

Item No. 7.2	Classification: OPEN	Date: 1 July 2015	Meeting Name: Planning Sub-Committee B
Report title:	Development Management planning application: Application 15/AP/1113 for: S.73 Vary/remove conditions/minor alterations Address: GROUND FLOOR, 2-4 GROVE LANE, LONDON SE5 8SY Proposal: Continued use as a restaurant (Use Class A3), with the following hours of operation: 08:00 - 23:30 Sunday to Thursday and 08:00 - 00:00 Friday to Saturday		
Ward(s) or groups affected:	Camberwell Green		
From:	Head of Development Management		
Application Start Date 10/04/2015		Application Expiry Date 05/06/2015	
Earliest Decision Date 07/05/2015			

RECOMMENDATION

1. That the planning sub-committee grant planning permission subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. 2 Grove Lane is located in the Camberwell Green Conservation Area. It is an early C19 detached villa with the ground floor extended with two shop fronts, which include a cafe/restaurant and 4 Grove Lane which is a restaurant/wine bar. It should be noted that both units are vacant and currently subject to on-going internal refurbishment.
3. 2-4 Grove Lane is identified in the Camberwell Green Conservation Area Appraisal as a Key Building making a positive contribution to the character of the conservation area and is therefore considered to be a non-designated heritage assets. It also abuts a Public House and is near to the junction of Camberwell Church Street/ Grove Lane (Camberwell District Town Centre).
4. The building is not listed, however, it is within the setting of 1-9 and 2-8 Jephson Street which are both terraces of grade II listed building dating from the mid C19.
5. The premises are located within the following designated areas:
Air Quality management Area;
Archaeological Priority Zone;
Camberwell District Town Centre and;
Camberwell Action Area.

Details of proposal

6. Continued use of Nos. 2 and 4 Grove Lane SE5 as restaurant (Use Class A3), with the following hours of operation: 08:00 - 23:30 Sunday to Thursday and 08:00 - 00:00 Friday to Saturday.

Planning history

7. 2 Grove Lane

Planning permission (LBS.Reg.No: 95/533 and Case No: TP/2134/2/MD) was granted on 28th March 1996 for continued use of the ground floor as a restaurant (Class A3) and erection of a single storey rear extension to provide an additional toilet and ducting on north elevation.

Subject to the following conditions:

- 1) The facing materials for the rear extension, as hereby approved, shall match the original facing materials in type, colour, dimensions, and in the case of brickwork, pointing, bond and coursing.
- 2) The use hereby permitted for metalwork [*sic*] (Class A3) purposes shall not be carried on outside of the hours of 08.00 to 23.00 on Mondays to Saturdays and 08.00 and 22.00 on Sundays and public holidays.
- 3) There shall be no takeaway food service or meal delivery service by vehicles from these premises.
- 4) The ventilation ducting as shown on drawing Q5907/1 shall be installed, and finished in a dark matt colour, within 3 months of the date of this permission.
- 5) The machinery, plant or equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that noise therefrom does not, at any time, increase the ambient equivalent noise level when the plant etc., is in use as measured at any adjoining or nearby premises in separate occupation; or (in the case of any adjoining or nearby residential premises as measured outside those premises; or (in the case of residential premises in the same building) as measured in the residential unit.

Reason for the imposition of the above conditions, and in particular 2 & 3 above:

- 2) In order to ensure that there is not undue disturbance of neighbouring residential occupiers at unsocial hours and;
- 3) Such services may give rise to parking and stopping of vehicles in front of these premises close to the Grove Lane junction with Camberwell Church Street giving rise to safety hazards for vehicles and pedestrians and increased traffic congestion.

4 Grove Lane

Planning permission (LBS.Reg.No: 96/309 and Case No: TP/2135-C/OD) was granted on 6th June 1996 for change of use of ground floor from retail to restaurant/bar in connection with existing neighbouring hot food use at 2 Grove Lane.

Subject to, and in particular, the following condition:

- 2) There shall be no takeaway food service or meal delivery by vehicles from these premises.

Reason for the imposition of this particular condition:

- 2) Such services may give rise to parking and stopping of vehicles in front of these

premises close to the Grove Lane junction with Camberwell Church Street, giving rise to safety hazards for vehicles and pedestrians and increased traffic congestion.

