

Item No. 7.2	Classification: Open	Date: 9 December 2014	Meeting Name: Planning Sub-Committee A
Report title:	Development Management planning application: Application 14/AP/1786 for: Full Planning Permission Address: UNIT 4, 17-19 BLACKWATER STREET, LONDON, SE22 8SD Proposal: The retention of the unit as an assembly and leisure facility (Use Class D2) to provide yoga and pilates classes.		
Ward(s) or groups affected:	East Dulwich		
From:	Head of Development Management		
Application Start Date 08 July 2014		Application Expiry Date 02 September 2014	
Earliest Decision Date 16 August 2014			

RECOMMENDATION

- 1 That the application is referred to the sub-committee for consideration and that planning permission is granted subject to conditions.

BACKGROUND INFORMATION

Site location and description

- 2 The application relates to the ground floor unit, Unit 4, located to the rear of Blackwater Court, this being a cluster of commercial units at 17-19 Blackwater Street arranged around a shared car park accessed off Blackwater Street. The entrance to Blackwater Court is located approximately 30 metres from Lordship Lane and falls just outside the Lordship Lane District Town Centre.
- 3 Unit 4 is located to the rear of the site. On visiting the site, it appears as though Push Studios (the applicant) already operates from the site (hence the requirement for retrospective planning permission). Documents submitted with the application suggest that they have been running classes for up to 9 years from the front unit (Unit 3) of the application property. A previous planning application for Unit 4 which was withdrawn (see details below), makes reference to Push Studios operating from Unit 3, providing personal training, yoga, dance classes, pilates and other fitness related activities.
- 4 Formerly a builders yard, Blackwater Court is host to a joiners/furniture makers workshop, architects and floral emporium, among other activities. Uses surrounding Blackwater Court are varied with residential uses backing onto the northern (rear) and southern boundaries and also being located to the south across Blackwater Street. To the east lie the mixed use properties fronting Lordship Lane.
- 5 The application unit was formerly in use by 'Bespoke', a windows company, this being in line with the approved use was a workshop/studio/office as permitted under application ref no. 2312-A (see planning history below). While it is clear that the applicant has already begun operating from the site, the previous planning application

(13/AP/0082) made note that the property was vacant at the beginning of 2013 and had been for some time.

- 6 The building is not listed and does not lie within a conservation area. The building lies outside the Lordship Lane Town Centre boundary. The property is located within the Air Quality Management Area and the Suburban Density Zone.

Details of proposal

- 7 Retrospective planning permission is sought for the change of use of Unit 4 to provide for an assembly and leisure facility (Class D2). The proposed assembly and leisure facility within Unit 4 would provide for yoga and pilates classes only with no amplified music. The unit would have a capacity of 12 people with between 2 and 4 classes per day).
- 8 Proposed hours of operations that have been agreed by the applicant are 9.00 - 21.00 Mon - Fri, 09:00 - 18:00 Saturdays and 09:00 - 13:00 Sundays and bank holidays.

Planning history

- 9 2312-A
Change of use of 17-19 Blackwater street, from a builders yard and store to small workshop/studio/office units within Class B1 of the Town and Country Planning Use Classes Order 1987, together with the erection of a two storey rear extension to the main building and refurbishment/alteration of existing buildings to be retained and alterations to vehicular access. Granted. 18/8/1987.
- 10 Change of use of part of 17-19 Blackwater Street, SE22 from offices ancillary to a yard for the storage or builders materials to use within Class A2 of the Town and Country Planning (Use Classes) Order 1987. Granted. 23/8/1988.
- 11 12/EN/0027
Enforcement type: Breach of condition (BOC)
Loading and unloading of vans early
Sign-off date 21/06/2012 Sign-off reason: Final closure - breach regularised (FCBR)
- 12 13/EN/0194
Enforcement type: Change of use (COU)
Without planning permission, change of use of ground floor office space to an assembly and leisure facility and retail facility.
Sign-off date 10/03/2014 Sign-off reason: Final closure - breach ceased (FCBC)
- 13 13/EN/0184
Enforcement type: Unauthorised building works (UBW)
Changes to elevation from brick to glass without planning permission.
Sign-off date 12/03/2014 Sign-off reason: Final closure - miscellaneous reason (FCM)
- 14 13/AP/0082
Change of use of ground floor office space (54 sq m) (Class B1) to an assembly and leisure facility (Class D2) and retail unit (Class A1) (flexible space) - withdrawn by applicant. Planning case officer originally recommended this application for refusal however the panel disagreed and made the following notes:

