

Item No. 7.3	Classification: Open	Date: 15 MAY 2013	Meeting Name: Planning Sub-Committee B
Report title:	Development Management planning application: Application 13/AP/0277 for: Full Planning Permission Address: 65 SOUTHWARK PARK ROAD, LONDON SE16 3TY Proposal: Change of use of ground floor shop to hot food take-away (A5 class use) with installation of extraction flue system to rear and new proposed opening hours: Sunday to Wednesday 11:00 to 23:00, Thursday to Saturday 11:00 to 00:00.		
Ward(s) or groups affected:	Grange		
From:	Head of Planning		
Application Start Date 12/02/2013		Application Expiry Date 09/04/2013	

RECOMMENDATION

- 1 Grant permission subject to conditions

BACKGROUND INFORMATION

- 2 The application is brought before the committee at the request of Councillors

Site location and description

- 3 The application site is an existing Class A1 retail unit situated on the north side of Southwark Park Road in Bermondsey. There is a yard/amenity space to the rear of the building. The unit stands within a row of adjoining commercial units situated in between Yalding Road and the Harris Academy, although no.67 immediately adjacent is in residential use. There is a residential unit to the first floor of the application site and other flats on the first floors of adjoining buildings.
- 4 Southwark Park Road is a classified A Road, the site is within the Urban Density Zone. The site also sits opposite to the Thorburn Square conservation area.

Details of proposal

- 5 The application is for the change of use of the ground floor of the premises from the existing Class A1 retail use into a Class A5 hot-food take-away.
- 6 It is also proposed to install an extraction flue to the rear which would terminate above the roof ridge.
- 7 The proposed opening hours are between 11:00 - 23:00 Sunday to Wednesday and 11:00 - 00:00 Thursday to Saturday.

Planning history

- 8 **94/609**
Change of use of part of ground floor to single residential unit and the construction of a single storey rear extension.
Refused: Sept 1994
Refused as not considered to provide the appropriate standard of residential accommodation due to lack of natural light and external amenity space.

Planning history of adjoining sites

- 9 63 Southwark Park Road
99-AP-1195
Continued use as mini cab office
Approved: December 1999
- 10 67 Southwark Park Road
08-AP-2325
Construction of a second floor (third storey) mansard roof to front and over rear part of building, to provide additional residential accommodation. Alteration to windows on front elevation and to rear and conversion of extended building to form three self contained flats (two existing).
Refused: December 2008
Refused as considered not to provide an acceptable standard of residential accommodation and would constitute a visually over bearing over development of the site particularly to the roof scape.
- 08-AP-1441**
Construction of a third floor mansard roof and rear first floor extension; alterations to windows on front elevation; and conversion of extended building to form 3 self contained flats (2 existing).
Refused: August 2008
Refused as would not provide an acceptable standard of accommodation

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 11 The main issues to be considered in respect of this application are:
- a) the principle of the proposed development in terms of land use
 - b) the impact on the amenities of neighbouring occupiers
 - c) the impact on the local transport network
 - d) visual impact of the duct

12 **Planning policy**

Core Strategy 2011

Policy 3 'Shopping, Leisure and Entertainment'
Policy 12 'Design and Conservation'
Policy 13 'High Environmental Standards'

Southwark Plan 2007 (July) - saved policies

1.10 'Small scale shops and services outside the town and local centres and protected shopping frontages'

3.1 'Environmental Effects'

3.2 'Protection of amenity'

3.6 'Air quality'

3.7 'Waste reduction'

3.12 'Quality in design'

3.18 'Setting of Listed Buildings, Conservation Areas and World Heritage Sites'

5.2 'Transport impacts'

5.3 'Walking and cycling'

The Council's cabinet on 19th March 2013, as required by para 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.

London Plan 2011

None directly relevant

National Planning Policy Framework (NPPF)

Section 1 Building a Strong and Competitive Economy

Section 7 Requiring Good Design

Principle of development

- 13 Saved policy 1.10 of the Southwark Plan states that outside town centres, local centres and protected shopping frontages, development will only be permitted for a proposal for a change in use between A use classes or from A use classes to other uses, when the applicant can demonstrate that:

i) The proposed use would not materially harm the amenities of surrounding occupiers;

Refer to the amenity section of this report.

and

ii) The use that will be lost is not the only one of its kind within a 600m radius and its loss would not harm the vitality and viability of nearby shops or shopping parades;

'The Blue Local Town Centre is within 400m of the site and provides a number of A1 retail uses within Protected Shopping Frontages.

or

iii) The premises have been vacant for a period of at least 12 months with demonstrated sufficient effort to let, or have not made a profit over a two year period.

