relating to item 7 – development management items
- Members' pack

6. MINUTES

RESOLVED:

That the minutes of the meeting held on the 2 October 2018 be approved as a correct record and signed by the chair.

7. DEVELOPMENT MANAGEMENT ITEMS

RESOLVED:

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

ADDENDUM REPORT

The addendum report had not been circulated five clear days in advance of the meeting, nor had it been available for public inspection during this time. The chair agreed to accept the item as urgent to enable members to be aware of late observations, consultation responses, additional information and revisions.

7.1 MUSLIM ASSOCIATION OF NIGERIA, 365 OLD KENT ROAD, LONDON, SE1 5JH

Planning application reference: 18/AP/1431

Report: see pages 10 to 57 of the agenda pack and pages 1 to 3 of the addendum report.

PROPOSAL

Demolition of existing building and the erection of a 6 storey building (plus basement) containing an Islamic Cultural Centre for religious, educational, community and leisure use, including 1 service parking space and retail uses on ground floor (REVISED DESCRIPTION).

The sub-committee heard the officer's introduction to the report and addendum report. Councillors asked questions of the officer.

There were no objectors present who wished to speak.

The applicant's agent addressed the sub-committee, and answered questions by the sub-committee.

A supporter who lived with 100 metres of the development site addressed the sub-committee. Members did not ask questions of the supporter.

Councillor Richard Livingstone addressed the sub-committee in his capacity as a ward councillor. Members did not ask questions of Councillor Livingstone.

The sub-committee put further questions to officers and discussed the application.

A motion to grant planning permission was moved, seconded, put to the vote and declared carried.

RESOLVED:

That planning application 18/AP/1431 be granted with conditions as set out in the report and addendum report.

7.2 112B PECKHAM HIGH STREET, LONDON, SE15 5ED**Planning application reference: 18/AP/2156**

Report: see pages 58 to 79 of the agenda pack and pages 3 and 4 of the addendum report.

PROPOSAL

Demolition of existing building and construction of new 3 storey building plus mansard to create 1 ground floor retail unit and 4 residential units (1 x studio & 3 x 1bed Units).

The sub-committee heard the officer's introduction to the report and addendum report. Councillors asked questions of the officer.

There were no objectors present who wished to speak.

The applicant's agent addressed the sub-committee. Members did not ask questions of the applicant's agent.

There were no supporters who lived within 100 metres of the development site.

Councillor Peter Babudu addressed the sub-committee in his capacity as a ward councillor. Members of the sub-committee asked questions of Councillor Babudu.

The sub-committee put further questions to officers and discussed the application.

A motion to grant planning permission was moved, seconded, put to the vote and declared carried.

RESOLVED:

That planning application 18/AP/2156 be granted with conditions, as set out in the report and addendum report.

The meeting ended at 8.20 pm.

CHAIR:

DATED:

Item No. 7.	Classification: Open	Date: 30 January 2019	Meeting Name: Planning Sub-Committee A
Report title:		Development Management	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATIONS

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

BACKGROUND INFORMATION

4. The council's powers to consider planning business are detailed in Part 3F which describes the role and functions of the planning committee and planning sub-committees. These were agreed by the annual meeting of the council on 23 May 2012. The matters reserved to the planning committee and planning sub-committees exercising planning functions are described in part 3F of the Southwark Council constitution.

KEY ISSUES FOR CONSIDERATION

5. In respect of the attached planning committee items members are asked, where appropriate:
 - a. To determine those applications in respect of site(s) within the borough, subject where applicable, to the consent of the Secretary of State for Communities and Local Government and any directions made by the Mayor of London.
 - b. To give observations on applications in respect of which the council is not the planning authority in planning matters but which relate to site(s) within the borough, or where the site(s) is outside the borough but may affect the amenity of residents within the borough.
 - c. To receive for information any reports on the previous determination of applications, current activities on site, or other information relating to specific planning applications requested by members.

6. Each of the following items are preceded by a map showing the location of the land/property to which the report relates. Following the report, there is a draft decision notice detailing the officer's recommendation indicating approval or refusal. Where a refusal is recommended the draft decision notice will detail the reasons for such refusal.
7. Applicants have the right to appeal to Planning Inspector against a refusal of planning permission and against any condition imposed as part of permission. Costs are incurred in presenting the council's case at appeal which maybe substantial if the matter is dealt with at a public inquiry.
8. The sanctioning of enforcement action can also involve costs such as process serving, court costs and of legal representation.
9. Where either party is felt to have acted unreasonably in an appeal the inspector can make an award of costs against the offending party.
10. All legal/counsel fees and costs as well as awards of costs against the council are borne by the budget of the relevant department.

Community impact statement

11. Community impact considerations are contained within each item.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

12. A resolution to grant planning permission shall mean that the director of planning is authorised to grant planning permission. The resolution does not itself constitute the permission and only the formal document authorised by the committee and issued under the signature of the director of planning shall constitute a planning permission. Any additional conditions required by the committee will be recorded in the minutes and the final planning permission issued will reflect the requirements of the planning committee.
13. A resolution to grant planning permission subject to legal agreement shall mean that the director of planning is authorised to issue a planning permission subject to the applicant and any other necessary party entering into a written agreement in a form of words prepared by the director of law and democracy, and which is satisfactory to the director of planning. Developers meet the council's legal costs of such agreements. Such an agreement shall be entered into under section 106 of the Town and Country Planning Act 1990 or under another appropriate enactment as shall be determined by the director of law and democracy. The planning permission will not be issued unless such an agreement is completed.
14. Section 70 of the Town and Country Planning Act 1990 as amended requires the council to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations when dealing with applications for planning permission. Where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is

contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The development plan is currently Southwark's Core Strategy adopted by the council in April 2011, saved policies contained in the Southwark Plan 2007, the where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).
16. On 15 January 2012 section 143 of the Localism Act 2011 came into force which provides that local finance considerations (such as government grants and other financial assistance such as New Homes Bonus) and monies received through CIL (including the Mayoral CIL) are a material consideration to be taken into account in the determination of planning applications in England. However, the weight to be attached to such matters remains a matter for the decision-maker.
17. "Regulation 122 of the Community Infrastructure Levy regulations (CIL) 2010, provides that "a planning obligation may only constitute a reason for granting planning permission if the obligation is:
 - a. necessary to make the development acceptable in planning terms;
 - b. directly related to the development; and
 - c. fairly and reasonably related to the scale and kind to the development.

A planning obligation may only constitute a reason for granting planning permission if it complies with the above statutory tests."

18. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties can properly impose i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests.
19. The National Planning Policy Framework (NPPF) came into force on 27 March 2012. The NPPF replaces previous government guidance including all PPGs and PPSs. For the purpose of decision-taking policies in the Core Strategy (and the London Plan) should not be considered out of date simply because they were adopted prior to publication of the NPPF. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted in accordance with the Planning and Compulsory Purchase Act (PCPA) 2004 even if there is a limited degree of conflict with the NPPF.
20. In other cases and following and following the 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. This is the approach to be taken when considering saved plan policies under the Southwark Plan 2007. The approach to be taken is that the closer the

policies in the Southwark Plan to the policies in the NPPF, the greater the weight that may be given.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council assembly agenda 23 May 2012	Constitutional Team 160 Tooley Street London SE1 2QH	Gerald Gohler 020 7525 7420
Each planning committee item has a separate planning case file	Development Management 160 Tooley Street London SE1 2QH	The named case officer as listed or the Planning Department 020 7525 5403

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Chidi Agada, Head of Constitutional Services	
Report Author	Gerald Gohler, Constitutional Officer Jonathan Gorst, Head of Regeneration and Development	
Version	Final	
Dated	18 January 2019	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Director of Planning	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team		21 January 2019

ITEMS ON AGENDA OF PLANNING SUB-COMMITTEE A
on Wednesday 30 January 2019

Appl. Type Full Planning Application
Site 2-3 BLACK SWAN YARD, BERMONDSEY STREET, LONDON SE1 3XW

Reg. No. 18-AP-3338
TP No. TP/57-2
Ward London Bridge and West
 Bermondsey
Officer Craig Newton

Recommendation GRANT PERMISSION

Proposal

Change of use from B1 to Mixed Use (part B1 and part A3), involving the extension of the first floor mezzanine to provide an additional 43sqm of Class B1 Office space, and change of use of part of the ground floor from B1 Office space to provide 43sqm of Class A3 Cafe/Restaurant use. Together with associated plant installation with flues to the roof.

