

Item No: 7.	Classification: Open	Date: 26 April 2016	Meeting Name: Planning Sub-Committee B
Report title:		Addendum Late observations, consultation responses, and further information.	
Ward(s) or groups affected:		South Camberwell, Chaucer, Camberwell Green	
From:		Director of Planning	

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 of each 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:

Item 7.1 – Application 15/AP/3399 for: Full Planning Permission – 161 Denmark Hill, London, SE5 8EF

- 3.1 Members are asked to note that the following revised and additional plans have been submitted at the request of officers:

034 P103 Rev.C (Proposed third floor plan) - Revised to remove drawing inconsistencies

034 P104 Rev.C (Proposed roof and indicative landscape plan) - Revised to remove drawing inconsistencies

034 P201 Rev. D (Proposed rear elevation) - Revised to remove drawing inconsistencies and to highlight the clear-glazed windows in the rear elevation.

034 P202 Rev. C (Proposed south elevation) - Revised to remove drawing inconsistencies

034 P505 Rev. A (Detailed view of typical rear elevation of each dwelling) - Additional drawing provided to show the proposed arrangement of obscure and clear glazed windows in each dwelling

Members are therefore asked to note that the Applicant's Drawing Nos. and Condition 2 (Approved plan numbers) in the officer recommendation (draft decision notice) are revised accordingly.

Late comments from neighbours

- 3.2 Late supplementary comments objecting to the proposal from a local resident were directed to the local ward Councillors and were forwarded on to officers. These comments were made in response to the publication of the agenda for this meeting on the Council's website. The comments raise the matters of; (i) the impact of the proposal on the daylight and sunlight enjoyed by residents of Swinburne Court and the appropriateness of the analysis of this within the applicant's daylight and sunlight report; (ii) the loss of a footpath between the estate road and Denmark Hill, and; (iii) the implications for the existing bus stop on Denmark Hill. The comments are summarised below and a response by officers is highlighted after each point.
- 3.3 The majority of the comments question the validity of the analysis used in the assessment of the daylight impact on Swinburne Court, in particular the validity of undertaking an alternative 'no balcony' assessment. The objector states that they are not aware of, and have not been able to find, any such reference to a 'no balcony' assessment within the BRE's online guidelines and that in any event the logic behind it is flawed.

Officers' response:

- 3.4 The principle behind the validity of undertaking an alternative 'no balcony' assessment in the BRE guidance is that proposals for new development should not be penalised just because the architectural design of an existing neighbouring building (Swinburne Court) has itself already created a slightly compromised living condition for some of its occupiers. It therefore allows the impact of the new development to be considered in isolation from the impact of the existing overhanging balconies within the neighbouring building so that a true picture of its impact in normal circumstances can be measured and appreciated. The reference in the BRE guide "Site Layout Planning for Daylight and Sunlight – A guide to good practice" to the 'no balcony' assessment (in respect of daylight impacts) is outlined at paragraph 2.2.11. (A similar 'no balcony' assessment in respect of sunlight impacts is outlined at paragraph 3.2.9.)
- 3.5 Paragraph 2.2.11 of the BRE guide states,
- 'Existing windows with balconies above them typically receive less daylight. Because the balcony cuts out light from the top part of the sky, even a modest obstruction opposite may result in a large relative impact on the VSC, and on the area receiving direct skylight. One way to demonstrate this would be to carry out an additional calculation of the VSC and the area receiving direct skylight, for both the existing and proposed situations, without the balcony in place. For example, if the proposed VSC with the balcony was under 0.8 times the existing value with the balcony, but the same ratio for the values without the balcony was well over 0.8, this would show that the presence of the balcony, rather than the size of the new obstruction, was the main factor behind the relative loss of light.'*
- 3.6 By way of further detail pursuant to paragraphs 62-66 of the main report officers have observed that when the alternative test without the balconies is undertaken only 24 out of the 141 habitable room windows (17%) would still fall below the recommended 0.8 threshold. Therefore two-thirds (66%) of the habitable room windows which fail to comply with the standard VSC test comply with the alternative 'no balcony' test and hence it can be seen that in most instances the overhanging balconies in Swinburne Court are the primary factor behind the relative loss of light rather than the proposed development.

