

Item No. 6.4	Classification: Open	Date: 8 September 2011	Meeting Name: Dulwich Community Council
Report title:	Development Management planning application: Application 11-AP-1007 for: Full Planning Permission Address: 30 SEELEY DRIVE, LONDON, SE21 8QR Proposal: Change of use of the ground floor from Class A1 retail to Class A5 takeaway, together with the installation of a new shopfront and the erection of ventilation ducting to the rear elevation.		
Ward(s) or groups affected:	College		
From:	Head of Development Management		
Application Start Date 15 April 2011		Application Expiry Date 10 June 2011	

RECOMMENDATION

- 1 Grant planning permission subject to conditions.

BACKGROUND INFORMATION

- 2 This application has been referred to Dulwich Community Council due to the level objection received.

Site location and description

- 3 The application site is a ground floor commercial unit located within the Kingswood Estate in the College area of the borough. Situated below two storeys of residential the unit is one of 12 commercial units set around an open courtyard.
- 4 Currently within A1 retail use the unit was last used as a convenience store and has been vacant for approximately 2 years.
- 5 Protected Shopping Frontage: SF47
Conservation Area: n/a
Listed Building: n/a
CPZ: n/a
PTAL: 2

Details of proposal

- 6 This application seeks planning permission for the change of use from an A1 retail unit to an A5 take-away. This would include an electric motorbike delivery service to customers.
- 7 The unit would be separated into 3 main areas of similar sizes. To the front with direct access from the public courtyard would be the main shop floorspace with standing counters along the side walls and shop frontage. To the rear of this would be the counter area separating the public space from the main kitchen area. To the very rear

would be storage space, preparation areas and office/staff WC.

- 8 The unit would have neither tables nor chairs (other than standing counters).
- 9 Facing the open courtyard to the front of the unit, the existing shopfront would be replaced with a glazed and aluminium framed frontage with central double doors. A full height extract duct is proposed at the rear.
- 10 Proposed opening hours: Monday - Saturday 11am to 11pm, Sundays 11am to 8pm.

Planning history

- 11 The application site has not been subject to any previous planning applications.

Planning history of adjoining sites

- 12 31 Seeley Drive
08-AP-2672
Planning permission granted for the change of use from retail unit (A1 use) to Metropolitan Police Safer Neighbourhood Unit to provide a base from which to stage foot patrols and provide space for administrative tasks (B1 use), with associated external alterations comprising installation of a new shop front, installation of cycle storage and alterations to the rear roofs.
- 13 32 Seeley Drive
02-AP-2033
Planning permission granted for the change of use from hairdresser (A1) to employment agency (A2).
- 14 34 Seeley Drive
08-AP-1950
Planning permission granted for the change of use from A1 to A2 financial and professional services.
- 15 36 & 37 Seeley Drive
07-AP-2762
Planning permission granted for change of use to D1 Community Facilities.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 16 The main issues to be considered in respect of this application are:
 - a) The principle of development including the loss of the A1 retail unit.
 - b) Neighbour residential amenity.
 - c) Design and Appearance of the external changes proposed.
 - d) Traffic and transportation.

Planning policy

- 17 Southwark Plan Policies 2007 (July)
 - 1.9 'Change of Use within protected shopping frontages'
 - 3.2 'Protection of Amenity'
 - 3.7 'Waste Reduction'

- 3.11 'Efficient use of land'
- 3.12 'Quality in Design'
- 3.13 'Urban Design'
- 5.2 'Transport Impacts'

18 Core Strategy

- Strategic Policy 2 Sustainable transport
- Strategic Policy 3: Shopping, Leisure and Entertainment
- Strategic Policy 12 Design and conservation
- Strategic Policy 13 High environmental standards

19 Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)
PPS 24: 'Planning and Noise'

20 Material Considerations

Guidance on the control of noise and odour from commercial kitchen and exhaust systems (Department of Environment Food and Rural Affairs (DEFRA) 2005)

Principle of development

21 The application site is situated within a designated Protected Shopping Frontage, and as such should be considered with regard to saved policy 1.9 of the Southwark Plan. Policy 1.9 states that planning permission for a change of use from A1 will be granted provided that the following criteria are met:

22 *i. The proportion of units within any protected shopping frontage in A1 Use Class does not fall below 50%*

The protected shopping frontage is made up of 12 units, currently 60% of those units are within an A1 retail use. Allowing the change of use of this premises would result in 50% of the units remaining in A1 retail use.