Item 7.1

Appl. Type Full Planning Application
Site DULWICH PICTURE GALLERY, GALLERY ROAD, LONDON SE21 7AD

Reg. No. 18-AP-3490
TP No. TP/2083-C
Ward Dulwich Village
Officer Thomas Weaver

Recommendation GRANT PERMISSION FOR LIMITED PERIOD

Proposal

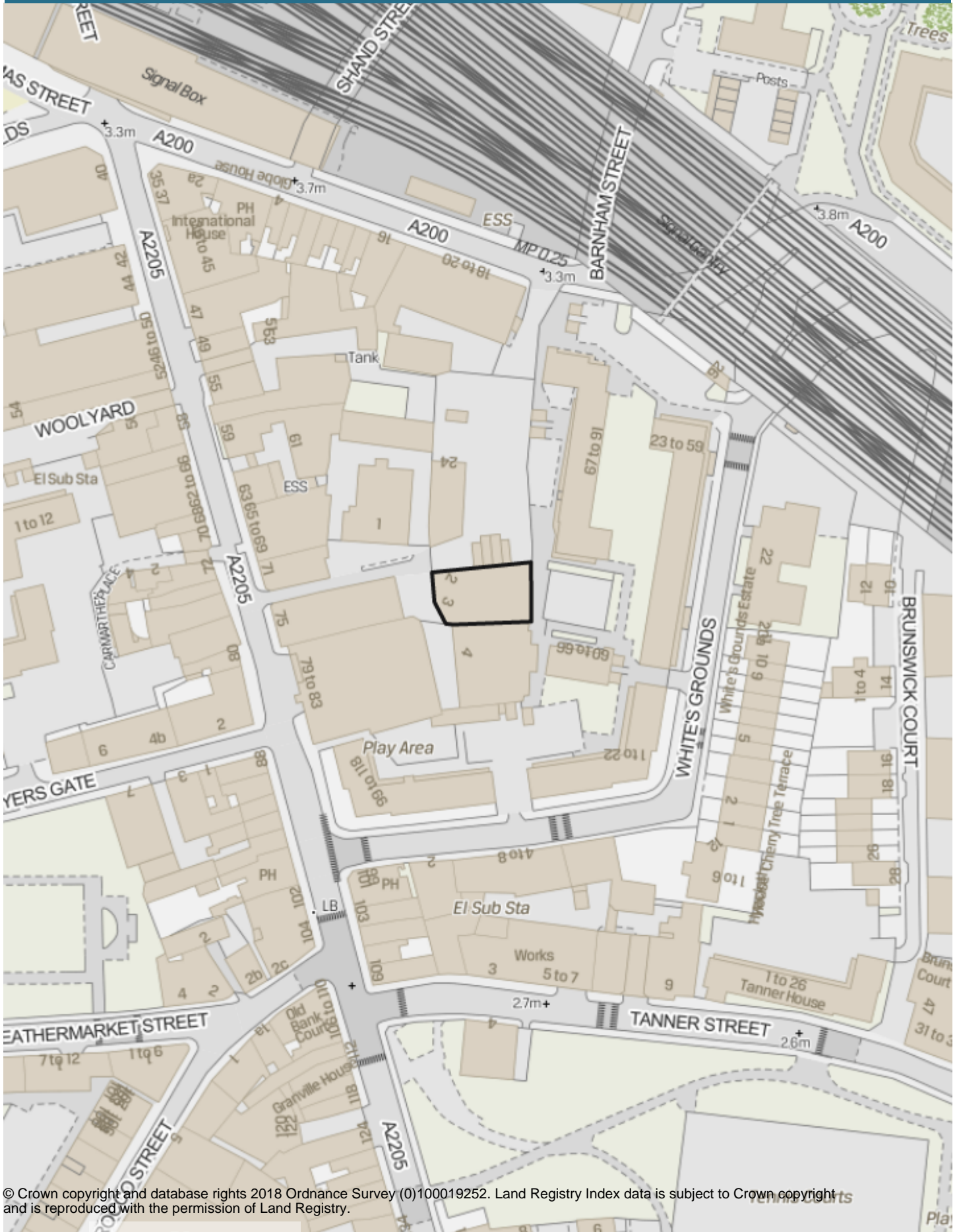
Construction of a temporary pavilion building for summer period up to the end of September 2019 to provide ancillary exhibition and gallery facilities comprising an accessible, raised gantry walkway at approximately 2.1m high within a timber cube structure measuring approximately 10m high, 11m wide and 11m deep, to be accessible during standard gallery opening hours (09:00 - 18:00) and for occasional events up to 22:00.

Item 7.2

Agenda Item 7.1



2-3 BLACK SWAN YARD, BERMONDSEY STREET, LONDON SE1 3XW



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Item No. 7.1	Classification: Open	Date: 30 January 2019	Meeting Name: Planning Sub-Committee A
Report title:	Development Management planning application: Application 18/AP/3338 for: Full Planning Application Address: 2-3 BLACK SWAN YARD, BERMONDSEY STREET, LONDON SE1 3XW Proposal: Change of use from B1 to Mixed Use (part B1 and part A3), involving the extension of the first floor mezzanine to provide an additional 43sqm of Class B1 Office space, and change of use of part of the ground floor from B1 Office space to provide 43sqm of Class A3 Cafe/Restaurant use. Together with associated plant installation with flues to the roof.		
Ward(s) or groups affected:	London Bridge and West Bermondsey		
From:	Director of Planning		
Application Start Date 15/10/2018		Application Expiry Date 10/12/2018	
Earliest Decision Date 24/11/2018			

RECOMMENDATION

1. Grant planning permission subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. 2-3 Black Swan Yard is occupied by a part single-storey, part two-storey warehouse-like building with direct access off Bermondsey Street. The premises are set back off Bermondsey Street between No. 73 and 75. The access to the yard is via a single track road, which is public highway. There are two other buildings in Black Swan Yard: No.1 and No.4.
3. To the front of 1 Black Swan Yard are four car parking spaces which serve its staff and customers. The application site has no forecourt or car parking facilities. The rear of the building backs directly onto the White's Grounds Estate (a housing estate).
4. The site has the following designations within the Core Strategy proposals map 2011:
 - Central Activities Zone
 - Bankside, Borough, London Bridge Strategic Cultural Area
 - Bankside, Borough and London Bridge Opportunity Area
 - Bermondsey Street Conservation Area
 - Archaeological Priority Zone (Borough, Bermondsey and Rivers)
 - Air Quality Management Area

Details of proposal

5. The proposal is for the extension of the first floor mezzanine to provide an additional 43sqm of office space (B1 use class) and change of use of 43sqm of the ground floor from office to cafe/restaurant (A3 use class). It is intended that the A3 floorspace would be used by small market style food stalls. A total of 401sqm of commercial space would be provided within the building, being 358sqm of B1 office and 43sqm of A3 use. Associated plant would be installed with flues to the roof.
6. The new area of mezzanine would be entirely office space which would sit within the existing confines of the building. The two uses at ground floor would be separated by a physical wall and would be clearly defined. Additional facilities such as cycle parking, meeting booths and toilets would be provided at ground floor. There would be no external changes to the appearance of the building except for the larger extraction flues on the roof. The existing doors would be cleaned and repaired.
7. The proposed opening hours for the A3 use are:
 - 10:00 - 23:00hrs Monday-Friday
 - 10:00 - 23:30hrs Saturday
 - 12:00 - 22:00hrs Sunday

Planning history

8.

15/AP/3390. Change of use of existing industrial unit (Use Class B1) to a restaurant (Use Class A3). Withdrawn.
15/EN/0020 Enforcement type: Change of use (COU) Change of use from Use Class B1 (Light industry/Offices) to Sui Generis (events space). Sign-off date 12/04/2016 Sign-off reason: Final closure - breach ceased (FCBC)
18/EQ/0052 Application type: Pre-Application Enquiry (ENQ) An indoor set up of small stalls offering local street food and produce, with indoor seating, and storage for bikes and prams. Decision date 21/03/2018 Decision: Pre-application enquiry closed (EQC)
9. 18/AP/1774 for: Full Planning Application. Temporary change of use from B1 to flexible use (B1/A1/A3) with associated cycle parking and installation of kitchen extract. Decision date 31/07/18. Withdrawn.

Planning history of adjoining sites

10. 15/AP/0988
Sati, The Tannery, Bermondsey Street, London, SE1 3XN. Outline Planning Permission: Erection of a two-storey terrace comprising of 4no. live/work studios. GRANTED: 10/08/2015
11. 18/AP/3434
LAND TO THE REAR OF 18-20 CRUCIFIX LANE, LONDON SE1 3JW. Application for approval of reserved matters (access, appearance, layout and scale) pursuant to Condition 1 of 16-AP-5034 (Approval date: 10/05/2017) for: 'Outline planning permission with all matters reserved for the construction of a building (of which the lowest storey would be partly below ground level) to be a maximum height of 9.650 metres above the existing ground level of the application site, comprising up to 728 square metres of live/work (sui generis) floorspace'. Granted 19/12/18

12. 01/AP/0327
1 Black Swan Yard. Full Planning Permission: Demolition of existing warehouse and office building and construction of new 4 storey building with office on ground, first and second floors and a single residential unit on the third floor. GRANTED: 08/08/2001

KEY ISSUES FOR CONSIDERATION

Summary of main issues

13. The main issues to be considered in respect of this application are:
- a) Land use principle and compliance with policy
 - b) Impact of proposed development on amenity of adjoining occupiers and surrounding area
 - c) Transport impacts (highway safety, servicing, refuse, trip generation, cycle parking).

Planning policy

National Planning Policy Framework (the Framework)

14. Chapter 6 Building a strong, competitive economy
Chapter 9 Promoting sustainable transport
Chapter 12 Achieving well-designed places
Chapter 16 Conserving and enhancing the historic environment

The London Plan 2016

15. Policy 4.1 - Developing London's economy
Policy 5.17- Waste capacity
Policy 6.3 - Assessing effects of development on transport capacity
Policy 6.9 - Cycling
Policy 6.10 - Walking
Policy 6.11 - Smoothing traffic flow and tackling congestion
Policy 7.2 - An inclusive environment
Policy 7.3 - Designing out crime
Policy 7.4 - Local character
Policy 7.6 - Architecture
Policy 7.8 - Heritage assets and archaeology
Policy 7.15 - Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.

Core Strategy 2011

16. Strategic Policy 1 - Sustainable development
Strategic Policy 2 - Sustainable transport
Strategic Policy 3 - Shopping, leisure and entertainment
Strategic policy 10 - Jobs and business
Strategic Policy 13 - High environmental standards

Southwark Plan 2007 (July) - saved policies

17. The council's cabinet on 19 March 2013, as required by parka 215 of the NPPF, considered the issue of compliance of Southwark Planning Policy with the National Planning Policy Framework. All policies and proposals were reviewed and the council satisfied itself that the policies and proposals in use were in conformity with the NPPF.

