

Item No. 7.1	Classification: OPEN	Date: 1 April 2014	Meeting Name: Planning Sub-Committee B
Report title:	Development Management planning application: Application 13/AP/2187 for: Full Planning Permission Address: 211 GRANGE ROAD, LONDON SE1 3AA Proposal: Change of use from restaurant (A3) to a restaurant with takeaway (A3/A5) together with improvements to the existing flue		
Ward(s) or groups affected:	Grange		
From:	Head of Development Management		
Application Start Date 23/07/2013		Application Expiry Date 17/09/2013	
Earliest Decision Date 24/08/2013			

RECOMMENDATION

- 1 That planning permission be granted subject to conditions.

BACKGROUND INFORMATION

- 2 This application has been referred to Planning Sub-Committee B for decision at the request of councillors.

Site location and description

- 3 The application site is an existing commercial unit situated to the ground floor and basement of 211 Grange Road in Bermondsey. The unit is set within a row of other commercial use units with residential properties above. The host building is three storeys and accommodates two separate apartments above.
- 4 The unit is currently being operated as a mixed A3/A5 use selling Indian food and fried chicken. It is stated that the current use has been in operation since February 2013. There is an existing extraction flue which is positioned to the rear of the second floor rear section and terminates above the existing rear roof dormer.

Details of proposal

- 5 The application is for the addition of a take away use - A5 use class, to the existing restaurant - A3 use class. It was also originally proposed to operate a delivery service from the premises.

The site is currently unrestricted in the hours of operation. The applicant has sought operating hours until 23:30 but it is considered that 23:00 would be more appropriate within this location which is largely residential and away from the main commercial area.

	<u>Monday to Friday</u>		<u>Saturday</u>		<u>Sundays, Bank and Public Holidays</u>	
	Start Time	End Time	Start Time	End Time	Start Time	End Time
A3	12:00	23:00	12:00	23:00	closed	
A5	12:00	23:00	12:00	23:00	closed	

Amendments to scheme:

The applicant provided technical details in regards to the control of odours and noise from the kitchen exhaust system as well as technical parameters of the extraction fan. Furthermore the delivery component has been deleted from this application.

6 Planning history

07-AP-0697

(Ground floor and basement level)

Certificate of lawfulness for the existing use on ground floor and basement as a cafe/sandwich bar within Use Class A3.

Approved: June 2007

05-AP-0742

Top floor flat

Re-cladding and re-fenestration of existing top floor roof extension and provision of new rear balcony.

Approved: October 2005

Enforcement action was also taken against the operators of the premises in June 2013. It was recommended that a planning application be submitted in order to determine whether the use would be acceptable.

7 Planning history of adjoining sites

209-210 Grange Road

96-AP-263

Change of use of ground and first floor from public house to offices. (Second & third floors to remain in residential use)

Approved: May 1996

213 Grange Road

Statutory Register: 1106/80

The erection of a single storey rear extension to be used for storage purposes in connection with the Chinese Take-away hot food shop at 213 Grange Road.

Approved: 4 August 1980

06-AP-2126

Use of ground floor as self-contained hot-food take-away shop (within Class A5) together with the erection of a ground floor rear/side extension and erection of new external ventilation/extract duct at rear. Erection of a two additional storeys at 2nd and 3rd floor levels, to form a self contained (2-bedroom) flat at first floor and maisonette (3-bedroom) at second and third floor level.

Refused: September 2007

Considered an overly excessive roof extension which was not specific to the site size and location.

07-AP-0403

The erection of a rear single storey extension and the retention of existing ventilation/extract ducts.

Refused: May 2007

Considered excessive in size and unneighbourly and would lead to harm upon residential amenity

KEY ISSUES FOR CONSIDERATION

8 Summary of main issues

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

Planning policy

9 Core Strategy 2011

Policy 3 'Shopping, Leisure and Entertainment'

Policy 12 'Design and Conservation'

Policy 13 'High Environmental Standards'

10 Southwark Plan 2007 (July) - saved policies

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

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'

11 London Plan 2011

None directly relevant.

12 National Planning Policy Framework (NPPF)

The NPPF came into effect on 27 March 2012. It aims to strengthen local decision making and reinforce the importance of up-to-date plans. The policies in the NPPF are material considerations to be taken into account in making decisions on planning applications. The NPPF sets out the government's commitment to a planning system that does everything it can do to support sustainable growth and a presumption in favour of sustainable development.

