

Item No: 7.	Classification: Open	Date: 23 April 2013	Meeting Name: Planning Sub-Committee A
Report title:		Addendum Late observations, consultation responses, and further information.	
Ward(s) or groups affected:		Brunswick Park, Cathedrals, Village, Chaucer	
From:		Head of Development Management	

PURPOSE

- 1 To advise Members of observations, consultation responses and further information received in respect of the following planning applications on the main agenda. These were received after the preparation of the report and the matters raised may not therefore have been taken in to account in reaching the recommendation stated.

RECOMMENDATION

- 2 That Members note and consider the late observations, consultation responses and information received in respect this item in reaching their decision.

FACTORS FOR CONSIDERATION

- 3 Late observations, consultation responses, information and revisions have been received in respect of the following planning applications on the main agenda:

3.1 Item 7.1 – 1-20 Spurgeon Street

- 3.2 Further representations and information received.

3.3 Correction to numbering of Appendices:

The original published report within referenced the following appendices:

Appendix 1 – Consultation undertaken

Appendix 2 - Consultation responses received

Appendix 3 – Recommendation

The corrected appendices are as follows:

Appendix 1(a) - Planning Enforcement Notice and Stop Notice served on 11/05/2012

Appendix 2 (a) - Chronology of history from residents.

Appendix 3 (a) - Photographs from site visit on 10/04/13

Appendix 4 - Letter from Planning Inspectorate dated 01/11/12

Appendix 5 - Monitoring and Compliance Schedule for planning application ref: 13/AP/0501 (which is included at pages 37 – 39 of the main report, but not listed in the list of appendices on page 31 of the report)

3.4 Clarifications and corrections to report:

Para 4 - *The firm's correct name is Express National Carriers.*

1. Para 36 – *Officers can confirm that complaints have been received in regards to the use of a garage on Spurgeon Street for vehicle maintenance and can confirm that this use is also subject to the current planning enforcement investigation.*
2. Para 77 –*The report at this point should set out the need for all windows on the western elevation to be obscured and fixed shut in the interests of amenities, so as to correlate with Condition 5, which sets out the recommended position to Members.*
3. Para 133 – To clarify a Unilateral Undertaking is not required to deal with the CPZ exemption, as this is now dealt with by Condition 15, as listed in the main recommendation.
4. Para 137 – should read: *“3. Four (4) Bedrooms to be constructed as wheelchair accessible rooms within six months of the date of the decision and retained as such thereafter to make the hotel accessible to all members of the community”.*
5. Paras. 131 – 137 – *The agenda report lists these correctly without repetition of numbering. For the record, as this has been raised by third parties, it is acknowledged that the version of the report that appeared on the planning pages of the website had repeated numbering in error at this point. However, the text of the paragraphs remains unchanged.*
6. Para 150– the paragraph should read: *“However, one issue raised by the Environment Agency relates to the use of the basement, however the applicants have confirmed that this existing layout is not subject to change and as such no additional information in regards to the basement is required”.*

3.5 Further consultation responses:

Flood Risk:

Since the publishing of the report, the applicants have provided an updated Flood Risk Assessment, submitted on 18/04/13, in order to overcome the initial issues raised by the Environment Agency in relation to the information set out on the previous Flood Risk Assessment. The council have received a response from the Environment Agency on 19/04/13 and this response sets out no in principle objection to the use of the building as a hotel. The details are listed below:

We note that, when modelled without the presence of flood defences, the site is located in Flood Zones 1, 2 and 3 and is within an area benefiting from the River Thames tidal flood defences. However, we further note that the submitted revised FRA has demonstrated that, when modelled on a breach scenario, the site may be considered to be located in Flood Zone 2, outside of any breach extent held by the Environment Agency, as confirmed by our own breach modelling.

Environment Agency position

Accordingly, we now have **no objection** to the planning application as submitted.

Environmental Protection.

A full consultation response has been received by the Councils Environmental Protection team and they have recommended approval of permission subject to conditions. Officers can advise that conditions to deal with amenity issues, such as servicing times and control over future plant are included in the recommendation. An additional condition is however recommended, included in full below, to secure details of any mechanical ventilation for those rooms where windows are conditioned to remain fixed. Other matters are dealt with by separate legislation such as the Building Regulations.