The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark Plan all Southwark Plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF.

Policy 1.4 - Employment sites outside the Preferred Office Locations and Preferred Industrial Locations

Policy 3.2 - Protection of Amenity

Policy 5.1 - Locating developments

Policy 5.2 - Transport Impacts

Policy 5.3 - Walking and Cycling

Policy 5.6 - Car Parking

Emerging planning policy

Draft new London Plan

18. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2 March 2018. The document is expected to reach examination stage later this year however, given the stage of preparation it can only be attributed limited weight.

New Southwark Plan

19. For the last five years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. It is anticipated that the plan will be adopted in 2019 following an Examination in Public (EIP). Similarly with the OKR AAP, as the NSP is not yet adopted policy, it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

Consultation Responses

20. 20 representations have been received in relation to the application, these being two comments and 18 objections. The following matters were raised as concerns; each has been dealt with within the main body of the report.

- Noise
- Change of use
- Proposed use
- Emptying of bins
- Waste storage
- Use and access through Black Swan Yard.

Principle of development

21. The authorised use of the site is established as B1 office space. The consideration of this application therefore relates to the use of part of the site for A3 purposes.
22. The application requires assessment against saved policy 1.4 of the Southwark Plan (2007) as there is a change of use of B1 at the ground floor level.
23. This policy states that outside the preferred industrial locations, on sites which have

an established B class use and which meet any of the following criteria:

- i. the site fronts onto or has access to a classified road;
 - ii. the site is within the CAZ (Central Activities Zone)
 - iii. the site is within a Strategic Cultural Area
 - iv. the site is within a Town or Local Centre
 - v. the site is within an Action Area Core
 - vi. the site is within Camberwell Action Area,
24. Development will be permitted provided that the proposal would not result in a net loss of floorspace in Class B use.
 25. In combination with the proposed change of use at ground floor level, the addition of the new area of mezzanine at first floor would ensure that there would be no overall net loss of Class B1 floorspace at the application site. The mezzanine would provide a direct replacement of 43sqm of floorspace with 8sqm of this being storage space.
 26. At ground floor level a clear divide between the food offering and the remaining office space would be provided. Internal access between the uses however would be maintained and this connection would mutually support the operation of the two uses. The divide and clear definition also gives reassurances that the A3 use would not represent the majority of the space and therefore preserve the B1 use, which is strongly supported.
 27. As the scheme does not reduce the B1 floorspace and promotes additional employment uses at the site through the introduction of 43sqm of A3 floorspace, it is considered beneficial as it would support the vitality of the building and local area.

Impact of proposed development on amenity of adjoining occupiers and surrounding area

28. The proposal would reconfigure the existing building to create an office hub with a connected A3 use. The A3 use would have three kiosks serving hot food and drinks.

Noise

29. The majority of the objections received in relation to this application concern potential noise being created from the proposal site. It should be noted that previous complaints to the council's noise and nuisance team have related to private events held at the site. An event style use is not being sought as part of this planning application. In the last two years two noise complaints to the noise and nuisance team were made. Other reported instances in the immediate locality have related to other properties nearby. Following these two complaints, the operator implemented mitigation measures which protects neighbours from noise escape. Following these mitigation measures, the site has operated without further complaint.
30. The principal concern relates to the noise of people using Black Swan Yard to dwell, the potential for live music played inside, and sound generated by plant equipment. To address these concerns conditions would be attached to the planning permission. In terms of people using Black Swan Yard, this is a public highway between commercial buildings. The coming and going of people is not considered to be detrimental to the surrounding occupants as this would be confined to the daytime and night, up to 23:00. In this commercial and cultural location it is not unusual for people to be present on the street at 23:00. In addition, access to the development is served by Black Swan Yard, which takes people away from the residents of New Whites Ground. It is therefore not considered that the small provision of an A3 use would exacerbate existing levels of noise in the area.

31. With regards to people congregating at the front of property during activities, it is noted that the forecourt does not form part of the demise of the applicant. The applicant has indicated that any potential disturbance resulting from people congregating in the forecourt will be controlled by security staff as proposed in the premises licence application.
32. As part of the alcohol license being sought, conditions attached would restrict and require the management of people to and from the site plus the use of any outdoor area. It is considered that noise emanating from people would be controlled sufficiently to limit the impact on surrounding residents and occupiers.
33. In terms of music, the applicant has not demonstrated that sufficient insulation is provided to restrict noise breakout. As such, to address concerns about the impact of music being played, a condition is recommended restricting the use of amplified music. Apart from this, given the small amount of additional floorspace (43sqm of A3 use) noise from people inside the building would not be minimal.
34. A replacement plant is proposed at the site, this is to ventilate the unit given the implementation of the A3 use. The extraction points would be on the roof to the south. They would replace the existing flues. This keeps the extraction points away from surrounding buildings. A condition requiring the plant to meet the environmental protection team's standards of achieving a -10dB below existing background levels would be attached. With this in place, the noise from the proposed plant would be acceptable.
35. The waste management of the site would require appropriate measures to limit the isolated occurrence of glass disposal. Glass can be very loud when being disposed of and as such a condition would be attached requiring glass to be disposed of during social daytime hours.
36. It is considered that with the appropriate measures the noise concerns can be overcome so as not to pose a threat to the neighbours.

Odour

37. The proposal includes a scheme of ventilation which includes air cleaners. The system is set away from neighbouring windows and there is space on all sides of the ventilation extraction points. The installation includes extraction canopies for the food kiosks and a dedicated fresh air intake system. The council's environmental protection team are satisfied with the details of the filtration system.

Hours of use

38. The applicant has proposed hours which replicate similar A3 uses within the vicinity. Again, given the commercial nature of the area, the proposed hours of operation would be acceptable.
39. Given the controls proposed and the positioning of the site which adjoins the London Bridge Town Centre and strategic cultural area of the borough, it is considered that the proposal offers a fringe service to the benefit of the community (economical and socially) and thus the impact on amenity is acceptable.

Transport issues

40. The application site is highly accessible with a PTAL of 6b to accommodate any additional footfall to the site by public transport. However, the vast majority of

customers are expected to arrive on foot. It is not considered that pedestrians accessing the site would cause a highway concern on Black Swan Yard. Given the nature of this road and that it provides access to a small amount of units, vehicle numbers can be expected to be very low. Equally, given the narrowness and short distance of the road drivers would be travelling at very low speeds. This situation would therefore not result in any highway concerns between pedestrians and vehicles.

41. The three food stands are expected to generate three servicing trips per day. The office use has less than one trip per day (over a week) and therefore the total servicing could be accommodated within the Yard.
42. Refuse would be stored internally at the rear of the site. It would be collected under the existing arrangement, which is daily. There would be no additional refuse collections associated to the use; this is because waste can be accommodated in the same collections as those that exist. Under these circumstances, the collection and storage of waste is considered acceptable. It is not considered either that the refuse collection would impact on the safe use of Black Swan Yard.
43. The applicant has provided six cycle parking spaces. This is more than required by the London Plan and is welcomed. The proposal would have limited impacts in terms of transport and is considered acceptable.

Design issues

44. The only external changes would be the flue points on the roof and improvements to the existing doors. Neither of these elements would harm the appearance of the building. The extraction vents would be larger than the existing but would not be visible from the public highway. The mezzanine level would be accommodated internally by reducing the height of the ground floor, this allows the existing roof plain to remain unaltered. In design terms, the proposal is considered to be acceptable.

Impact on character and setting of a listed building and/or conservation area

45. The site is not within a conservation area but adjoins the Bermondsey Street Conservation area. As discussed within the design section of the report the proposal does not alter the appearance of the yard. The appearance and colour of the timber used can be conditioned to ensure that it positively contributes to the streetscene and wider conservation area.

Planning obligations (S.106 agreement / CIL)

46. The proposal would not attract planning obligations including CIL.

Conclusion on planning issues

47. The proposal includes a modest increase in floorspace of 43sqm achieved through the installation of a new mezzanine. This allows the provision of a A3 use at ground floor without any resulting loss of B1 floorspace and represents an efficient, innovative use of the space available. The use would be open to the public and contribute to the vitality of the area. The scheme would not harm the surrounding amenity or neighbouring residents. As such, the application is recommended for approval subject to conditions.

Consultations

48. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

49. Details of consultation responses received are set out in Appendix 2.

Summary of consultation responses

50. EPT: No objections - conditions recommended.

Community impact statement / Equalities Assessment

51. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three “needs” which are central to the aims of the Act:

- a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- c) The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

52. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.

53. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.

54. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.

Human rights implications

55. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term ‘engage’ simply means that human rights may be affected or relevant.