Relevant Sections

1. Building a strong competitive economy
4. Promoting sustainable transport
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change

Principle of development

- 13 The application site has an existing lawful use as a cafe/restaurant which was formalised under a certificate of lawfulness approved in 2007 as shown above. The application is therefore to incorporate a mixed A3/A5 use at the unit. This application is also retrospective, with this mixed use being operated since February 2013 according to the applicant. The site is not within a town or local centre and is therefore subject to saved plan policy 1.10 'Small scale shops and services outside the town and local centres and protected shopping frontages'. The policy allows a change of use between A use classes where it can be demonstrated that the proposed use would not materially harm the amenities of surrounding occupiers. Also that the use that would 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 parades, or 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.
- 14 The impact upon amenity shall be assessed later in this report. The development would not lead to a loss of any use as it would provide a mixed use at the site. The premises are currently occupied and cannot therefore be assessed as being vacant or difficult to let. There is no objection in principle therefore, to the proposed use of the premises as a mixed A3/A5 use.

Environmental impact assessment

- 15 Not required.

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

- 16 The surrounding area is mixed in terms of land use with a number of residential properties situated adjacent to the site including existing units above. The existing use introduces a mixed A3/A5 use at the premises. The main issues in this application are noise and smell created by extraction flue equipment. It is noted that there has also been a number of complaints about the current use and that therefore the measures currently being used are inadequate to protect the amenity of adjacent residents.
- 17 The applicant submitted technical details relating to the control of odours and noise from the kitchen exhaust system. The environmental protection team have considered the additional information and noted the manufacturer's noise levels and recommended it for approval subject to conditions.

- 18 A further issue in this application is the complaints about noise. It is accepted that the use as existing is unfettered in planning terms, by any restriction in opening hours. With the addition of the take away use, the applicant wants to take operate from 12:00 to 23:00 Mondays to Saturdays. Due to the residential uses above, this would be controlled by condition.
- 19 The removal of the delivery element of the scheme will also reduce the impact of the additional take-away element to the existing restaurant use.
- 20 The development therefore complies with saved policy 3.02 'Protection of Amenity' of the saved Southwark Plan.

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

- 21 None raised

Transport issues

- 22 The proposed scheme has been revised by removing the delivery component to this application. This is as a result of advice received from the council's transport team.
- 23 The site is located in an area that benefits from a high PTAL (5) and excellent transport links. The applicant proposes a car-free development, as is required by policy for developments within a CPZ. A restriction in staff obtaining parking permits has been considered by officers, however, as the operation of the unit would not change greatly from the existing A3 use, this is not considered necessary.
- 24 The application site is situated directly adjacent to a bus stop. Transport for London has replied to consultation with concern that the proposed mixed A3/A5 could potentially have a negative impact upon the bus stop. It is considered that a delivery service would not be able to operate safely in front of the premises, with the presence of a bus stop, a designated bus lane and double yellow lines. Access to the rear of the site would be from Griggs Place, leading north off Grange Road. This is a one way street. Vehicles would therefore be required to exit via Grange Walk. This is a tight turning leading onto a residential street. It is not considered that this would be an appropriate location to permit what could potential be a high number of petrol scooters using this junction at unsociable hours. It is considered that the use of the site for a take away service with a delivery service would potentially cause a highways hazard and disruption to residents above and to the rear of the site.
- 25 The revised scheme with the delivery component removed is considered to be acceptable subject to conditions and therefore complies with saved policy 5.02 'Transport impacts' of the Southwark Plan.

Design issues

- 26 The proposed development, does not propose any external alterations. There are therefore no design issues as a result of the proposal.

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

- 27 The site is situated within the Bermondsey Street conservation area. Despite this, the application does not propose any external alterations as part of the development. The development would not therefore adversely impact upon the character or appearance

of the Bermondsey Street conservation area beyond the current situation.

Impact on trees

28 No impact.

Planning obligations (S.106 undertaking or agreement)

29 None identified.

Sustainable development implications

30 None identified.

Other matters

31 Section 143 of the Localism Act 2011 states the any financial sum that an authority has received, will, or could receive in the payment of CIL as a material "local financial consideration" in planning decisions. The requirement for Mayoral CIL is a material consideration. However, the weight to be attached to a local finance consideration remains a matter for the decision-maker. Mayoral CIL is to be used for strategic transport improvements in London, primarily Crossrail. This application is not liable for the payment of CIL as the proposed extensions would not provide new floor space in excess of 100sqm.

32 The application states that the existing use has been in operation since February 2013. The premises have therefore been unlawfully used for a period in excess of 6 months within a 12-month period. However part of the building at 211 Grange Road has been occupied by a lawful use therefore the application would not be liable for the payment of CIL.