"Panel did not agree the recommendation to refuse planning permission. The Panel were minded that planning permission could be granted for an initial temporary period subject to the imposition of conditions, to control noise and activity that might be harmful to the amenity of adjoining residents. However, as the application has been

called in by ward members for decision by Planning Sub-Committee in the event of the recommendation being to grant planning permission, the application is now referred to Sub-Committee with a recommendation to grant planning permission subject to conditions.

In reaching its decision the Panel noted that;

1. There were no land use policy objections to the proposed use
2. The premises had been largely vacant since the last authorised use ceased in Oct 2011
3. The likely scale and impact of activity would be limited given the size of the premises
4. The only reason for refusal was possible noise nuisance to residents of Kent House and Park House
5. The proposal would bring back into use a vacant building and create a small start-up business
6. The proposed A1 activity was considered to be ancillary to the other activities proposed and would not be a separate use
7. No objection in principle raised to proposal by Environmental Protection Team
8. Would provide facilities of some benefit to the community.

The Panel therefore considered that issue of noise nuisance could be safeguarded by the imposition of conditions and that the proposal would not result in significant harm to adjoining occupiers. This could be tested with an initial temporary period consent. It would not be contrary to policy and would be in accordance with NPPF."

Planning history of adjoining sites

- 15 Unit 3, 17-19 Blackwater Street SE22 8SD
14/AP/1787: Retrospective application for the use of the ground floor to an assembly and leisure facility (Use Class D2) (retrospective). This application is undecided and has been made by the same applicant as this proposed (i.e. Push Studios).

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 the proposed change of use in land use terms;
 - b) The impacts on the amenity of neighbouring occupiers; and
 - c) Transport impacts.

Planning policy

- 17 National Planning Policy Framework (the Framework)

Section 2 - Ensuring the vitality of town centres

Section 4 - Promoting sustainable transport

Section 7 - Requiring good design

Section 8 - Promoting healthy communities

London Plan July 2011 consolidated with revised early minor alterations October 2013

Policy 4.2 (Offices)

Policy 4.3 (Mixed use development and offices)

Policy 4.7 (Retail and town centre development)

Policy 6.3 (Assessing effects of development on transport capacity)

Policy 6.9 (Cycling)

Policy 6.10 (Walking)

Policy 6.13 (Parking)
Policy 7.4 (Local Character)

Core Strategy 2011

Strategic policy 1 (Sustainable development)
Strategic policy 2 (Sustainable transport)
Strategic policy 3 (Shopping, leisure and entertainment)
Strategic policy 4 (Places for learning, enjoyment and healthy lifestyles)
Strategic policy 10 (Jobs and businesses)
Strategic policy 12 (Design and conservation)
Strategic policy 13 (High environmental standards)

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.