3.6 Objectors have raised further issues in respect of the application. These issues are dealt with below:

Ownership Certificates

Certificate A has been signed within the application form and the applicant is listed as Ray Johnson and his address listed is Express National Cars, 1-20 Spurgeon Street, London SE1 4YP. The objectors have noted that the registered freehold of the premises is owned by Europa Gold Limited and as such that the incorrect certificate has been signed.

The Solicitor who is working on behalf of the applicant, (Tristan Morse of Humphreys & Co.) has confirmed that they are instructed by Europa Gold Limited, and he has also confirmed that the applicant (Raymond Johnson) is authorised to give instructions on this application.

He has also noted that any reference to “Express National Carriers” on the application form was for correspondence purposes only as the application should be shown to have been made in the name of “Europa Gold Limited”.

No Scale Bar on Dwg no. The Plan - 01023/G/1-2/02 Existing First and Second floor layouts 2013-03-02

The only drawing which does not have any scale bar on is the Existing First and Second floor layouts 2013-03-02 and all other plans submitted as part of the application have scale bars on. As there is no change to the existing first and second floors, and as the proposed first and second floor plans have scale bars on them, as such officers advise it would be unreasonable to invalidate an application on this ground.

Effectiveness of conditions:

Issues have been raised in relation to the reasonableness and enforceability of the planning conditions and some residents have argued that these measures should be included within the S106 as opposed to as planning conditions. The main conditions raised refer to conditions 9 (Service Management Plan) 11 (Cycle Storage) and 12 (Refuse Storage).

Having reviewed the conditions, officers are satisfied that these meet the tests as identified within Circular 11/1995 - The Use of Conditions in Planning Permissions and that this is the most appropriate way of controlling these issues. A proposed monitoring and compliance schedule is presented in Appendix 5.

Noise Assessment:

Local residents have raised concerns that no noise impact assessment has been provided within the application documents. Having consulted the Environmental Protection team, no plant or machinery is proposed within the application and the potential noise issues relate mainly to the patrons arriving and leaving the site. These

issues have been taken into account and an assessment is made of the potential noise impacts within the main body of the report.

Reasons for issuing the enforcement notice

One objector has pointed out that the reasons given in paragraph 25 of the committee report does not give the full explanation for the issuing of the notice under part (b). Officers can advise that paras. 24 – 28 of the report provide summaries of the reasons for issuing the notice, the full text of which can be read at appendix 1a attached to this addendum.

3.7 S106 Amendments

There has been a request from the applicant to allow six (6) months for the completion of the wheelchair accessible units within the site. Officers have reviewed this request and concluded that it is reasonable to allow a timeframe of six months for this fit out. However, the other key works such as the relocation of the entrance still have to be completed within three months of the date of the planning permission. As such, the following amendment to the s106 is recommended:

3. Four (4) Bedrooms to be constructed as wheelchair accessible rooms within six months of the date of the decision and retained as such thereafter to make the hotel accessible to all members of the community”.

3.8 Amendments to conditions

In line with the abovementioned alteration to the S106 agreement, Officers are also recommending that condition 3 is amended to read as follows:

3. The development hereby permitted shall be completed within **six** months from the date of the permission.

Reason

As allowed and required under Section 91 of the Town and Country Planning Act 1990, the standard 3 year period being inappropriate in this case due to the ongoing planning enforcement investigation.

The reason for condition 18 shall be amended to read:

Reason

In order to ensure that any potential issues of any odour, fume or noise nuisance can be considered by the Council in the interests of the amenity of the neighbouring properties, in accordance with Saved Policy 3.2 Protection of Amenity of the Southwark Plan 2007 and Strategic Policy 13 – High Environmental Standards of the Core Strategy 2011.

And an additional condition is recommended to secure details of any mechanical ventilation for the rooms:

19. Prior to the installation of any mechanical ventilation to the rooms hereby permitted, details (which shall include location of any plant and noise output) shall be submitted to and approved in writing by the Local Planning Authority. The details shall be installed in strict accordance with the approved details and retained as such thereafter.