56. This application has the legitimate aim of providing a new A3 use with enhanced B1 floorspace. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/57-2 Application file: 18/AP/3338 Southwark Local Development Framework and Development Plan Documents	Place and Wellbeing Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 4004 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Craig Newton, Planning Officer	
Version	Final	
Dated	10 January 2019	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team	15 January 2019	

APPENDIX 1

Consultation undertaken

Site notice date: 31/10/2018

Press notice date: 01/11/2018

Case officer site visit date: n/a

Neighbour consultation letters sent: 30/10/2018

Internal services consulted:

Environmental Protection Team Formal Consultation [Noise / Air Quality / Land Contamination / Ventilation]

Statutory and non-statutory organisations consulted:

n/a

Neighbour and local groups consulted:

76 Whites Grounds Estate Whites Grounds SE1 3JU	Fashion And Textile Museum 83 Bermondsey Street SE1 3XF
75 Whites Grounds Estate Whites Grounds SE1 3JU	Third Floor Bramah House SE1 3XF
74 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 9a 79 Bermondsey Street SE1 3XF
77 Whites Grounds Estate Whites Grounds SE1 3JU	First Floor Bramah House SE1 3XF
80 Whites Grounds Estate Whites Grounds SE1 3JU	Fourth Floor Bramah House SE1 3XF
79 Whites Grounds Estate Whites Grounds SE1 3JU	61 Whites Grounds Estate Whites Grounds SE1 3JU
78 Whites Grounds Estate Whites Grounds SE1 3JU	60 Whites Grounds Estate Whites Grounds SE1 3JU
73 Whites Grounds Estate Whites Grounds SE1 3JU	62 Whites Grounds Estate Whites Grounds SE1 3JU
68 Whites Grounds Estate Whites Grounds SE1 3JU	65 Whites Grounds Estate Whites Grounds SE1 3JU
67 Whites Grounds Estate Whites Grounds SE1 3JU	64 Whites Grounds Estate Whites Grounds SE1 3JU
66 Whites Grounds Estate Whites Grounds SE1 3JU	63 Whites Grounds Estate Whites Grounds SE1 3JU
69 Whites Grounds Estate Whites Grounds SE1 3JU	2-3 Black Swan Yard London SE1 3XW
72 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 6 79 Bermondsey Street SE1 3XF
71 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 5 79 Bermondsey Street SE1 3XF
70 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 4 79 Bermondsey Street SE1 3XF
91 Whites Grounds Estate Whites Grounds SE1 3JX	Flat 7 79 Bermondsey Street SE1 3XF
90 Whites Grounds Estate Whites Grounds SE1 3JX	75 Bermondsey Street London SE1 3XF
89 Whites Grounds Estate Whites Grounds SE1 3JX	Flat 9 79 Bermondsey Street SE1 3XF
92 Whites Grounds Estate Whites Grounds SE1 3JX	Flat 8 79 Bermondsey Street SE1 3XF
95 Whites Grounds Estate Whites Grounds SE1 3JX	73 Whites Grounds London SE13JU
94 Whites Grounds Estate Whites Grounds SE1 3JX	57 Bermondsey Street London SE1 3XJ
93 Whites Grounds Estate Whites Grounds SE1 3JX	62 Southwood Road London SE9 3QT
88 Whites Grounds Estate Whites Grounds SE1 3JU	2nd Floor, Shakti The Tanneries SE1 3XJ
83 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 2, 165 Brick Lane, London London E2 7EE
82 Whites Grounds Estate Whites Grounds SE1 3JU	First Floor 55 Bermondsey Street SE1 3XN
81 Whites Grounds Estate Whites Grounds SE1 3JU	The Tanneries 55 Bermondsey Street SE1 3XG
84 Whites Grounds Estate Whites Grounds SE1 3JU	64 Whites Grounds Estate London SE1 3JU
87 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 113 Whites Grounds London SE1 3JX
86 Whites Grounds Estate Whites Grounds SE1 3JU	79 Holst Lodge Holst Lodge BR2 9BW
85 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 3 Stanmore HA7 1FX
81 Bermondsey Street London SE1 3XF	57 Bermondsey Street London SE1 3XJ
1 Black Swan Yard London SE1 3XW	Whites Grounds Estate London SE1 3JX
4 Black Swan Yard London SE1 3XW	1 Black Swan Yard London se1 3xf
Flat 3 79 Bermondsey Street SE1 3XF	Flat 42 12 Bermondsey Square SE1 3FD
Flat 2 79 Bermondsey Street SE1 3XF	The Tanneries, 55 Bermondsey Street SE1 3XN
Flat 1 79 Bermondsey Street SE1 3XF	Chess Chambers 2 Broadway Court HP5 1EG
Flat 9b 79 Bermondsey Street SE1 3XF	Members Room Tooley Street SE1 2QG
Ground Floor Bramah House SE1 3XF	C/O Members Room 160 Tooley Street SE1 2QH
Second Floor Bramah House SE1 3XF	C/O Members' Room 160 Tooley Street SE1 2QH

Re-consultation: n/a

APPENDIX 2**Consultation responses received****Internal services**

Environmental Protection Team Formal Consultation [Noise / Air Quality / Land Contamination / Ventilation]

Statutory and non-statutory organisations

None

Neighbours and local groups

The Tanneries, 55 Bermondsey Street SE1 3XN
 Chess Chambers 2 Broadway Court HP5 1EG
 C/O Members' Room 160 Tooley Street SE1 2QH
 C/O Members Room 160 Tooley Street SE1 2QH
 Flat 113 Whites Grounds London SE1 3JX
 Flat 2, 165 Brick Lane, London London E2 7EE
 Flat 3 Stanmore HA7 1FX
 Flat 42 12 Bermondsey Square SE1 3FD
 Flat 5 79 Bermondsey Street SE1 3XF
 Members Room Tooley Street SE1 2QG
 First Floor 55 Bermondsey Street SE1 3XN
 The Tanneries 55 Bermondsey Street SE1 3XG
 Whites Grounds Estate London SE1 3JX
 1 Black Swan Yard London se1 3xf
 1 Black Swan Yard London SE1 3XW
 2nd Floor, Shakti The Tanneries SE1 3XJ
 57 Bermondsey Street London SE1 3XJ
 57 Bermondsey Street London SE1 3XJ
 62 Southwood Road London SE9 3QT
 64 Whites Grounds Estate London SE1 3JU
 64 Whites Grounds Estate Whites Grounds SE1 3JU
 73 Whites Grounds London SE13JU
 76 Whites Grounds Estate Whites Grounds SE1 3JU
 79 Holst Lodge Holst Lodge BR2 9BW

RECOMMENDATION

This document shows the case officer's recommended decision for the application referred to below.
This document is not a decision notice for this application.

Applicant	Ms Lucy Chilvers Black Swan Studios	Reg. Number	18/AP/3338
Application Type	Full Planning Application	Case Number	TP/57-2
Recommendation	Grant permission		

Draft of Decision Notice

Planning Permission was GRANTED for the following development:

Change of use from B1 to Mixed Use (part B1 and part A3), involving the extension of the first floor mezzanine to provide an additional 43sqm of Class B1 Office space, and change of use of part of the ground floor from B1 Office space to provide 43sqm of Class A3 Cafe/Restaurant use. Together with associated plant installation with flues to the roof.

At: 2-3 BLACK SWAN YARD, BERMONDSEY STREET, LONDON SE1 3XW

In accordance with application received on 12/10/2018 16:00:34

and Applicant's Drawing Nos. Application form

Community Infrastructure Levy (CIL) general

TRANSPORT NOTE

HIGHSHORE SCHOOL - LETTER OF SUPPORT

DESIGN CONCEPT PACKAGE

HP KITCHEN EXTRACT SPECIFICATION VERNER BOX GMEB

RY 7500B - ELECTROSTATIC AIR CLEANER

D177465 - SILCENCER TYPE B & C 1D AND 2D

Noise impact assessment

Planning statement

Site location plan

201 - EXISTING FIRST FLOOR ARRANGEMENTS

200 - EXISTING FLOOR PLAN

100 - PROPOSED GROUND FLOOR ARRANGEMENTS

101 Rev 1 - PROPOSED MEZZANINE ARRANGEMENTS

102 - PROPOSED GROUND FACILITIES PLAN

103 - PROPOSED MEZZANINE FACILITIES PLAN

104 Rev 1 - PROPOSED ROOF PLAN

104 - PROPOSED VENTILATION PLANS

200 - PROPOSED MEZZANINE SIDE SECTION

601 Rev 1 - PROPOSED AND EXISTING EXTERNAL VENTILATION SYSTEM

602 Rev 1 - PROPOSED AND EXISTING FRONT & REAR VENTILATION SYSTEM

603_Proposed Mezzanine Section

Subject to the following seven conditions:

Time limit for implementing this permission and the approved plans

- 1 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:

100 - PROPOSED GROUND FLOOR ARRANGEMENTS

101 Rev 1 - PROPOSED MEZZANINE ARRANGEMENTS

102 - PROPOSED GROUND FACILITIES PLAN

103 - PROPOSED MEZZANINE FACILITIES PLAN

104 Rev 1 - PROPOSED ROOF PLAN

104 - PROPOSED VENTILATION PLANS

200 - PROPOSED MEZZANINE SIDE SECTION
 601 Rev 1 - PROPOSED AND EXISTING EXTERNAL VENTILATION SYSTEM
 602 Rev 1 - PROPOSED AND EXISTING FRONT & REAR VENTILATION SYSTEM
 603_Proposed Mezzanine Section

Reason:

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

- 2 The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason

As required by Section 91 of the Town and Country Planning Act 1990 as amended.

Pre-occupation condition(s) - the details required to be submitted for approval by the condition(s) listed below must be submitted to and approved by the council before the building(s) hereby permitted are occupied or the use hereby permitted is commenced.

- 3 The A3 Use shall not commence until the B1 floor space at mezzanine level is constructed and in operation.

Reason

To ensure that there is no loss of B1 employment space within the site in accordance with The National Planning Policy Framework 2018, Policy 4.1 Developing London's economy, Policy 4.2 Offices of the London Plan 2016, Strategic Policy 1 Sustainable development of the Core Strategy 2011 and Policy 1.4 - Employment sites outside the Preferred Office Locations and Preferred Industrial Locations of the Southwark Plan 2007.

Compliance condition(s) - the following condition(s) impose restrictions and/or other requirements that must be complied with at all times once the permission has been implemented.