Planning history of adjoining sites

8. Not relevant to this particular application.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

9. The main issues to be considered in respect of this application are:
 - a) principle of the proposed development in terms of land use and conformity with strategic policies;
 - b) impact on the amenity of occupiers of nearby properties;
 - c) transport and servicing issues – car and cycle parking and refuse facilities, and;
 - d) any other material considerations.

Planning policy

10. This application should be determined in accordance with the development plan unless material considerations indicate otherwise; and the following national framework, regional and local policy and guidance are particularly relevant:

National Planning Policy Framework (the Framework) -2012

Section 1: Building a strong, competitive economy

Section 2: Ensuring the vitality of town centres

Section 11: Conserving and enhancing the natural environment

Section 12: Conserving and enhancing the historic environment

London Plan July 2015

Policy 2.15 Town centres

Policy 4.7 Retail and town centre development

Policy 7.4 Local character

Policy 7.8 Heritage assets and archaeology

Policy 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes

Core Strategy 2011

Strategic Policy 1 Sustainable development

Strategic Policy 2 Sustainable transport

Strategic Policy 3 Shopping, leisure and entertainment

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 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.

Policy 1.7 Development within town and local centres

Policy 1.9 Change of use within protected shopping frontages

Policy 3.1 Environmental effects
Policy 3.2 Protection of amenity
Policy 3.7 Waste reduction
Policy 3.11 Efficient use of land
Policy 3.12 Quality in design
Policy 3.13 Urban design
Policy 3.15 Conservation of the historic environment
Policy 3.16 Conservation areas
Policy 5.2 Transport impacts

Summary of representations received

Comments from local residents and other interested group and individuals

11. There have been a number of objections received including those relating to procedural matters, planning and non-related planning matters. These objections and concerns are summarised below:

In objection/ of concern

There have been 10 objections received to this application. Issues of concern include:

- Impacts on the amenity of occupiers of nearby sensitive premises, including from noise
- Refuse and the potential for litter
- The potential for the premises to be used as a bar or takeaway
- Impact of the proposed extension of hours

Internal Consultees

Environmental Protection Team

12. No objection.

Principle of development

13. Numbers 2 - 4 Grove Lane were both granted planning permission in 1996 for use as restaurant/bar (Use Class A3) respectively. Both applications were subject to similar conditions, and in particular that there shall be no takeaway food service or meal delivery by vehicles from these premises.
14. The reason for the imposition of the above condition was to ensure that "such services may give rise to parking and stopping of vehicles in front of these premises close to the Grove Lane junction with Camberwell Church Street giving rise to safety hazards for vehicles and pedestrians and increased traffic congestion".
15. Number 2 Grove Lane had a specific operational time limited condition (2) which stated that "The use hereby permitted for metalwork (Class A3) purposes shall not be carried on outside of the hours of 08.00 to 23.00 on Mondays to Saturdays and 08.00 and 22.00 on Sundays and public holidays".
16. The reason for the imposition of this particular condition stipulated that "In order to ensure that there is not undue disturbance of neighbouring residential occupiers at unsocial hours". It should be noted, that number 4 Grove Lane had no operational time limited condition attached to its original decision notice.
17. Both of the above conditions were placed on planning decisions made nearly 20 years ago, during which time the Camberwell Church Street/ Grove Lane area and its immediate surrounding town centre/high street area has been subject to a number of changes. In fact, all designated town centres areas in close proximity to this area has been subject to a plethora of regeneration initiatives, including Peckham and Elephant

and Castle (still on-going).

18. The applicant has requested that the operational closing times of number 2-4 Grove Lane be extended to the following hours of operation: 08:00 - 23:30 Sunday to Thursday and 08:00 - 00:00 Friday to Saturday. These hours would replicate the Council recent Licence granted on 27/04/2015.
19. The "reasonableness" of the extension of operational hours is further assessed in the body of the report below.