The site is not currently vacant and there fails to satisfy point iii. The policy only requires conformity with points i along with either ii or iii. Subject to the satisfactory impact upon residential amenity, which shall be discussed later in this report, the proposed change of use is considered acceptable in principle.

A number of letters of objection raise that there are too many takeaways in this area, that is an overconcentration and could lead to encouragement of childhood obesity issues. However, the proposal is compliant with the above policy, and there are no other policies to limit hot food takeaways in this area.

Environmental impact assessment

An Environmental Impact Assessment is not required. No significant environment effects would arise.

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

- 14 There are two main potential impacts upon neighbouring residents: the impact of the proposed extraction flue to the rear of the site along with the general noise and disturbance from the operation of the premises as a hot food take-away.

Amenity impacts - noise, too many takeaways, nuisance, littering, loiter, late night activity, plus specific impacts arising from the proposed flue, have been raised in letters of objection.

- 15 The applicant has submitted details of the flue, which address the positioning of the equipment. It will exit the building through the existing single storey lean to section to the rear, and would run up the rear elevation terminating just above the rear eaves level. This arrangement with vertical discharge is considered acceptable. Details of noise mitigation and odour control have been provided. It is stated that the odour control shall be designed to protect amenity while the noise levels shall be kept to the statutory standard. The information does not include specific details relating to installation. It is therefore recommended that a condition be attached requiring a noise report to be carried out within one month of the installation of all plant equipment. Provided the condition is adhered to, it is considered that the extraction flue would not harm the amenity of residents. No objections have been raised by the Environmental Protection Officer subject to this condition. A condition preventing motorised delivery service is also recommended, to limit noise impacts to neighbours.
- 16 The application proposes that the use would operate between 11:00 and 23:00 Sunday to Wednesday and 11:00 and 00:00 Thursday to Saturday. It is considered that these opening times are not excessive and to operate until midnight on Thursday, Friday and Saturday is acceptable. It is acknowledged that the nearby 'Pizza Gogo' restaurant operates until 2am on Fridays and Saturdays and until 1am on other days. The Council's transport officers have recommended that the use be restricted from operating a delivery service, but otherwise do not object to a takeaway use in this location.
- 17 It is acknowledged that there are already A5 uses along this small commercial row. It is considered that with adequate mitigation through conditions, the impact upon the amenity of adjoining residents is acceptable and would accord with saved plan policy 3.02 'Protection of amenity'.

Impact of adjoining and nearby uses on occupiers and users of proposed development

- 18 The mix of commercial and residential uses is typical of many areas and does not lead to any special impacts.

Traffic issues

- 19 A minimum of 2 cycle spaces associated with the use would normally be required. However, given the restrictions on site, there are no places to provide cycle storage in a convenient way.
- 20 There are no off street parking spaces available for the takeaway, and therefore visitors in cars would have to find on street parking locally. Takeaway uses can lead to cars parking short term nearby whilst food is picked up. Notwithstanding that such uses can attract more car trips than would a shop, no adverse impacts on the highway network have been identified by the Transport Officer, and therefore in this respect the use is considered acceptable.
- 21 An area at the rear of the site would be used for the storage of refuse. It shall be conditioned that this area remains for this specified use. Littering and refuse storage arrangements were raised in letters of objection. The refuse containers at the rear would not be available to customers, but there appear to be street bins at the front for discarded wrappers.

Design issues

- 22 There are no alterations proposed for the front of the unit. The development would not therefore affect the existing street scene in this location. The proposed flue would terminate above the roof eaves but would be obscured behind the existing front roof parapet and the positioning to the rear of the building. The development would not have an adverse impact upon visual amenity in this location.

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

- 23 The site is situated opposite to the Thorburn Square conservation area. However given the minimal alterations proposed, it is not considered that the proposal would adversely affect its setting in accordance with saved policy 3.18 'Setting of Listed Buildings, Conservation Areas and World Heritage Sites'.