- 4 Plant Noise - standard

The Rated sound level from any plant, together with any associated ducting shall not exceed the Background sound level (LA90 15min) at the nearest noise sensitive premises (residential or office accommodation). Furthermore, the plant Specific sound level shall be 10dB(A) or more below the background sound level in this location. For the purposes of this condition the Background, Rating and Specific sound levels shall be calculated in full accordance with the methodology of BS4142:2014

Reason:

To ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of noise nuisance or the local environment from noise creep due to plant and machinery in accordance with the National Planning Policy Framework 2018, Strategic Policy 13 High Environmental Standards of the Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of the Southwark Plan (2007).

- 5 The collection of waste shall not be undertaken outside the hours of 08:00 - 20:00.

Reason

To protect the amenity of nearby residents in accordance with National Planning Policy Framework 2018; strategic policies 2 sustainable transport of and 13 high environmental standards of the Core Strategy 2011; policy 7.15 reducing and managing noise, improving and enhancing the acoustic of the London Plan 2015 and saved policies 3.2 protection of amenity and 5.2 transport Impacts of the Southwark Plan 2007.

- 6 The use hereby permitted for Class A3 Use shall not be carried on outside of the hours 10:00 to 23:00 on Monday to Friday, 10:00 to 23:30 Saturday and 12:00-22:00hrs Sunday.

Reason:

To safeguard the amenity of neighbouring residential properties in accordance with The National Planning Policy Framework 2012, Strategic Policy 13 High environmental standards of The Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007.

Other condition(s) - the following condition(s) are to be complied with and discharged in accordance with the individual requirements specified in the condition(s).

- 7 No amplified music other than at background level (being defined as the level at which a conversation can take place without the need to raise voices) shall be played within the café/restaurant hereby permitted.

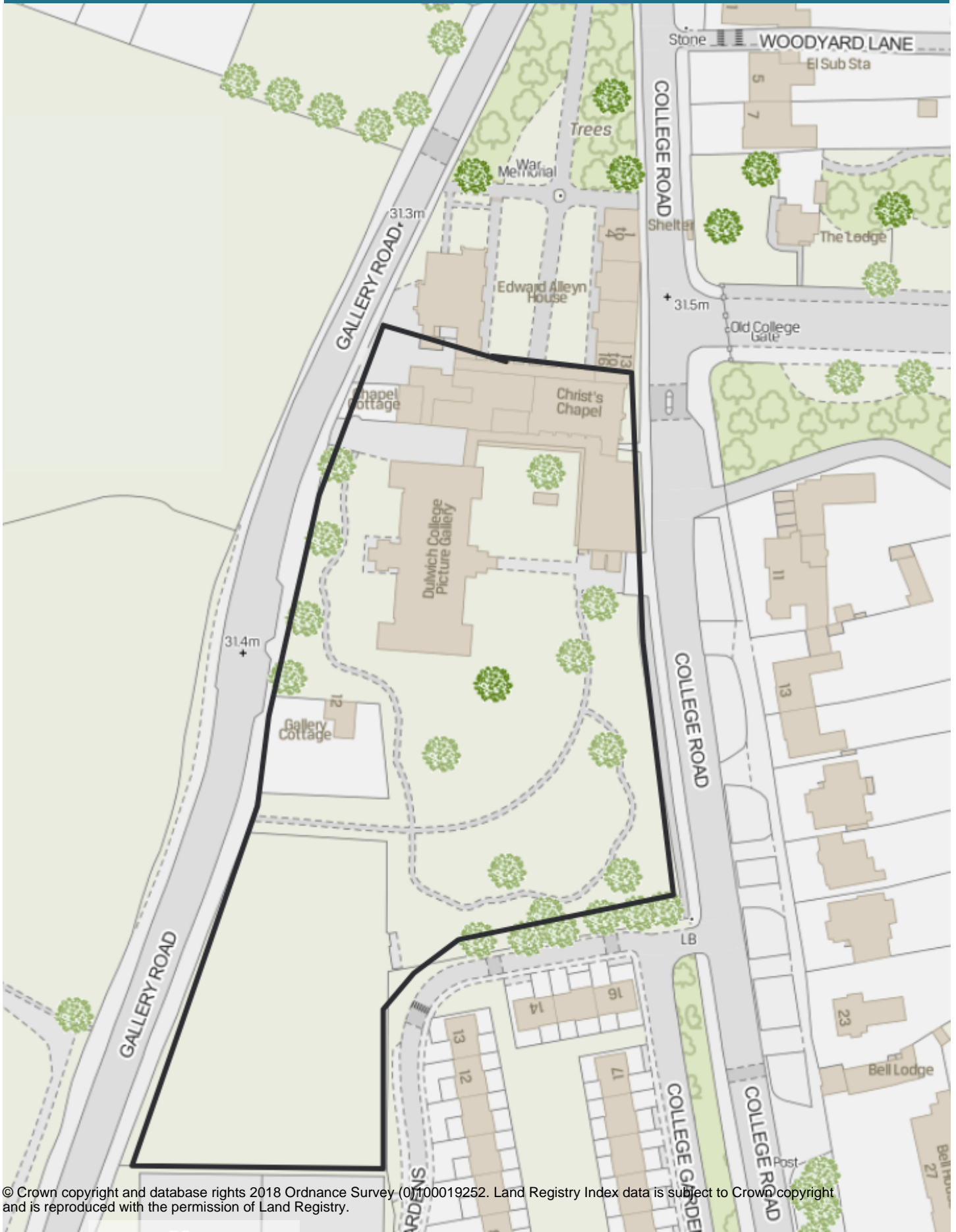
Reason

To ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of nuisance, in accordance with the National Planning Policy Framework 2018, Strategic Policy 13 High Environmental Standards of the Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of the Southwark Plan (2007).

Statement of positive and proactive action in dealing with the application

The Council has published its development plan and core strategy on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

DULWICH PICTURE GALLERY, GALLERY ROAD, LONDON SE21 7AD



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50 m

Scale = 1250

18-Jan-2019

Item No. 7.2	Classification: Open	Date: 30 January 2019	Meeting Name: Planning Sub-committee A
Report title:	Development Management planning application: Application 18/AP/3490 for: Full Planning Application Address: DULWICH PICTURE GALLERY, GALLERY ROAD, LONDON SE21 7AD Proposal: Construction of a temporary pavilion building for summer period up to the end of September 2019 to provide ancillary exhibition and gallery facilities comprising an accessible, raised gantry walkway at approximately 2.1m high within a timber cube structure measuring approximately 10m high, 11m wide and 11m deep, to be accessible during standard gallery opening hours (09:00 - 18:00) and for occasional events up to 22:00.		
Ward(s) or groups affected:	Dulwich Village		
From:	Director of Planning		
Application Start Date 30/10/2018		Application Expiry Date 25/12/2018	
Earliest Decision Date 29/12/2018			

RECOMMENDATION

1. That temporary planning permission be granted, subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. The application site refers to part of the landscaped area within the curtilage Dulwich Picture Gallery, which is Grade II* listed. The gallery and mausoleum were originally constructed 1811-14 and then partly rebuilt following damage in World War II. There is also a contemporary cloister and cafe pavilion were added to the gallery by Rick Mather Architects in 2000. The cafe is situated near to Dulwich Old College which is Grade II listed and is within the Dulwich Village Conservation Area. The site is also located on Metropolitan Open Land.

Details of proposal

3. The development comprises construction of a large timber cube structure situated atop four large squat red supporting concrete columns approximately 2.1m tall. The cube would be clad in thin angled wooden slats evenly spaced which would be painted various colours on each side which would provide the effect of the structure's (internal and external) facade appearing different depending on the perspective of the viewer, who would be able to freely walk under and around the structure.
4. The structure would be situated approximately 10m – 11m away from the Picture Gallery building located to the west at its nearest point and orientated 45 degrees away from the main axis of its neighbour. Within the slatted structure atop the columns would be a publically accessible gantry walkway which skirts the interior of

the cube providing an additional perspective from which to view the effect created by the proposed design. This would be accessed and egressed from stairs located either side of the westernmost corner of the structure.

5. Beneath the cube would be the gently raised platform space decked in grey stained plywood which would be utilised to host a range of ancillary functions of the gallery including workshops. The platform at this level would also be host to a refreshments counter, located to the south west, and ticket kiosk desks to the north west in eye sight of the site's main entrance on College Road. Both of these aspects would be located to the edge of the structure, above which the wooden slats on these elevations fan out at a depth of approximately 1.5m. The structure including decking itself would be situated within ground layer of compact grey 'self-binding' gravel which would extend to the main paving area and in front of the refreshments counter.