23 *ii. The premises have been vacant for a period of at least 12 months....*

Southwark Council are the landlords of the unit and it is understood that it has been vacant for over 2 years. The property has been on the market since August 2009 with limited interest shown. The Council's property team have confirmed that the unit has been historically hard to let to a sustainable A1 retail use.

24 *iii. The proposal would not result in a material loss of amenity for surrounding occupiers*

Please see sections 28-37 of this report for consideration of this issue.

25 *iv. The proposed use provides a service involving visits to the premises by members of the public*

An A5 unit as proposed would meet this requirement and would provide an active frontage within the shopping parade.

26 *v. The proposal would not harm the vitality or appearance of the protected shopping frontage*

The proposed development involves the change of the shopfront at the subject unit. Full consideration of this is discussed in section 38-42 of this report. However an active frontage would remain at the application site and visually the site would remain very much as existing. The vitality of the frontage would not be detrimentally affected as the unit would attract customers throughout the day and the proposed use would be compatible with a shopping parade.

27 In consideration of the above the principle of the proposed change of use is considered acceptable and in accordance with saved policy 1.9 of the Southwark Plan. Furthermore, Strategic Policy 3 Shopping Leisure and Entertainment of the

Core Strategy aims to ensure that the balance of uses, including shops, bars, restaurants and cafes is maintained. It is considered that the proposal complies with this policy.

Neighbour Residential Amenity

- 28 Policy 3.2 seeks to minimise the impact of development so that it would not harm the standard of amenity experienced by occupiers nearby and in the surrounding area. Strategic Policy 13 High Environmental Standards of the Core Strategy also aims to protect amenity.
- 29 Residential Uses Above
Sound insulation between the proposed unit and the first floor residential use should be sufficient to cater for a kitchen activity without causing unacceptable harm. Details of sound insulation have been submitted and assessed by the Council's Environmental Protection officer. These are considered acceptable to ensure sound is not transmitted and the imposition of an appropriate condition has been recommended to ensure these details are provided prior to the occupation and use of the unit, should permission be granted.
- 30 Kitchen Ventilation Equipment
The proposal has been assessed with regard to guidance produced by DEFRA on the control of noise and odour from commercial kitchen and exhaust systems. Advice from the Council's Environmental Protection officer has taken into account the proximity of adjacent residential windows and it has been recommended that in order to avoid cooking fumes effecting this property and to aid dispersion, that the 'chinaman's' hat as shown on the drawings is omitted. This could be secured through the imposition of an appropriate condition.
- 31 A condition is also recommended to limit the noise output of the proposed ventilation equipment. Limiting the noise emissions is also to ensure no harm to the amenity of nearby residents.
- 32 Subject to the imposition of these appropriate conditions the impact of the proposed ventilation system would be acceptable and would not harm residential amenity through fumes or noise.
- 33 Delivery impacts and noise generated from patrons
Concerns have been raised by local residents with regard to noise and disturbance from patrons of the unit. The nature of the use indicates that customers would normally be expected to spend short periods of time at the premises collecting their food and then moving on. In order to discourage loitering at the site the unit proposes only limited standing tables and no seating tables or areas to sit down. The large floorspace within the unit allows a sufficient area for customers to wait inside the unit while their food is being prepared, discouraging customers from hanging around outside the premises while waiting.
- 34 The proposed opening hours are suitable for the location and considered sufficient to ensure the protection of residential amenity. They would be ensured through the imposition of an appropriate condition.
- 35 A delivery service from the unit is proposed and it is recognised that the use of a motorised vehicle could result in unacceptable levels of noise and disturbance to local residents. It has therefore been proposed by the applicant that all deliveries take place using an electric powered moped which would not result in the levels of noise associated with the starting up and movement of a standard powered moped, car or motorbike.