Saved policy 1.4 (Employment sites outside of the preferred office locations and preferred industrial locations)
Saved Policy 1.5 (Small business units)
Saved policy 2.2 (Provision of new community facilities)
Saved policy 3.2 (Protection of amenity)
Saved policy 3.4 (Energy efficiency)
Saved policy 3.7 (Waste reduction)
Saved policy 3.11 (Efficient use of land)
Saved policy 3.12 (Quality in design)
Saved policy 3.13 (Urban design)
Saved policy 3.14 (Design out crime)
Saved policy 5.2 (Transport impacts)
Saved policy 5.3 (Walking and cycling)

Principle of development

- 18 Saved policy 1.4 is the relevant policy in terms of land use in this instance as the site had an established B Class use prior to Push Studios beginning operating from the property. Saved policy 1.4 is a restrictive policy which protects against the loss of employment floor space in certain circumstances unless a prescribed set of conditions are met in which the loss may be permitted by way of an exception.
- 19 Having regard to land use the site does not front onto or have direct access to a classified road and is not in a public transport accessibility zone. Furthermore it is not in the Central Activities Zone or a Strategic Cultural area. As these criteria do not apply in this instance the council do not object to the principle of changing the use of the unit provided it would not result in adverse amenity impacts and would be in accordance with relevant land use policies of the local development plan.

Small business units

- 20 Saved policy 1.5 typically applies to much larger developments, requiring the re-provision of an equivalent level of small business space within a new development. However given the modest size of this unit, this would neither be practical or feasible. While the use of the application property as a D2 leisure facility results in the loss of the previously approved B1 office/workshop/studio space, the proposed use is

considered to provide for a small 'start up' type business with a similar level of employment as a small business unit. The applicant has indicated that they employ 15 free lance instructors on a regular basis (across both units 3 and 4). Policy 1.5 sees small business units as an important feature of a sustainable local economy as they provide employment opportunities and services for local residents. Given the level of employment provided, it is considered that the use would provide a level of employment consistent with the aims of policy 1.5 and indeed consistent with the otherwise permitted commercial use of the site. Consultation comments from the planning policy team further support the principal of the retention of this use. As such, there is no objection to the change of use given the employment provision that would be retained.

Impact on the adjoining town centre

- 21 Policy 4.7 of the London Plan seeks to ensure the impact of development in and around the town centre does not impact the viability of function of the town centre.
- 22 Lordship Lane is a well functioning and vibrant thoroughfare and it is not anticipated that a small D2 use on the edge of the town centre would harm its vitality or viability. The proposed use would provide a complementary service to existing facilities within the area, specifically for parents with young children. Furthermore, the applicant has indicated that the majority of people visit the site on foot, bike or by public transport. This would generally require walking through the Town Centre. In this respect, the scheme is considered likely to support the vitality and viability of the town centre and would not conflict with policy.
- 23 No information has been supplied to demonstrate the need for a D2 use at this location. In any event, the council promotes the provision of new facilities that promote healthy lifestyles and so there is no objection to provision of a health facility. Furthermore, the applicant has confirmed that they currently operate around 35-38 classes per month from the site with an average footfall of around 800 clients per month. This level of use suggests that the use of the site is indeed 'needed'. The petition and letters of support received further suggest the 'need' for such an activity within the location.
- 24 Furthermore, a small business/commercial use has already been established in this location and as is outlined above, the proposed D2 use would have similar characteristics (i.e. employment levels) to a permitted commercial use (i.e. B1 use class) in this location.
- 25 For the reasons outlined above, the principle of the scheme is acceptable in terms of land use as it is in a viable edge of centre site.

New community facilities/education establishments

- 26 The promotion of facilities for 'healthy communities' including new community facilities are encouraged in the borough by both local and national policy provided they would not adversely affect the standard of amenity of occupiers in the surrounding area and would not have adverse transport effects. An assessment of the travel impacts and the impact on the amenity of neighbouring occupiers is undertaken below.

Conclusions

- 27 Notwithstanding impacts on the amenity of neighbouring residential occupiers (see below), it is considered that the location of the proposed D2 use is acceptable as an edge of the town centre use. A small business/commercial use has already been established in this location and the proposed D2 use would have similar characteristics (i.e. employment levels) to a permitted commercial use in this location. As such, there is no objection to the principle of the proposed change of use within this location.

Environmental impact assessment

- 28 Not required given the nature and scale of development.