6. Planning history

<p>10/AP/3204 Application type: Listed Building Consent (LBC) Changes to existing external approach to the main entrance to provide step free access for disabled visitors and staff. Internal modifications to entrance lobby to improve accessibility for visitors coat and bag storage. Decision date 14/01/2011 Decision: Granted (GRA)</p>
<p>11/AP/1166 Application type: Approval of Details - Article 30 DMPO (AOD) Details of 1) portland stone kerbs/edging Portland stone paving as required by condition 3 of planning permission dated 14/01/2011LBS.REG.NO.10-AP-3204 for changes to existing external approach to the main entrance to provide step free access for disabled visitors and staff. Internal modifications to entrance lobby to improve accessibility for visitors coat and bag storage. Decision date 27/05/2011 Decision: Granted (GRA)</p>
<p>11/AP/2432 Application type: Advertisement Consent (ADV) Display of three single mast banner advertisement signs Decision date 21/09/2011 Decision: Granted (GRA)</p>
<p>13/AP/1061 Application type: Advertisement Consent (ADV) Display of 1 no. non-illuminated fascia sign applied to the exterior of the Gallery Cafe Decision date 10/07/2013 Decision: Granted (GRA)</p>
<p>13/AP/3793 Application type: Tree Works in Conservation Area (TCA) 1: Line of Holm Oak trees overhanging College Gardens - Face to be trimmed back where necessary up to 3 metres to uncover street lights, reduce overhang of larger trees to create a more uniform effect. 2: Line of London Plane trees overhanging College Road - To be lifted as necessary to give clearance of road and pavement with special emphasis on the bus stop end where two small branches require removing and some clearance needed of the picture gallery sign. 3: Evergreen Magnolia by north end of gallery - To be trimmed and reshaped as much as possible without creating unsightly gaps in the upper shape. 4: Dawn Redwood to the right of Magnolia (3) - Remove lower tier of branches, trim growth towards Cloister, reshape for best effect and removal of dead branch. 5: Evergreen Magnolia left hand side of building - Prune in similar way to other Magnolia with less emphasis on the height. 6: Beech trees on Gallery Road side - To be lifted and trimmed as necessary over the road and pavement. 7: Dawyck Beech by Gallery Road gate - To have crown carefully lifted to reveal the base of the main stem. Decision date 11/12/2013 Decision: Works acceptable - no intervention (TCAA)</p>

<p>16/AP/1851 Application type: Variation: non-material changes (VNMC) Details pursuant to non-material amendments including: Omission of approved changes on existing second floor; Omission of approved dormer; Retention of existing residential staircase in 16a; Retention of existing layout of the offices in the south range of the Old College; Omission of approved changes to existing flat 16 of planning permission 14AP4868 'Fit out of existing Gallery Offices, including the removal of internal partitions, addition of shower, removal of existing residential fit out of Flat 16a; Introduction of dormer between South Range of the Old College and the West Wing; Modification of the escape route from Dulwich Estate Offices.' Decision date 06/06/2016 Decision: Agreed - for app types VLA & VNMC (AGR)</p>
<p>16/AP/1825 Application type: Listed Building Consent (LBC) Minor rearrangement of internal partitions and removal of existing residential functions including kitchen and bathroom on first floor in Flat 16A. New connection between south range of the old college, and the west wing on first floor only. Relocation of existing disabled accessible WC. Decision date 01/07/2016 Decision: Granted (GRA)</p>
<p>17/AP/0372 Application type: Tree Works in Conservation Area (TCA) 4x London Plane trees overhanging College Road - to be lifted as necessary. 2x Evergreen Magnolia's to be trimmed and uplifted. Decision date 10/03/2017 Decision: Works acceptable - no intervention (TCAA)</p>
<p>17/AP/0624 Application type: Full Planning Application (FUL) Construction of a detached single storey temporary pavilion building. Decision date 26/04/2017 Decision: Granted for Limited Period (GFLP)</p>
<p>17/AP/2003 Application type: Variation: non-material changes (VNMC) Non-Material amendment to planning permission 17AP0624 granted 25/05/2017(Construction of a detached single storey temporary pavilion building.) Addition of decked terrace to south of pavilion, to extend seating area. Decision date 15/06/2017 Decision: Agreed - for app types VLA & VNMC (AGR)</p>
<p>17/AP/3271 Application type: Full Planning Application (FUL) Creation of a new crossover from Gallery Road and installation of a gate Decision date 01/11/2017 Decision: Granted (GRA)</p>
<p>17/AP/4093 Application type: Tree Works in Conservation Area (TCA) T1: Oak - Remove dangerous and damaged stem (large clear split in left hand stem at about 7 metres high). This would leave the seemingly healthy more upright stem intact. Decision date 23/11/2017 Decision: Works acceptable - no intervention (TCAA)</p>
<p>18/AP/1569 Application type: Full Planning Application (FUL) Relocate 1.3m wide tarmac footpath in the grounds next to Dulwich Picture Gallery due to intrusion on roots of a 43 year old Wellingtonia tree. Decision date 04/07/2018 Decision: Granted (GRA)</p>

Planning history of adjoining sites

7. None of relevance.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

8. The main issues to be considered in respect of this application are:
 - a) The principle of the development in terms of land use and conformity with strategic policies
 - b) The impact of the development on the amenity of the adjoining properties.
 - c) Design Quality
 - d) Impact on adjacent Listed Building/Conservation Area.
 - e) All other relevant material planning considerations.

Adopted planning policy

National Planning Policy Framework (NPPF)

9. The revised National Planning Policy Framework ('NPPF') was published in July 2018 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.
10. Paragraph 215 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.

Chapter 2 Achieving sustainable development
 Chapter 5 Delivering a sufficient supply of homes
 Chapter 6 Building a strong, competitive economy
 Chapter 7 Ensuring the vitality of town centres
 Chapter 8 Promoting healthy and safe communities
 Chapter 9 Promoting sustainable transport
 Chapter 10 Supporting high quality communications
 Chapter 11 Making effective use of land
 Chapter 12 Achieving well-designed places
 Chapter 14 Meeting the challenge of climate change, flooding and coastal change
 Chapter 15 Conserving and enhancing the natural environment
 Chapter 16 Conserving and enhancing the historic environment

London Plan 2016

11. The London Plan is the regional planning framework and was adopted in 2016. The relevant policies of the London Plan 2016 are:

Policy 7.4 - Local Character
 Policy 7.6 - Architecture
 Policy 7.8- Heritage assets and archaeology
 Policy 7.15 - Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
 Policy 7.17- Metropolitan open land

Core Strategy 2011

12. The Core Strategy was adopted in 2011 providing the spatial planning strategy for the borough. The strategic policies in the Core Strategy are relevant alongside the saved Southwark Plan (2007) policies. The relevant policies of the Core Strategy 2011 are:

Strategic policy 12 - Design and conservation
 Strategic policy 13 - High environmental standards

Southwark Plan 2007 (saved policies)

13. In 2013, the council resolved to 'save' all of the policies in the Southwark Plan 2007 unless they had been updated by the Core Strategy with the exception of Policy 1.8 (location of retail outside town centres). Paragraph 213 of the NPPF states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The relevant policies of the Southwark Plan 2007 are:

Policy 3.2 - Protection of amenity
 Policy 3.12 - Quality in design
 Policy 3.13 - Urban design
 Policy 3.16 - Conservation areas
 Policy 3.17 - Listed Buildings
 Policy 3.18 - Setting of listed buildings, conservation areas and world heritage sites
 Policy 3.25 - Metropolitan Open Land
 Policy 5.2 - Transport Impacts

Area based SPDs

14. Dulwich SPD 2013

Emerging planning policy

Draft new London Plan

15. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2 March 2018. Minor suggested changes to the plan were published on 13 August 2018 and an Examination in Public (EIP) is scheduled to begin on 15 January 2019. Given that the plan has not yet been to an EIP it can only be attributed limited weight.

New Southwark Plan

16. For the last five years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. It is anticipated that the plan will be adopted in 2019 following an Examination in Public (EIP). Similarly with the OKR AAP, as the NSP is not yet adopted policy, it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

Summary of consultation responses

17. There were 13 responses submitted as part of the statutory consultation on the application.
18. Eleven of these were from members of the public/interested persons.
19. One was from the council's ecology officer.

20. One was from Historic England as a statutory consultee.

Public comments

21. Ten of the eleven public comments submitted were in support of the proposal. The submitted comments can generally be summarised as follows:
- Design described as striking, joyful, fun, imaginative, innovative.
 - Scheme would benefit the local area, including residents and businesses and residents from further afield.
 - Scheme would help diversify the gallery's visitor profile and attract new audiences.
 - Scheme would increase the offer for and benefit families and young children, including encouraging use and exploration of associated gardens and main gallery.
 - Support that the pavilion will be free of charge.
 - Sensible hours of use proposed.
22. The single objection was submitted on the grounds of the height of the proposal and concern about the refreshments counter providing a bar service. Design issues are discussed in further detail in paras 40 - 52 of this report, while amenity impacts, including that of the refreshments counter, are discussed in paras 34 - 37. The objector was also concerned regarding the period of permission being applied for, on the understanding the previous 2017 pavilion permission was originally for six weeks but which was subsequently extended to twelve.
23. Given the current application is for a pavilion for the summer period up to the end of September 2019, officers are not of the view that an extension is likely. Nevertheless, officers would advise that the committee are only making a decision informed by what is proposed by this current application, regardless of potential further applications.

Internal consultees

24. The council's ecology officer confirmed that there was no objection to the proposal on ecology grounds.

Statutory consultee

25. Historic England provided a response noting that while there could be some perceived harm, this was less than substantial and any incurred would be significantly outweighed by the public benefit of the scheme given its temporary nature, and overall felt it appropriate to express strong support for the scheme.

Principle of development

26. Paragraphs 143-147 of the NPPF sets out the considerations for development affecting the Green Belt (as outlined within the London Plan, MOL should be treated as Green Belt). It notes that "when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the

Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations".

27. It goes on to suggest that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Paragraph 145 of the NPPF sets out that the exceptions to this are:
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
28. Paragraph 146 of the NPPF set out a number of other exceptions which are not relevant for consideration.
29. The proposal would not meet the above exceptions. However, officers are of the opinion that the current proposal should be considered as a very special circumstance as a result of its temporary nature, the building's exceptional quality of design and the cultural public benefit of enhanced access to the heritage asset and attracting additional visitors that may not otherwise visit the gallery. For these reasons, officers are satisfied that the proposal is considered acceptable against the NPPF.
30. The application site is situated within Metropolitan Open Land and part (ii) saved policy 3.25 of the Southwark plan states that development will be allowed for:
31. "(ii) Essential facilities for outdoor sport and recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL;"
32. Whilst the pavilion would be relatively large and would have the potential to affect on the openness of MOL, it is for a temporary period up to the end of September 2019 and as such, given the short term nature of the proposal, it is not considered that this

is harmful to the openness of MOL. There would also be a public benefit that would result from the development.