- 36 The use of an electric bike or cycle would not result in such noise impacts. It is therefore recommended that should permission be granted that it be subject to the imposition of a condition requiring all deliveries to take place using an electric powered bike, bicycle or on foot.
- 37 Whilst the customer and bike noise is clearly of concern to local residents, subject to conditions, it is considered that any loss of amenity would not be so severe as to justify refusal of planning permission.

Design and Appearance

- 38 Policy 3.12 requires development to be of a high standard, while policy 3.13 requires development to relate well to its surroundings. Strategic Policy 12 Design and Conservation of the Core Strategy also expects a high standard of design.
- 39 External changes are proposed to the rear of the building involving the installation of a ventilation extract duct terminating 1m above the eaves of the adjacent wall and the installation of a new shopfront to the frontage of the unit.
- 40 The ventilation ducting would be of a standard design common on commercial premises of this nature, and similar equipment can be seen at the premises at no.41 Seeley Drive. The ducting would be to the rear of the unit and would be seen from the servicing side of the parade which is accessed via a service road and which also serves a number of garages.
- 41 To the front the shopfront is of a simple design consistent with the intent of the shop for commercial purposes and similar to other units within the parade.
- 42 There are no concerns that the design of these alterations would not be of a high quality or that they would detract from the character of the building and appearance of the surrounding area. For these reasons the alterations proposed would be in accordance with the Council's design policies.

Traffic and Transportation

- 43 Policy 5.2 seeks to permit development unless :
- i) it would have adverse impacts on the transport network through increased traffic or pollution; and/or*
 - ii) Adequate provision has been made for servicing, circulation and access, to and from the site; and/or*
 - iii) consideration has not been given to the impacts of the development on the bus priority network and the transport for London Road network.*

Strategic Policy 2 aims to ensure that new development is accessible and promotes a range of transport choices.

- 44 Traffic and parking impacts are of concern to local residents and this has been raised in the letters of objection. The application has been assessed by the Council's transport planning team who have raised no objections to the proposed change of use.
- 45 The unit is likely to serve, and draw customers, from the surrounding residential area which would indicate that the majority of customers would walk to the application site. The surrounding area is covered by local waiting and parking restrictions, the enforcement of which would further discourage driving to the site. The surrounding Kingswood Estate is covered by an estates parking scheme, the existing enforcement of which this is considered sufficient to protect residents parking in the locality.

- 46 Servicing

The site fronts the open courtyard into which all the adjacent shops face. This has no vehicular access and as such all servicing would have to take place from the rear which backs onto garages and is covered by double yellow lines. The required servicing of the site is not predicted to be any more intense than the existing use of the site for A1 retail purposes and the arrangements are therefore considered acceptable.

47 It is considered appropriate however to require the submission of a Service Management Plan through the imposition of an appropriate condition. This is in order to control/reduce any highway impacts resulting from deliveries to the site.

48 Refuse

Waste would be stored internally within the proposed kitchen area to the rear of the unit. Whilst it would be preferred for applicant to provide a dedicated external waste storage area, it is considered that this would not be possible owing to site constraints. For this reason it is recommended that a condition requiring the applicant not to leave refuse and waste storage on the public highway at any time is imposed should permission be granted.

49 Cycle Parking

The application makes no provision for the storage of cycles and owing to site constraints there is not considered to be sufficient room to make on site provision. The open courtyard to the front of the site however already has cycle racks installed for public use. The operation of this unit is not considered to increase demand for these facilities over and above what would be expected if it were to remain in A1 retail use. These are therefore considered sufficient to meet the needs of customers wanting to cycle to the premises.

50 The unit proposes delivery using an electric bike, but could also use cycles to provide this service. Sufficient space is provided within the unit for the storage of bikes when the unit is closed or when not in use for deliveries.