- 3.7 Officers also observe that all of the windows on the top two floors of Swinburne Court would not incur any substantial loss of daylight as a result of the proposal and therefore the assessed results should be appreciated in this proper context and not just in relation to the assessed lower four floors. When the upper two floors of Swinburne Court are taken into consideration the figure of 17% would substantially decrease.
- 3.8 Officers also observe that most, if not all, of the flats within Swinburne Court are 'dual aspect', i.e., they have windows in at least two elevations, as the vast majority, if not all, benefit from windows in the building's east elevation giving an outlook over the circular green. This therefore means they are not solely reliant on daylight received through their west-facing windows (on the side of the proposed development) and therefore any daylight lost here would have a far less severe impact on the living conditions of their occupants than if the windows in the west elevation were the flats' only source of natural daylight. This is therefore a further important material consideration to which regard should be had.
- 3.9 It can also be interpreted clearly from the advice in Appendix 1 (Environmental Impact Assessment) of the guide that the impact of the proposal on Swinburne Court would fall within the category of a 'minor adverse impact'.
- 3.10 Finally the BRE guidance itself needs to be put in proper context which it itself does as on page (v) it states, *'It (this guide) is purely advisory and the numerical target values within it may be varied to meet the needs of the development and its location.'* On page 1 at paragraph 1.6 it also states that, *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.'*
- 3.11 As such, while officers have taken careful account of the further concerns outlined in the late response received, they are satisfied that the methodology for assessing the impact of the proposed new development on Swinburne Court has been properly applied and executed and that the results have shown that the proposal would not have a significant impact on the levels of daylight currently enjoyed by residents of Swinburne Court to the extent that refusal of the application for this reason would be justified.

Further comments from neighbours

- 3.12 The comments also raise the matter of the loss of a footpath between the estate road and Denmark Hill (A215).

Officers' response

The proposal would indeed result in the loss of a footpath between the estate road and Denmark Hill (A215). However, currently there are three direct routes (all in close proximity to each other) through from the estate to Denmark Hill (A215) and two of those would remain in place, one between the proposed development and Mayhew Court (shown on the plans) and another at the junction of Basingdon Way and Denmark Hill (A215) where only pedestrian access is possible. The footpath that would be lost is not a public right of way and notwithstanding this, officers are satisfied that the existing residents of the estate will not be significantly inconvenienced by the loss of this footpath given the proximity and directness of the other nearby paths through to Denmark Hill (A215) from the estate.

Further comments from neighbours

- 3.13 The comments also raise a concern about the relationship of the existing bus stop on the southbound carriageway of Denmark Hill (A215) and the proposed development.

Officers' response

Officers have re-examined this and are satisfied that the position of the bus stop will not conflict with the pedestrian approach to nearest dwelling (Unit 10) from Denmark Hill (A215).

Item 7.2 – Application 16/AP/0388 for: Full Planning Permission – 301-303 Borough High Street and 1-3 Trinity Street, London, SE1 1DB

- 3.14 Further representations have been received from neighbours in Hulme Place at the rear of the site raising objections. These objections and officers' response are summarised below:

- 3.15 There is a concern that not all of the properties in Hulme Place have been properly considered as part of the assessment of impacts (particularly Flat 3) in respect of loss of light and sense of enclosure:

Officers' response: The case officer did visit Flat 3 St Michael's Court and 1 Hulme Place also.

Flat 3, St Michael's Court, Hulme Place, London, SE1 1HY (to give it its full address) was included in the applicant's daylight and sunlight report and the appropriate tests (in accordance with the BRE guidance) undertaken therein found that there would be no discernible impact on the daylight and sunlight levels currently enjoyed by Flat 3.

The degree of enclosure (or loss of immediate outlook) that the proposed development would create around the Hulme Place properties, was also carefully considered, i.e., the degree to which this would, or would not, be overbearing. The report examines this at paragraphs 26-35 and the conclusion to the section on impact on amenity at paragraph 44 is also relevant (where it is concluded that for the reasons explained at paragraphs 26-35 officers are satisfied that, '...it would not result in a significant sense of enclosure for nearby residents at 1 or 2 Hulme Place or at 1-12 St. Michael's Court, Hulme Place.')