33. For these reasons, the principle of the development in accordance with Metropolitan Open Land policies is considered acceptable.

Impact of proposed development on amenity of adjoining occupiers and surrounding area

34. The proposed structure, would be located within the gardens of the gallery, in front of the main gallery building and close to the entrance fronting College Road. The proposal would not have a significant impact on the users of the gallery. It would be situated over 50m from the nearest residential properties located to the east across College Road, a distance that would mean that there would be no adverse impact with respect to daylight, sunlight, outlook or privacy.
35. The hours proposed by the applicant for the use of the pavilion are in line with the standard gallery opening hours (09:00 - 18:00 Mon - Sun) with the occasional 'salon' or 'lates' event on Fridays which would run up to 22:00. There would not be any amplified music allowed on the site as part of the pavilion offer. Proposed use of the structure includes community workshops during the week and family-oriented activities during the weekend. During the later events access and egress of the site is not permitted from the main College Road entrance from 21:30 onwards so the risk of noise of people coming and going would cease following this time.
36. The interior portion of the platform beneath the structure is at maximum 90sqm which is anticipated to be able to accommodate a maximum of 90 persons. Given the enclosed nature of the space noise disturbance from the use of the structure is not considered to be significant were the platform to be utilised to this intensity. It should be noted that this would be substantially smaller than the previous pavilion building which was approximately 150sqm to accommodate 150 persons.
37. One comment on to the proposed development objected to the introduction of an open air bar use selling alcoholic beverages which could lead to nuisance for neighbours. The proposed cafe counter would likely sell alcoholic drinks as currently permitted by the Gallery's existing cafe offer, which is subject to licencing controls. The refreshments counter would be located underneath the pavilion structure, as would the area where visitors would congregate, so would be limited in the extent that noise could travel to impact on the nearest neighbours over 50m away.

Transport issues

38. The application site has a Public Transport Accessibility Level of 2 which denotes a relatively poor access to public transport. Notwithstanding this, the site is located within a short walk from both West Dulwich and North Dulwich overground stations. There are also access to buses from College Road. The existing site also contains a small car park and a number of cycle parking spaces.
39. Given the relatively small scale of the structure and the temporary nature of the building, officers are satisfied that there would not be a significant impact on the surrounding transport network.

Design issues and impact on character and setting of a listed building and/or conservation area

Site context

40. Dulwich Picture Gallery is a grade II* listed building, located within the Dulwich Village Conservation Area. The building was primarily designed by John Soane in 1811-14, however has been remodelled, including the facade extensively in 1911 by ES Hall, and again in 1954 following bomb damage. A large extension to the north and east, creating a contemporary addition including a glazed cloister, was added by Rick Mather Architects in 1911. The building is two storeys, of yellow stock brick, with stone plinth and parapet and large central porch, with blind arches to either side. The main building has an E shaped plan, with a sequence of galleries and a mausoleum located centrally in a neo Grecian style. The building sits on a formal east/west axis, with the principal facade facing College Road, and is visible prominently through railings and gates, and across mature landscaped gardens of an informal character. The building is also notable as being the first purpose built art gallery in England. The significance of the building is its age, architectural composition and materials and notable architects, as well as its historical association with Soane, and its form and detailing as a formal building, set in a loosely formal landscape, visible on a purposeful east/west axis from the street. The building's historic significance is also derived from its use as a purpose built gallery, and its location in a suburban setting surrounding by gardens.
41. Historic mapping suggest that the form and the setting of the building has altered throughout its life. The 1879 map suggests there was limited or no access from the east facade, and the central porch with formal access facing east is not shown until the 1915 map, suggesting the re-ordering of the facades at this time, and the landscape design on an east-west axis following in the 1960s. The visibility of the east facade from the street was altered in 1999 with the completion of extension and gates to College Road. Thus the significance of the building and its setting should be looked in context with the continuous development of the building and its setting, including extensions and relocation of the principal access.

Policy context

42. Paragraph 192 of the NPPF requires that local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. NPPF sets out the presumption in favour of the conservation of designated assets and the aims of the policies within the NPPF are to conserve these assets, for the benefit of future generations. Any harmful impact on the significance of the designated asset needs to be justified on the ground set out in paragraph 194 and 195 (substantial harm or total loss) or paragraph 196 (less than substantial harm). The NPPF stresses the importance of good design and states in paragraph 124 that: "Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."
43. Conversely, paragraph 130 states that that: "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents."
44. Policy SP12 of the Core strategy states that "Development will achieve the highest possible standards of design for buildings and public spaces to help create attractive and distinctive places which are safe, easy to get around and a pleasure to be in." Strategic Policy 12 – Design and Conservation, of Core Strategy 2011, requires that development will achieve the highest possible standards of design for buildings and

conserve or enhance the significance of Southwark's heritage assets.

45. With regards to local plan policies, Policy 3.12 asserts that developments should achieve a high quality of both architectural and urban design, enhancing the quality of the built environment in order to create attractive, high amenity environments people will choose to live in, work in and visit. When we consider the quality of a design we look broadly at the fabric, geometry and function of the proposal as they are bound together in the overall concept for the design. Saved Policy 3.13 of the Southwark Local Plan asserts that the principles of good urban design must be taken into account in all developments. This includes height, scale and massing of buildings, consideration of the local context, its character and townscape as well as the local views and resultant streetscape.
46. Saved Policy 3.15 'Conservation of the historic environment', requires that development should preserve or enhance the special interest or historic character or appearance of buildings or areas of historical or architectural significance and planning proposals that have an adverse effect on the historic environment should not be permitted. Policy 3.16 Conservation Areas states that within conservation areas, development should preserve or enhance the character or appearance of the area and 3.18 required applications which affect the setting of listed buildings, conservation areas and world heritage sites to also preserve and enhancing the heritage asset by not harming the building.

Assessment on impact on the neighbouring listed building and conservation area

47. Taking in to account the alterations which have taken place to the Picture Gallery building and its setting over its lifetime and the currently existing facade, entrance and experience of the building in an informal landscape setting, it is considered that this existing setting would be compromised by the introduction of a structure in the proposed location. While the setting is not the original, the experience of the double frontage with central porch, a primary component of the architectural significance of the asset would be eroded by the location of the pavilion in the proposed area.
48. The location of the structure would also introduce a large built form in a largely open garden, and a garden setting which has remained connected with the gallery over its lifetime. There would therefore be some minor harm to the significance of the asset by the proposals which affect the setting of the listed building. This would be contrary to 3.18 Setting of Listed Buildings, Conservation Areas and World Heritage Sites.
49. Mitigating factors in this case are the temporary nature of the proposal, the high quality design of the pavilion and the scope of the project to attract more visitors to the gallery, enhancing its public access offer and thus alerting more of the public to the heritage asset and better revealing its significance.
50. In conclusion, the significance of the Picture Gallery building would be harmed by alteration of its setting. The open garden character would be eroded in this respect and the experience of the double frontage facade would be obscured by the development. Owing to the temporary nature of the building and its high quality design, the impact is considered to be of "less than substantial harm" Para. 196 of the NPPF allows for less than substantial harm to be weighed against public benefits.

Detailed design

51. The proposed design of the pavilion structure is considered to be a dynamic and exciting, if, as noted above, disruptive, addition to the setting of the Picture Gallery

listed building. The scale, height and massing of the structure combined with the proposed design approach with regard to the facade will provide a striking point of visual interest from the street, being located within eye sight of the main entrance on College Road and increase the likelihood of passers by to experience not only the pavillion building but the heritage significance of the Picture Gallery building itself.

52. The boldness of the proposed design, contrasted with the typically more reserved character of Dulwich Village is an aspect of the proposal which has attracted strong support from commenters on the application, with one objector disapproving of the height. However, on the basis of the proposal's temporary nature, any harm to the character of the wider area by virtue of the design is considered to be minimal and would be eliminated following the removal of the structure in October 2019. The proposed design approach to the pavillion is therefore considered to be acceptable.

Impact on trees and biodiversity

53. The proposal is a temporary structure that would require light temporary landscaping. It would be located within a position that would not impact upon any of the surrounding trees root protection areas.
54. The council's ecology officer has reviewed the submitted Protected Species Assessment letter and confirmed that it adequately covers the issue of the lighting and impacts on bats. As the lighting is quite low level with limited levels of lux extending into the sky, officers are satisfied that it would not result in any detrimental impacts on bats migrating within the area.

Other matters

Public Sector Equalities Duty

55. The Public Sector Equalities Duty as set out in the Equality Act 2010 requires public sector decision makers to, in addition to other things, 'foster good relations between persons who share a relevant protected characteristic and those who do not share it.' This involves 'having due regard, in particular, to the need to tackle prejudice and promote understanding' (see paragraphs 63 - 66 of this report below for more information). Protected characteristics can come in the form of race and ethnicity.
56. The submitted design and access statement sets out that the previous 2017 pavillion building saw 40% of visitors as during the pavillion's tenure as new with 20% of visitors to the gallery during the same period as being non-white, with this resultant impact of the pavillion being described as 'transformative' by the applicant.
57. Many of the supporting comments on the application also explicitly reference support for the designer of the scheme, the construction of which would see representation of a local artist (based in SE15) celebrating and utilising for inspiration the local culture of Rye Lane and their wider heritage (including Nigeria and Lagos markets). Officers consider that given the impact on the demographics of visitors that the 2017 pavillion had, the proposed 2019 pavillion has the potential to significantly build on diversifying the gallery's visitor profile. This is particularly due to the designer, their design and their inspiration which will provide the opportunity for and draw sections of the local community in Southwark to visit the gallery who otherwise might otherwise not be inclined to visit.
58. Therefore it is considered that in approving the proposal the council would be helping to foster good relations between persons who share a relevant protected characteristic and those who do not share it, including promoting understanding, as set out above. This consideration should be given material weight in determining the

application.