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

20. Saved policy 3.2 (Protection of amenity) of the Southwark UDP (2007) states that planning permission for development will not be granted where it would cause a loss of amenity, including disturbance from noise, to present and future occupiers in the surrounding area or on the application site. Also, there is a requirement in saved policy 3.1 (Environmental effects) to ensure that development proposals will not cause material adverse effects on the environment and quality of life.
21. Strategic Policy 13 (High Environmental Standards) of the Core Strategy (2011) requires developments to avoid amenity and environmental problems that affect how we enjoy the environment in which we live and work. It is not considered that the proposed extension of operational hours, and closing times, would detrimentally affect the amenity of adjoining neighbours.
22. The very modest overall increase in closing times would not significantly affect the amenity of adjoining neighbours, and in particular those located above the premises. The use of the premises will continue to remain the same, and the few additional hours being applied for would not significantly lead to an increase in any noise nuisance, than what previously existed. Furthermore, the proposed operational times of this restaurant/bar (Use Class A3) being applied for, are similar to those commonly found in similar urban locations.
23. It should also be noted that the applicant has been advised that any change of use to takeaway (Use Class A5) and/ or dual use restaurant/takeaway (Use class A3/A5) in the future would require planning permission. There is concern from local objectors about the potential for the use of the premises as a takeaway. Should such a change occur resulting in a breach of planning, it is open to the local authority to use its discretionary planning enforcement powers.
24. The council's environmental protection team suggested that although there is presently a limit on the use of the outdoor area to the rear of the site through the licence, it was recommended that the use of this area be restricted to between 20:00 - 21:00 by imposing a planning condition. However, Officers considered that it would not be reasonable to control this through the planning regime considering the hours that this area can be used presently, without breaching the hours presently permitted through planning.
25. It is considered that refuse storage and recycling details are not required as these would remain as existing and in situ.
26. Again, the proposal and operational times mirrors what would be expected with "flats above shops", which co-habitate in any mix use development on busy High Street/ town centre.

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

27. None envisaged.

Transport issues

28. It is not considered that the continued use of these premises for commercial purposes (Use Class A3) would lead to any transport related issues. The premises is 3-5 minutes walking distance from the nearest bus stop located on Camberwell Church Street, and potential customers would have a variety of transport mode available to access the site, including walking, cycling and taking the bus.
29. Furthermore, if planning permission is granted, a condition is recommended to ensure that no meal delivery by vehicles is undertaken from the premises.

Design issues

30. There are no external alterations related to this present application. The applicant has been advised that any external changes to the facade of the premises/shopfront would require planning permission, including any future advertisement consent.

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

31. The building is not listed, however, it is within the setting of 1-9 and 2-8 Jephson Street which are both terraces of grade II listed building dating from the mid C19. The proposal is not considered to give rise to any impacts on the character and/or appearance of the conservation area, which would be preserved.

Impact on trees

32. No trees are affected by this proposal.

Sustainable development implications

33. None identified.

CIL liability

34. The application does not entail any additional increase in additional floorspace, and therefore is not CIL liable.

Other matters

35. Local people have raised a number of matters in their representations that are not material to planning merits of the application. These are addressed below:
- The applicant has confirmed in writing that the proposal is for an A3 (restaurant/Bar use) and not a dual/mix use (Use Class A3/A5 - restaurant and takeaway). The applicant has also confirmed in writing that a small percentage of business (10%) would make up a limited food takeaway which would "unambiguously be ancillary to our dominant business as a restaurant". The applicant has also confirmed that "we will not be operating a food delivery service from this address". A condition will be attached to any favourable planning permission granted to ensure no deliveries are undertaken";
 - It is acknowledged that both number 2 and number 4 Grove Lane were separate

units in 1996, however, both units became "one" by removing an internal wall sometime ago, more than likely well over 10 years ago which would not require planning permission and would be deemed permitted development;

- Whilst the main road might have an overprovision of cafes, pubs, takeaways and food outlets, including a wood-fired pizzeria 150 metres away from 2 & 4 Grove Lane, the applicant is not applying for "a change of use", as previously stated and accepted in "good faith" by the Council on the submitted planning application form. Furthermore, "market condition/ competition" is not a legitimate planning concern;
- It is not considered necessary nor is it open to the local authority to place any condition in regard to insulation of the premises, as the existing use (restaurant/bar) will remain in situ, and such a condition would be considered onerous;
- It is noted that the buildings in question are early 19th century. However, although 2 -4 Grove lane is identified in the Camberwell Green Conservation Area Appraisal as a key building making a positive contribution to the character of the conservation area and is considered to be a non-designated heritage assets, the building is not listed, therefore the removing of a "party wall" does not constitute unauthorised development. Furthermore, the proposal does not entail any external works to the facade of the building.