In the report Flat 3 is not specifically referenced other than at paragraph 64 (summary of consultation responses). However, it is included by implication within all references to units 1-12 St. Michael's Court between paragraphs 26-44 of the report. To avoid any confusion paragraph 31 also makes clear that St. Michael's Court is part of Hulme Place.

Neighbour comment

Para 8 of the report does not address the visual impact at the rear and what this would mean for Hulme Place

Officers' response: This is addressed in para.s 26-35 under the sub-heading of, '*Sense of enclosure on properties in Hulme Place /St. Michael's Court*' where a comparison is made between the height, scale, massing and design of the 2012 scheme and the proposed scheme. Officers are satisfied that the extent of the reduction in the height, scale and massing of the current scheme have addressed the concerns that were highlighted in the refusal of the 2012 scheme. Further it is noted that there are no

windows proposed in any of the elevations that would face back toward the Hulme Place properties. Officers are satisfied that the report has addressed this matter sufficiently.

Neighbour comment

Para 26 – 35 of the main report in trying to make the argument that the reduced height and stepped back design addresses the issues considered at appeal, of over dominance and sense of enclosure; ignores the fact that the step backed design, which this new application duplicates, was itself judged too dominant in the original decision to refuse 12/AP/1230.

Officers' response: The current scheme is materially different in that the stepping back of the massing is greater and the proposal overall therefore is less bulky. This can be seen clearly through a comparison of the 2012 drawings and the current drawings in the Member's Pack.

Neighbour comment

At no point have the developers made any attempt to get in touch with any of the owners of the properties at Hulme Place.

Officers' response: The applicant is under no obligation to do this. It is merely best practice and the Council has no power to insist on it.

Neighbour comment

As set out in my letter to the Council, my flat (No. 3) is tiny and the sense of space and light comes from the elevated conservatory. This amenity would be seriously compromised by the proposed development.

Officers' response: Officers have thoroughly examined the impact of the proposal on all of the residential properties in Hulme Place and are satisfied that the amenity currently enjoyed by the occupier of Flat 3 would not be significantly affected.

Neighbour comment

My flat looks directly into the corner of the development and would be further compromised by lights shining directly in, noise, and services fronting onto Hulme Place.

Officers' response: The (south-west) side elevation of the rear conservatory of this property is the only part of the property which allows a direct (non oblique) view of the rear of the proposed development. No externally-mounted plant is proposed in this application but if any air conditioning units or other ventilation-related plant and ducting were sought in the future an application for planning permission would be required (during which an assessment of its visual and amenity impacts would be undertaken as well as public consultation with neighbouring residents undertaken). Again it is noted that there are no windows proposed in any of the rear elevations so light pollution would be avoided, unlike the current situation where there are some rear facing windows in the existing building.

Neighbour comment:

Air pollution, both in terms of particulates, and with regard to temperature is already a serious problem in Hulme Place. The existing, limited, airflow, would be further seriously compromised by the development, as air would be trapped by the enclosure,

levels of pollution and temperatures would be increased. There would also be additional emissions, further increasing pollution, from any services fronting onto Hulme Place.

Officers' response: The development is car-free and is located in a part of the borough that benefits from excellent public transport services. Most pollution in the city is generated by traffic and there is no firm evidence that the proposal would exacerbate this. It is actually more likely that the replacement of the single-storey part of the building along Trinity Street with the three-storey development proposed is likely to provide better protection for the residents of Hulme Place from traffic-related pollution.

Neighbour comment

Southwark policy 3.2 (Protection of amenity) advises that permission will not be granted where it will cause loss of amenity.

Officers' response: Almost all new developments create some form of amenity impact. It is for officers and Members to determine whether the extent of any impact(s) would result in an unduly harmful effect on living and/or working conditions. Although the proposed development would create a minor adverse impact on the amenity of adjoining land and buildings officers are satisfied that the scale of the impact is such that it would not cause significant demonstrable harm and hence is deemed to be acceptable in planning terms.