Conclusion on planning issues

59. The principle of the proposed pavilion building within MOL is considered acceptable by virtue of the cultural public benefit anticipated to be accrued as a result of its implementation, in addition to its short term temporary nature which would see any impact on the openness of the MOL diminish following close of any temporary permission period. The proposed design, both overall (scale, height, massing, siting) and details of the facade are considered to harm the setting of the adjacent Grade II* Listed Building given the striking contrast and disruption to the otherwise open and symmetrical form of the building and its setting. However, similarly given the proposal's public benefit, temporary nature, and otherwise high quality, bold and imaginative design, the harm is considered to be 'less than substantial' and therefore acceptable. The lack of amenity impacts and transport impacts as well as the potential positive impact on enabling the gallery to diversify their visitor profile, should the pavilion be implemented, further provides the justification for the recommendation for approval of temporary planning permission which is put forward in this report.

Consultations

60. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

61. Details of consultation responses received are set out in Appendix 2.

Summary of consultation responses

62. See section 17 - 25 of this report.

Community impact statement / Equalities Assessment

63. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:
- a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
 - b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
 - c) The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having

due regard, in particular, to the need to tackle prejudice and promote understanding.

64. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.
65. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.
66. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.

Human rights implications

67. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
68. This application has the legitimate aim of providing a temporary pavilion. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2083-C Application file: 18/AP/3490 Southwark Local Development Framework and Development Plan Documents	Place and Wellbeing Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 0207 525 3841 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Thomas Weaver, Planning Officer	
Version	Final	
Dated	15 January 2019	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES /CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team		18 January 2019

APPENDIX 1**Consultation undertaken****Site notice date:** 27/11/2018**Press notice date:** 06/12/2018**Case officer site visit date:** 03/12/2018**Neighbour consultation letters sent:** 28/11/2018**Internal services consulted:**

Ecology Officer

Statutory and non-statutory organisations consulted:

Historic England

Neighbour and local groups consulted:

5 Woodyard Lane London SE21 7Bh
 The Grange Grange Lane SE21 7LH
 The Wardens Flat The Old College SE21 7AD
 Flat 15 Edward Alleyn House SE21 7AS
 Flat 14 Edward Alleyn House SE21 7AS
 Flat 13 Edward Alleyn House SE21 7AS
 Flat 16 Edward Alleyn House SE21 7AS
 25 Kingsthorpe Road Sydenham SE26 4PG
 10 Overhill Road London Se22 0ph
 C/O Bell House 27 College Road SE21 7BG
 Bell Cottage 23 College Road SE21 7BG
 42 Cheltenham Road London SE15 3AQ
 7 College Road Dulwich SE21 7BQ
 7 College Road Dulwich SE217BQ
 11 Druce Road London SE21 7DW
 7 Druce Road London SE217DW
 11, College Road Dulwich SE21 7BG
 7 College Road Dulwich SE217BQ
 93 Dulwich Village London SE21 7BJ

11 College Gardens London SE21 7BE
 13 College Road London SE21 7BG
 15 College Road London SE21 7BG
 12 Gallery Road London SE21 7AD
 11 College Road London SE21 7BG
 Cloisters Flat 16a Gallery Road SE21 7AD
 The Old College 16 Gallery Road SE21 7AD
 Dulwich Picture Gallery Gallery Road SE21 7AD
 Flat 12 Edward Alleyn House SE21 7AS
 Flat 10 Edward Alleyn House SE21 7AS
 Flat 11 Edward Alleyn House SE21 7AS
 Flat 9 Edward Alleyn House SE21 7AS
 9 Grove Hill Road London SE5 8DF
 29 Burbage Road London SE24 9HB
 100 Drummond Road SE14 4DG
 The Old College Gallery Road SE21 7AE
 3 Arnhem Way East Dulwich Grove SE22 8TS
 Elm Lawn Dulwich Common SE21 7EW
 7 Brenthouse Road London E9 6QG

Re-consultation: n/a

APPENDIX 2**Consultation responses received****Internal services**

None

Statutory and non-statutory organisations

Historic England

Neighbours and local groups

Elm Lawn Dulwich Common SE21 7EW
100 Drummond Road SE14 4DG
The Grange Grange Lane SE21 7LH
The Old College Gallery Road SE21 7AE
11 College Gardens London SE21 7BE
11 Druce Road London SE21 7DW
15 College Road London SE21 7BG
25 Kingsthorpe Road Sydenham SE26 4PG
29 Burbage Road London SE24 9HB
3 Arnhem Way East Dulwich Grove SE22 8TS
5 Woodyard Lane London SE21 7Bh
7 Brenthouse Road London E9 6QG
9 Grove Hill Road London SE5 8DF

RECOMMENDATION

This document shows the case officer's recommended decision for the application referred to below.
This document is not a decision notice for this application.

Applicant	Ms Ellie Manwell Dulwich Picture Gallery	Reg. Number	18/AP/3490
Application Type	Full Planning Application	Case Number	TP/2083-C
Recommendation	Grant permission for limited period		

Draft of Decision Notice

Planning Permission was GRANTED for the following development:

Construction of a temporary pavilion building for summer period up to the end of September 2019 to provide ancillary exhibition and gallery facilities comprising an accessible, raised gantry walkway at approximately 2.1m high within a timber cube structure measuring approximately 10m high, 11m wide and 11m deep, to be accessible during standard gallery opening hours (09:00 - 18:00) and for occasional events up to 22:00.

At: DULWICH PICTURE GALLERY, GALLERY ROAD, LONDON SE21 7AD

In accordance with application received on 29/10/2018 08:00:34

and Applicant's Drawing Nos. 158-PL01-01 - Site location plan and existing elevations

158-PL02-01 - Existing roof plan

158-PL11-01 - Proposed elevations

158-PL12-01 - Proposed roof plan

158-PL12-02 - Proposed ground level plan

158-PL12-03 - Proposed plans, elevations and sections

Design and Access Statement

Subject to the following five conditions:

Time limit for implementing this permission and the approved plans

- 1 The building hereby permitted shall be removed from the site by 15 October 2019 or before.

Reason

The type of building is not such as the Local Planning Authority is prepared to approve other than for a limited period, having regard to the materials and the of structure proposed amenity in accordance with Strategic Policy 12 - Design and conservation of The Core Strategy 2011 and Saved Policy 3.12 Quality in Design and 3.13 Urban Design of The Southwark Plan 2007 and the National Planning Policy Framework 2018.

- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:

158-PL11-01 - Proposed elevations

158-PL12-01 - Proposed roof plan

158-PL12-02 - Proposed ground level plan

158-PL12-03 - Proposed plans, elevations and sections

Reason:

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

Compliance condition(s) - the following condition(s) impose restrictions and/or other requirements that must be complied with at all times once the permission has been implemented.

- 3 After 21:30, only the Gallery Road exit may be used to leave by people visiting and working at the pavilion or events associated with it.

Reason:

To safeguard the amenity of neighbouring residential properties in accordance with The National Planning Policy Framework 2018, Strategic Policy 13 High environmental standards of The Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007.

- 4 The use hereby permitted for the proposed pavilion shall only take place during the hours of 09:00 - 22:00 Monday - Sunday.

Reason:

To safeguard the amenity of neighbouring residential properties in accordance with The National Planning Policy Framework 2018, Strategic Policy 13 High environmental standards of The Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007.

- 5 The materials to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and on the drawings hereby approved unless the prior written consent of the local planning authority has been obtained for any proposed change or variation.

Reason

To ensure that the new works blend in with the existing building in the interest of the design and appearance of the building in accordance with The National Planning Policy Framework 2018, Strategic Policy 12 Design and Conservation of The Core Strategy 2011 and Saved Policies 3.12 Quality in Design and 3.13 Urban Design of the Southwark Plan 2007

Statement of positive and proactive action in dealing with the application

The Council has published its development plan and core strategy on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

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PLANNING SUB-COMMITTEE A AGENDA DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2018-19

NOTE: Original held by Constitutional Team all amendments/queries to Gerald Gohler Tel: 020 7525 7420

Name	No of copies	Name	No of copies
To all Members of the sub-committee			
Councillor Lorraine Lauder MBE (Chair)	1	Environment & Social Regeneration	1
Councillor David Noakes	1	Environmental Protection Team	
Councillor Sandra Rhule	1		
(Members of the sub-committee receiving electronic copies only)			
Councillor Jane Salmon (Vice-Chair)		Communications	By
Councillor Richard Leeming		Louise Neilan, media manager	email
Councillor Martin Seaton		Total:	14
Councillor Michael Situ		Dated: 12 December 2018	
(Reserves to receive electronic copies only)			
Councillor Karl Eastham			
Councillor Eleanor Kerlake			
Councillor Sarah King			
Councillor Graham Neale			
Councillor Kath Whittam			
Officers			
Constitutional Officer, Hub 2 (2 nd Floor), Tooley St.	6		
Jacqui Green/Selva Selvaratnam, Hub 2 (5 th Floor) Tooley St.	3		
Margaret Foley, Legal Services Hub 2 (2 nd Floor) Tooley St.	1		