Conclusion on planning issues

33 The existing use of the premises as a mixed A3/A5 use has been carried out unlawfully for a period in excess of 6 months. This has led to a number of complaints from local residents as a result of noise and odour impacts. This has been addressed by a revised scheme which removed the proposed delivery component to this development and allowed for the introduction of an improved extractor system. The regularisation of the use would allow the council to impose conditions to ensure the potential harm in terms of increased activity is effectively managed.

34 It is considered therefore that the retrospective application for a mixed A3 restaurant with take-away A5 use is acceptable subject to conditions controlling the hours of operation, plant noise and the removal of any delivery service. Planning permission is therefore recommended.

Community impact statement

35 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.

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

- 37 b) The following issues relevant to particular communities/groups likely to be affected by the proposal have been identified as above.
- 38 c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above.

Consultations

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

Consultation replies

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

Summary of consultation responses

- Impact of noise and smell from the premises
- Increased litter at the site.
- Existing high number of similar fast food outlets within the vicinity.
- Impact upon the adjacent bus stop and passenger safety.
- Visual impact of the business in relation to numerous others providing a 'tired' and 'shabby' appearance to the local area.
- Potential impact of anti-social behaviour as a result of the development.
- Impact upon local traffic especially with regard to the motorbikes parked on the adjacent highways preventing access.

Human rights implications

- 41 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.
- 42 This application has the legitimate aim of providing a mixed A3/A5 use. 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

- 43 None.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/32-211 Application file: 13/AP/2187 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	Neil Loubser, Senior Planning Officer	
Version	Final	
Dated	20 March 2014	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director, Finance & 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	21 March 2014	

APPENDIX 1

Consultation undertaken

Site notice date: 14 August 2013

Press notice date: 1 August 2013

Case officer site visit date: 14th August 2013

Neighbour consultation letters sent:

30th July 2013

Internal services consulted:

Transport Surgery
Environmental Protection Team

Statutory and non-statutory organisations consulted:

Transport for London (TfL):

Neighbours and local groups consulted:

213 GRANGE ROAD LONDON SE1 3AA
FLAT 1 211A GRANGE ROAD LONDON SE1 3AA
BASEMENT TO FIRST FLOORS 209-210 GRANGE ROAD LONDON SE1 3AA
FLAT 2 211A GRANGE ROAD LONDON SE1 3AA
FLAT 213 GRANGE ROAD LONDON SE1 3AA

Re-consultation:

None undertaken.

APPENDIX 2

Consultation responses received

Internal services

Environmental Protection Team:

Replied with recommendation for approval.

The Environmental Protection Officer states that he has considered the additional information and noted the manufacturer's noise levels, however the condition requiring the noise assessment is required

The following condition is recommended:

Plant Noise

Prior to the commencement of the authorised use, an acoustic report detailing the rated noise level from any plant, together with any associated ducting (which shall be 10 dB(A) or more below the measured LA90 level at the nearest noise sensitive premises, shall be submitted to and approved in writing by the Local Planning Authority. The method of assessment is to be carried in accordance with BS4142:1997 'Rating industrial noise affecting mixed residential and industrial areas'. The plant and equipment shall be installed and constructed in accordance with any such approval given and shall be permanently maintained thereafter and the development shall not be carried out otherwise than in accordance with any such approval given.

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 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).

Furthermore the officer state that he is satisfied that the filters if maintained will reduce the possibility of causing an odour nuisance.

Transport Surgery: Stated that there would be difficulty operating a delivery service from the premises given the positioning of a bus stop adjacent to the site, and restricted access to the rear.

Statutory and non-statutory organisations

Transport for London (TFL):

Concern was raised with regard to the position of a bus stop directly adjacent to the site and the problems that a delivery service could cause in this location in terms of passenger safety and bus operations.

Neighbours and local groups

11 letters of objection were received towards the application. Responses were received from the residents of the following properties along with two objections coming from single addresses in some and some on anonymous emails:

- Flat 815 Alaska Buildings 61 Grange Road London SE1 3BG
- 211a Grange Road London SE1 3AA
- Flat 5 Arundel Buildings Webb Street London SE1 4AS
- 214 Grange Road London SE1 3AA
- 5a Griggs Place London SE1 3AT
- 10 Bermondsey Square London SE1 3UN
- 12a Tetherdown Muswell Hill London N10 1NB

The letters raised the following concerns towards the application:

- Impact of noise and smell from the premises
- Increased litter at the site.
- Existing high number of similar fast food outlets within the vicinity.
- Impact upon the adjacent bus stop and passenger safety.
- Visual impact of the business in relation to numerous others providing a 'tired' and 'shabby' appearance to the local area.
- Potential impact of anti-social behaviour as a result of the development.
- Impact upon local traffic especially with regard to the motorbikes parked on the adjacent highways preventing access.