Neighbour comment

Southwark policy 3.6 (Air quality) advises that permission will not be granted for development that would lead to a reduction in air quality.

Officers' response: The same principles apply as per the response to amenity impact immediately above. However, here there is no firm evidence that the proposal would have a negative impact on the air quality currently enjoyed by the residents of Hulme Place.

In summary, officers are satisfied that the objectors' concerns have been fully taken into account as regards the impact of the proposed development on their properties and more generally, and that the officer recommendation to Members to grant planning permission has been properly explained and justified.

Item 7.3 – Application 16/AP/0166 for: Full Planning Permission – 2-4 Grove Lane, London, SE5 8SY

- 3.16 As a point of clarification, contrary to the advice in para 20 of the main report, the current business has always operated a small scale takeaway service for customers who wish to order remotely and come to the premises to pick up their order and takeaway. This was taken into account at the time of the previous permission in 2015 and to-date this service has operated ancillary to the main restaurant use at the site. It is not proposed to cease this service with the current proposal, although it is anticipated that it will remain very much secondary to the primary 'eat-in' restaurant use.

- 3.17 Members are asked to note the following amendments to conditions/additional conditions now recommended below – conditions in the main recommendation remain except where clearly amended below:

Amend condition 3 as it currently appears in the committee agenda to:

3) The use hereby permitted for a restaurant (Use Class A3) shall not be carried on outside the hours of 08:00 to 23:30 on Sunday to Thursday and 08:00 - 00:00 (midnight) on Friday and Saturdays. The additional use hereby permitted for takeaway delivery service (Use Class A5) shall only operate during the hours of 10:00 to 23:00 on Monday to Sundays and the delivery service shall be carried out by operatives on foot or using non motorised bicycles only from Grove Lane; no takeaway delivery shall take place by operatives using cars/vans at any time.

Reason:

To safeguard the amenities of neighbouring residential properties 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.

Amend condition 4 as it currently appears in the committee agenda to:

4) There shall be no storage of delivery bicycles at the premises or on the pavement immediately outside the premises.

To safeguard the amenities of neighbouring residential properties 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.

- Include the condition from the previous permission relating to the use of the front door at No. 2:

5) The front door to No.2 shall be used as the main customer entrance/egress to and from the premises and the front door to No.4 shall only be used for wheelchair access/egress or as a fire escape and not for any other customer use.

Reason:

In order to safeguard neighbouring residents from noise and disturbance in accordance with saved policy 3.2 'Protection of Amenity' of the Southwark Plan 2007 and Strategic Policy 13 of the Southwark Core Strategy 2011.

-Add personal condition:

6) The use hereby permitted for change of use to a restaurant and hot food takeaway (Use Class A3/A5) shall enure solely for the benefit of Mr. Simon Leaver and Theo Lewis operating as East 12 Restaurants Limited and for no other operator.

Reason:

In the interests of neighbouring residential properties given the mode of operation of this applicant and in order to provide the Local Planning Authority with the opportunity to review the situation through a fresh planning

application in the event of a change of operator; 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.

- 3.18 The conditions above are intended to adequately mitigate any impacts arising from the additional takeaway delivery service proposed here. Condition 4, as revised above, enables operatives on pushbikes to park in Grove Lane but requires operatives on motorised bikes, which are anticipated to be used only rarely, to park beyond Grove Lane (most likely on Camberwell Church Street) and approach on foot only. This condition also prohibits completely delivery operatives using cars or vans. The personal condition (condition 6) is in recognition that these applicants have thus far operated as a restaurant (Class A3) as their primary mode of operation and have explained that they intend to consider operating in a similar way, with the existing takeaway facility for customers and the new delivery service proposed here remaining small scale and a secondary part of the business. Should these applicants move on and new operators look to operate from the premises, a new planning application will need to be submitted to the Council providing an opportunity to review the mode of operation and the impact on amenity/highway safety at the time.

REASON FOR URGENCY

4. 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 Planning 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 and would inconvenience all those who attend the meeting

REASON FOR LATENESS

5. The additional or revised plans, new information and 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.

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