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

Noise impacts

- 29 Several letters were received expressing concern that the scheme would result in unacceptable noise impacts to the detriment of standard of residential amenity. The majority of letters cited concerns that amplified music and noise from classes, and people congregating before and after classes would result in noise nuisance and noise generating activity.
- 30 The site is small and so it is not anticipated that it would attract large groups of people. This has also been demonstrated by the class numbers which provide for no more than 12 people at one time. The unit would have a maximum occupancy of 12 and this can be controlled through conditions. When visiting the site, the applicant indicated that when classes are on, doors would be closed at all times. The classes to be held within Unit 4 would be pilates and yoga only with no music (apart from some very light background music) being played. The applicant has also proposed restricted opening hours.
- 31 The council's Environmental Protection Team (EPT) have reviewed the proposal and consider that the scheme would be acceptable in terms of its noise impact subject to adequate noise mitigation and restrictions on the opening hours. The opening hours suggested by EPT are slightly less than those original proposed by the application. However EPT have confirmed that they would not object to the hours requested by the applicant provided the noise levels were controlled. The noise levels and opening hours would be controlled through a condition, as would the requirement to keep doors closed when classes are being held. It is not anticipated however, given the nature of the proposed yoga and pilates classes to be held in Unit 4, that noise levels would be an issue.
- 32 While the concerns of the neighbouring residents are noted, it is not considered that the scale of the activity is overly large and the noise impacts of the proposed activity can be effectively controlled through to imposition of conditions. A further condition is recommended for the restriction of the use to exercises classes only, thus avoiding potential detrimental impacts from other activities within the D2 use class. As such, any impacts on the amenity of neighbouring occupiers (particularly from noise generated) are considered to be acceptable.

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

- 33 It is not anticipated that the uses surrounding the application property would be detrimental to the users of the leisure facility.

Transport issues

- 34 The application property is located within an area Public Transport Accessibility Level (PTAL) of 4. This is considered to be a good level of public transport, with the site been well serviced by buses along Lordship Lane. It is also noted that the application property is located just outside the Lordship Lane Town Centre.
- 35 Given the central location of the application and the good PTAL level, it is anticipated that the majority of users would visit the site on foot or by bicycle or bus. This has

been confirmed by the applicant who has undertaken a modal survey in support of the application. This modal survey (possible as the applicant is already operating from the site), was undertaken between the 21st of August 2014 and the 11th of September 2014. This survey indicated that of the total 532 trips to the site, 23 percent were by car with the remaining 77 percent by public transport, walking or bike. To ensure that this pattern continues, a travel plan could be required through conditions. This would detail how users would be encouraged to use non car transport means to get to and from the site. A condition would also require the installation of a cycle storage rack which the applicant indicated they would do within the application documents.

36 In additional to this, the class numbers are considered to be reasonably small with a capacity of 12 for unit 4 and 15 for unit 3 (considered under 14/AP/1787). Furthermore, the classes would be predominantly adult biased therefore would avoid the picking up and dropping off of children during peak traffic hours.

37 As such, it is considered unlikely that the proposal would have a detrimental impact on parking within the area and impacts on the operation of the high way would be acceptable.

Design issues

38 No external alterations are proposed as part of the proposal. As such, there are no design considerations relevant to the proposed activity.

Conclusion on planning issues

39 It is considered that the location of the proposed D2 use is acceptable as an edge of the town centre use. A small business/commercial use has already been established in this location and the proposed D2 use would have similar characteristics (i.e. employment levels) to a permitted commercial use in this location.

40 Impacts toward the amenity of neighbouring residential occupiers are considered acceptable subject to condition requiring acoustic mitigation and controlling the operation of the site (i.e. opening hours and doors to be close during classes).

41 Finally, it is not anticipated that the transport impacts of the proposal would be unacceptable. It has been demonstrated that the means of transport would be predominantly non car based and a transport plan can ensure this will continue.

Community impact statement

42 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.