Reason:

In the interests of the amenities of future and neighbouring residents and in order to accord with Saved Policy 3.2 'Protection of Amenity' of the Southwark Plan 2007 and Strategic Policy 13 'High Environmental Standards' of the Core Strategy 2011.

3.9 Item 7.4 – 77 Herne Hill 12/AP/2343

3.10 Following publication of the report, a further four letters of representation have been received; one from the Herne Hill Society and a further three from a local resident who wishes to remain anonymous.

The various additional comments received have been summarised below;

- The application form states change of use to mixed A3/A4 use and D2 use, but the words used for the A3/A4 use on the form are 'drinking establishment/public house'. There is no mention of restaurant use. The use classes order states that the primary purpose of A3 use is food and light refreshment whereas the primary purpose of A4 is sale and consumption of alcohol. It is difficult to see how one establishment can have 2 primary purposes and although it could be argued that the reference in the application form is simply an error, it could also be argued that it is misleading and perhaps should not have been validated. It also could be argued that it shows the real intention of the applicant is to use the premises for bar use with music and that any restaurant use would be ancillary. In that case, the application should have been for A4 and D2 use. On that basis I would ask that the application be refused and any necessary enforcement action be taken.
- Additional information has been submitted to demonstrate the fact the Dee Dee's has been actively marketing itself as a bar as opposed to a restaurant including on its website, social media sites and external advertising at the premises. On balance it appears that Dee Dee's (by their own admission in their advertising) considers itself and has been operating almost entirely as a drinking and entertainment establishment. The only time Dee Dee's appears to have referred to itself as a "restaurant" is in the planning application itself.
- Information has been supplied to show that the licensing conditions have been amended to remove the requirement that alcohol be sold alongside a meal. As such this makes it possible for non-dining customers to run a tab at the bar. This is further evidence of a switch away from foods to a drinks based business.

3.11 Members are further advised that Officers have considered the requirement to impose an additional condition in order to secure the continued A3 use of the site. The proposed condition reads as follows:

The Class A4 Use 'Drinking Establishment' and Class D1 Use 'Entertainment' hereby permitted, shall at all times operate in conjunction with the use of the premises as a restaurant (Use Class - A3) and shall not, at any time, operate as independent uses without the prior written approval of the local planning authority.

Reason

In order that the amenity of adjoining occupiers is protected and to ensure the continued use of the site for A3 purposes in accordance with saved policy 3.2 – Protection of amenity of The Southwark Plan 2007 (July), Strategic Policy 13 – High Environmental Standards of The Core Strategy 2011 and the provisions of the National Planning Policy Framework 2012.

3.12 Item 7.5 4-7 Vine Yard London SE1 1QL

- 3.13 Clarification was requested in respect to two entries in the consultation section of the report from Flat 6, 6 Vineyard. Two representations were received from this property although from the same writer, but raising different issues within the two representations and therefore the reason for reporting each representation separately.
- 3.14 The applicant has produced a computer generated shadow diagram showing the impact of the development on the open areas and the buildings around the application site. There are two sets of diagrams, one showing the existing impact of the current building and impact of the extension with the existing building in mid-spring from 7am to 2pm and mid-summer 6am to 1pm. The drawings show no difference in the impact of the extension on the existing building on the overshadowing of adjoining open areas or buildings.

REASON FOR LATENESS

4. The comments reported above have all been received since the agenda was printed. They all relate to an item on the agenda and Members should be aware of the objections and comments made.

REASON FOR URGENCY

5. Applications are required by statute to be considered as speedily as possible. The application has been publicised as being on the agenda for consideration at this meeting of the sub-committee and applicants and objectors have been invited to attend the meeting to make their views known. Deferral would delay the processing of the applications/enforcements and would inconvenience all those who attend the meeting

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Individual files	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Alex Cameron, (Planning Officer) Terence McLellan, (Planning Officer) Michele Sterry (Team Leader)	
Version	Final	
Dated	23 April 2013	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director of finance and Corporate Services	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Community Services	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team		23 April 2013