Impact on trees

- 24 No impact.

Planning obligations (S.106 undertaking or agreement)

- 25 No impact.

Sustainable development implications

- 26 None identified.

Other matters

- 27 The site has been used lawfully as a Class A1 retail unit for a number of years and is still as such at the time of writing this report. The application is therefore not liable for Mayoral CIL.

Conclusion on planning issues

- 28 It is considered that the proposed change of use, subject to conditions, would not lead to significant harm to the amenity of residents of properties who adjoin the site and would not put adverse pressure upon the local transport network. The development also satisfies the relevant policy of the Southwark Plan (saved Policy 1.10) in terms of land use. The application is therefore recommended for approval.

Community impact statement

- 29 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.

a) The impact on local people is set out above.

b) The issues relevant to particular communities/groups likely to be affected by the proposal have been identified.

c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above.

Consultations

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

Consultation replies

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

- 32 Summary of consultation responses

A number of objections were received in response to the consultations carried out. The responses and addresses where known are summarised below.

Responses were also received from Thames Water along with comments from the Councils internal transport and environmental protection officers. Again these are summarised below.

Human rights implications

- 33 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.

- 34 This application has the legitimate aim of providing an A5 use class hot-food take-away. 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/115-63 Application file: 13/AP/0277 Southwark Local Development Framework and Development Plan Documents	Chief Executive's 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 3602 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	Gary Rice, Head of Development Management	
Report Author	Michael Mowbray, Planning Officer	
Version	Final	
Dated	26 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, Environment and Leisure	No	No
Strategic Director, Housing and Community Services	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team		2 May 2013

APPENDIX 1

Consultation undertaken

Site notice date: 28th February 2013

Press notice date: N/A

Case officer site visit date: 28th February 2013

Neighbour consultation letters sent: 28th February 2013

Internal services consulted:

Transport (Development Control)
Environmental Protection

Statutory and non-statutory organisations consulted:

Thames Water

Neighbours and local groups consulted:

28/02/2013	FIRST FLOOR FLAT 65 SOUTHWARK PARK ROAD LONDON SE16 3TY
28/02/2013	63 SOUTHWARK PARK ROAD LONDON SE16 3TY
28/02/2013	GROUND FLOOR FLAT 67 SOUTHWARK PARK ROAD LONDON SE16 3TY
28/02/2013	GROUND FLOOR AND FIRST FLOOR FLAT 67 SOUTHWARK PARK ROAD LONDON SE16 3TY
28/02/2013	76 SOUTHWARK PARK ROAD LONDON SE16 3RS
28/02/2013	63A SOUTHWARK PARK ROAD LONDON SE16 3TY
28/02/2013	78 SOUTHWARK PARK ROAD LONDON SE16 3RS

Re-consultation:

N/A

APPENDIX 2

Consultation responses received

Internal services

Transport (Development Control):

Raised no objection to the application. Recommended that any delivery service from the premises should be restricted. Also recommended that refuse storage arrangements be conditioned to be maintained and used for no other purpose.

Environmental Protection:

Raised no objection to the application. Recommended a condition for the submission of a noise survey one month after the installation of the equipment.

Statutory and non-statutory organisations

Thames Water:

Recommended that the developer install a fat trap and dispose of fats, oils and grease by a contractor for the production of bio diesel. This would prevent blocked drains and sewage flooding from the site.

Neighbours and local groups

13 letters of objection were received. The objections were based on the following points:

- Saturation of the local area with hot food take-aways.
- Potential increase in litter.
- Impact upon parking in the locality.
- Disruption to neighbours through use of the premises by potential drunk customers late at night.
- Potential increase of vermin and foxes through waste food.
- Gradual loss of retail uses within the borough.
- Inappropriate within close proximity to a school.
- Creation of anti-social behaviour.
- Long opening hours leading to potentially excessive noise at unsociable hours.
- Impact in terms of noise and odour of the proposed flue in close proximity to neighbouring dwellings.

The letters of objection were received from residents at the following addresses together with some from unknown addresses.

- 8 Robert Jones House
- 19 Yalding Road
- 52, 54 (Flat B), 67 (and ground floor flat), 70, 76, 77, 78 Southwark Park Road