Consultations

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

Consultation replies

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

Summary of consultation responses

- 44 Seven letters of objection have been received from neighbouring residents about the proposed change of use activity. These letters of objection raised concerns about the potential traffic impacts (i.e. parking) and also the noise that would result from the proposed D2 use, both from music and from people congregating within the car park.

Officer comments: Comments are noted. The impacts on neighbouring amenity (i.e. from noise) and transport (including car parking) are addressed above.

Twenty letters of support and one petition in support of the application have also been received.

Human rights implications

- 45 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.
- 46 This application has the legitimate aim of providing for a change of use do a D2 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.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2312-A Application file: 14/AP/1786 Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department Southwark Council 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 7708 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	Sam Uff, Planning Officer	
Version	Final	
Dated	25 November 2014	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Strategic Director, Finance and Corporate Services	No	No
Strategic Director, Environment and Leisure	Yes	Yes
Strategic Director, Housing and Community Services	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team	27 November 2014	

APPENDIX 1

Consultation undertaken

Site notice date: 23/07/2014

Press notice date: n/a

Case officer site visit date: 23/07/2014

Neighbour consultation letters sent: 24/07/2014

Internal services consulted:

Environmental Protection Team [Noise / Air Quality / Land Contamination / Ventilation]
Transport Planning Team

Statutory and non-statutory organisations consulted:

n/a

Neighbour and local groups consulted:

116b Lordship Lane London SE22 8HD
Flat 5 York House SE22 8RZ
Unit 1 17-19 Blackwater Street SE22 8SD
Unit 2 17-19 Blackwater Street SE22 8SD
Unit 3 17-19 Blackwater Street SE22 8SD
Flat 1 York House SE22 8RZ
Flat 5 Park House SE22 8RY
Flat 4 Park House SE22 8RY
Flat 4 York House SE22 8RZ
Flat 3 York House SE22 8RZ
Flat 2 York House SE22 8RZ
Unit 8 17-19 Blackwater Street SE22 8SD
118c Lordship Lane London SE22 8HD
118b Lordship Lane London SE22 8HD
Unit 4 17-19 Blackwater Street SE22 8SD
Units 5 And 6 17-19 Blackwater Street SE22 8SD
First Floor Flat 126 Lordship Lane SE22 8HD
First Floor And Second Floor Flat 122 Lordship Lane SE22 8HD
Flat 3 Park House SE22 8RY
122 Lordship Lane London SE22 8HD
120 Lordship Lane London SE22 8HD

118 Lordship Lane London SE22 8HD
13 Blackwater Street London SE22 8RS
126 Lordship Lane London SE22 8HD
124 Lordship Lane London SE22 8HD
First Floor Flat 15 Blackwater Street SE22 8RS
Second Floor Flat 120a Lordship Lane SE22 8HD
First Floor Flat 120a Lordship Lane SE22 8HD
Flat 3 2 Bassano Street SE22 8RU
Unit 7 17-19 Blackwater Street SE22 8SD
St Thomas More Hall 116a Lordship Lane SE22 8HD
Flat 4 Kent House SE22 8RX
Flat 3 Kent House SE22 8RX
Flat 2 Kent House SE22 8RX
Flat 2 Park House SE22 8RY
Flat 1 Park House SE22 8RY
Flat 5 Kent House SE22 8RX
Flat 1 2 Bassano Street SE22 8RU
10 Bassano Street London SE22 8RU
15 Blackwater Street London SE22 8RS
Flat 1 Kent House SE22 8RX
Flat 2 2 Bassano Street SE22 8RU
118a Lordship Lane London SE22 8HD

Re-consultation: n/a

APPENDIX 2

Consultation responses received

Internal services

None

Statutory and non-statutory organisations

None

Neighbours and local groups

By Email 10 Blackwater Street SE22 8RS

Email representation

Flat 1 Kent House SE22 8RX

Flat 1 Park House SE22 8RY

Flat 3 Park House SE22 8RY

Flat 5 York House SE22 8RZ