Conclusion on planning issues

36. In conclusion, the continued use of Nos. 2 and 4 Grove Lane SE5 as restaurant/bar (Use Class A3), with the following hours of operation: 08:00 - 23:30 Sunday to Thursday and 08:00 - 00:00 Friday to Saturday is considered acceptable and reasonable. It is therefore recommended that planning permission be granted.

Community impact statement

37. 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 and no adverse impact on any group with the protected characteristics identified above is expected.

Consultations

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

Consultation replies

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

Human rights implications

40. 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.

- 41 This application has the legitimate aim of providing an extension of hours to an existing 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/2135-2 Application file: 15/AP/1113 Southwark Local Development Framework and Development Plan Documents	Chief executive's department 160 Tooley Street London SE1 2QH	Planning enquires telephone: 020 7525 5403 Planning enquires email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5446 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	David Williams, Development Management	
Version	Final	
Dated	19 June 2015	
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	19 June 2015	

APPENDIX 1

Consultation undertaken

Site notice date: 14/04/2015

Press notice date: n/a

Case officer site visit date: n/a

Neighbour consultation letters sent: 10/04/2015

Internal services consulted:

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

Statutory and non-statutory organisations consulted:

n/a

Neighbour and local groups consulted:

Hermits Cave 28 Camberwell Church Street SE5 8QU	Second Floor Flat 2 Grove Lane SE5 8SY
4a Grove Lane London SE5 8SY	4 Grove Lane London SE5 8SY
29 Jephson Street London SE5 8SZ	26 Camberwell Church Street London SE5 8QU
39 Jephson Street London SE5 8SZ	First Floor Flat 2 Grove Lane SE5 8SY
32-34 Camberwell Church Street London SE5 8QZ	First Floor Flat 26 Camberwell Church Street SE5 8QU
Second Floor Flat 2 Grove Lane SE5 8SY	29 Jephson Street London SE5 8SZ
4 Grove Lane London SE5 8SY	6 Grove Lane London SE5 8SY
30 Camberwell Church Street London SE5 8QZ	1 Jephson Street London SE5 8SZ
First Floor Flat 2 Grove Lane SE5 8SY	Flat 32-34 Camberwell Church Street SE5 8QZ
6 Grove Lane London SE5 8SY	2-4 Grove Lane London SE5 8SY
1 Jephson Street London SE5 8SZ	Living Accommodation 28 Camberwell Church Street SE5 8QU
Flat 32-34 Camberwell Church Street SE5 8QZ	12 Jephson Street London SE5 8SZ
Living Accommodation 28 Camberwell Church Street SE5 8QU	2 Jephson Street London SE5 8SZ
12 Jephson Street London SE5 8SZ	24 Jephson Street London SE5 8SZ
2 Jephson Street London SE5 8SZ	27 Jephson Street London SE5 8SZ
24 Jephson Street London SE5 8SZ	17 Jephson Street London SE5 8SZ
18 Jephson Street London SE5 8SZ	18 Jephson Street London SE5 8SZ
19 Jephson Street London SE5 8SZ	19 Jephson Street London SE5 8SZ
Hermits Cave 28 Camberwell Church Street SE5 8QU	15 Salisbury Place London SW9 6UW
4a Grove Lane London SE5 8SY	E-Mail X
32-34 Camberwell Church Street London SE5 8QZ	By Email
3 Jephson Street London SE5 8SZ	14 Addington Square SE5 7JZ
37 Jephson Street London SE5 8SZ	1 Jermyn Street SW1Y 4UH
39 Jephson Street London SE5 8SZ	2a Grove Lane London SE5 8SY
30 Camberwell Church Street London SE5 8QZ	2 Grove Lane Terrace Camberwell SE5 8SW
Flat 2 26 Camberwell Church Street SE5 8QU	62e Nevern Square London

Re-consultation: 14/04/2015

APPENDIX 2

Consultation responses received

Internal services

None

Statutory and non-statutory organisations

None

Neighbours and local groups

By Email

E-Mail

Email representation

Email representation

Second Floor Flat 2 Grove Lane SE5 8SY

1 Jermyn Street SW1Y 4UH

14 Addington Square SE5 7JZ

15 Salisbury Place London SW9 6UW

2 Grove Lane Terrace Camberwell SE5 8SW

2a Grove Lane London SE58SY