51 Based on this analysis, it is concluded that the proposed take-away would not result in a significant level of traffic nor generate significant harm to pedestrian amenity.

Other Matters

52 The increase in litter has been raised by local residents in submitted letters of objection. Whilst this is recognised as a concern for local residents it is not a matter which could be controlled through planning. The nature of the site however is likely to result in the majority of customers collecting their food and taking it home with them thus reducing the need for people to dispose of packaging outside the site. The containment of litter on site and directly outside would be a matter for the management of the unit. Within the courtyard to the front and in the locality public waste bins are available for use.

Conclusion on planning issues

53 Planning permission is sought for the use of the application site as a hot food take away (Class A5) with a delivery service, together with associated ductwork and shopfront alterations. A number of objections have been received from local residents. These are both against the use and the issues arising from the use such as noise, smells and increased traffic.

54 Having regard to observations from the council's environmental protection and transport officers, and the concerns raised by residents, it is concluded that the scheme, subject to conditions, would not result in harmful impacts to the extent that would warrant refusal of planning permission. It would bring a vacant ground floor unit within a protected frontage back into productive use to the benefit of vitality and viability of Seeley Drive and would accord with relevant saved policies of the

Southwark Plan (2007) and the Core Strategy. For these reasons, it is recommended for approval.

Community impact statement

- 55 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.
- 56 a) The impact on local people is set out above.

Consultations

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

Consultation replies

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

Summary of consultation responses

- 59 Transport Planning:
Raise no objections to the proposed change of use subject to the imposition of a condition concerning service management and the inclusion of an informative noting the surrounding parking restrictions.
- 60 Environmental Protection:
Raise no objections to the proposed development subject to the imposition of conditions concerning:
- Sound insulation.
- Ventilation and odour extraction.
- Noise.
- Hours of operation.
- 61 The Council has received 5 letters of objection raising the following areas of concern:
- Increased traffic and pressure on parking.
See sections 43-51 of this report for consideration.
- Increased noise and disturbance.
See sections 33-37 of this report for consideration.
- Concerns surrounding ventilation.
See sections 30-32 of this report for consideration.
- Litter and rubbish.
See sections 47 and 51 for consideration.

The applicant has submitted a petition in favour of the development from local people.

Human rights implications

- 62 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.
- 63 This application has the legitimate aim of changing the use of an A1 retail unit. 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/H2027 Application file: 11-AP-1007 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5452 Council website: www.southwark.gov.uk

APPENDICES

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

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Amy Lester, Planning Officer	
Version	Final	
Dated	24 August 2011	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	n/a	n/a
Strategic Director of Regeneration and Neighbourhoods	n/a	n/a
Strategic Director of Environment and Leisure	n/a	n/a
Date final report sent to the Community Council Team		26 August 2011

APPENDIX 1

Consultation undertaken

Site notice date: 13/05/11

Case officer site visit date: 13/05/11

Neighbour consultation letters sent: 05/05/11

Internal services consulted:

Environmental Protection
Transport Planning

Neighbours and local groups consulted:

46 Seeley Drive London SE21 8QR
45 Seeley Drive London SE21 8QR
48 Seeley Drive London SE21 8QR
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49 Seeley Drive London SE21 8QR
35 Seeley Drive London SE21 8QR
9 Lyall Avenue London SE21 8QS
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36 Seeley Drive London SE21 8QR
11 Lyall Avenue London SE21 8QS
50 Seeley Drive London SE21 8QR
15 Lyall Avenue London SE21 8QS
13 Lyall Avenue London SE21 8QS
25 Seeley Drive London SE21 8QR
24 Seeley Drive London SE21 8QR
27 Seeley Drive London SE21 8QR
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31 Seeley Drive London SE21 8QR

APPENDIX 2

Consultation responses received

Internal services

Environmental Protection
Transport Planning

Neighbours and local groups

26 Seeley Drive
41 Seeley Drive
47 Seeley Drive
49 Seeley Drive
4 Blackstone House