

<b>Item No.</b> 7.1	<b>Classification:</b> OPEN	<b>Date:</b> 25 April 2017	<b>Meeting Name:</b> Planning Sub-Committee B
<b>Report title:</b>	<b>Development Management planning application:</b> Application 17/AP/0624 for: Full Planning Application  <b>Address:</b> DULWICH PICTURE GALLERY, GALLERY ROAD, LONDON SE21 7AD  <b>Proposal:</b> Construction of a detached single storey temporary pavilion building.		
<b>Ward(s) or groups affected:</b>	Village		
<b>From:</b>	Director of Planning		
<b>Application Start Date</b> 20/02/2017		<b>Application Expiry Date</b> 17/04/2017	
<b>Earliest Decision Date</b> 12/04/2017			

## RECOMMENDATION

1. That planning permission is granted for a limited period until 15 October 2017.

## BACKGROUND INFORMATION

### Site location and description

2. The application site refers to part of the landscaped area within the curtilage Dulwich Picture Gallery, which is Grade II\* listed. The Gallery and mausoleum were originally constructed 1811-14 and then partly rebuilt following damage in World War II. There is also a contemporary cloister and cafe pavilion were added to the gallery by Rick Mather Architects in 2000. The cafe is situated near to Dulwich Old College which is Grade II listed and is within the Dulwich Village Conservation Area. The site is also located on Metropolitan Open Land.

### Details of proposal

3. The proposal is for the construction of a detached, single storey pavilion in grounds of the gallery. The pavilion would house a programme of public events drawing in new audiences through talks, film screenings, art activities and small scale live music or performance. The proposal is for a temporary permission until 15 October 2017.
4. The hours of use proposed are:  
  
Monday to Wednesday: 08:00-22:00  
Thursday to Sunday and Bank holidays: 08:00-23:00.

5. **Relevant planning history**

10/AP/3204 Application type: Listed Building Consent (LBC) - Changes to existing external approach to the main entrance to provide step free access for disabled visitors and staff. Internal modifications to entrance lobby to improve accessibility for visitors coat and bag storage. Decision date 14/01/2011 Decision: Granted (GRA).
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

16/AP/1825 Application type: Listed Building Consent (LBC) - Minor rearrangement of internal partitions and removal of existing residential functions including kitchen and bathroom on first floor in Flat 16A. New connection between south range of the old college, and the west wing on first floor only. Relocation of existing disabled accessible WC. Decision date 01/07/2016 Decision: Granted (GRA).

9700063 and 9700064 - Planning and listed building consent was granted for the erection of a new single storey extension and cloister link to the existing building ancillary to art gallery including cafe/w.c/lecture room together with new access gates on Gallery Road frontage 22/01/97.

### **Planning history of adjoining sites**

6. None relevant.

### **KEY ISSUES FOR CONSIDERATION**

#### **Summary of main issues**

7. The main issues to be considered in respect of this application are:
- a) The principle of the development in terms of land use and conformity with strategic policies.
  - b) The impact of the development on the amenity of the adjoining properties.
  - c) Design Quality
  - d) Impact on adjacent listed building/conservation area.
  - e) All other relevant material planning considerations.

#### **Planning policy**

8. National Planning Policy Framework (the Framework)

Section 7 - Requiring good design

Section 9 - Protecting Green Belt land

Section 11 - Conserving and enhancing the natural environment

Section 12 - Conserving and enhancing the historic environment

9. The London Plan 2016

Policy 7.4 - Local Character

Policy 7.6 - Architecture

Policy 7.8 - Heritage assets and archaeology

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

Policy 7.17 - Metropolitan open land

10. Core Strategy 2011

Strategic policy 12 - Design and conservation

Strategic policy 13 - High environmental standards

Southwark Plan 2007 (July) - saved policies

11. 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 3.2 - Protection of amenity

Policy 3.12 - Quality in design

Policy 3.13 - Urban design

Policy 3.16 - Conservation areas

Policy 3.17 - Listed Buildings

Policy 3.18 - Setting of listed buildings, conservation areas and world heritage sites

Policy 3.25 - Metropolitan Open Land

Policy 5.2 - Transport Impacts.

#### Summary of consultation responses

12. A total of 9 responses have been received in response to the application, four in objection, two comments and three letters of support.

#### **Objections:**

- Concern about whether the structure would actually be temporary, given that an existing temporary structure was retained for some time.
- The design of the building would not be complementary to the listed buildings.
- footprint and height would block the view of the listed building.
- Impacts of increased noise at night.

*Response: These comments will be addressed within the main body of the report below.*

Concerns have also been raised in relation to the level of consultation undertaken by the council.

*Response: The council sent letters to the closest residents along College Road and Gallery Road and also placed a site notice outside of the premises and placed an advertisement, within the local paper. This level of consultation is in accordance with the council's statement of Community Involvement and exceeds statutory requirements.*

#### **Comments:**

No particular objections provided that there is adequate soundproofing and that the use is for a temporary period only.

#### **Support:**

The design of the proposal is a sensitive balance, respectful of the existing gallery. The proposal would animate the area bringing cultural enrichment. Concerns about soundproofing can be addressed through control on the hours of operation.

#### **Principle of development**

13. Paragraphs 88 to 89 of the NPPF sets out the considerations for development within the Green Belt (as outlined within the London Plan, MOL should be treated as Green Belt). It notes that "when considering any planning application, local planning

authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations".

14. It goes on to suggest that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:
  - i. Agriculture and forestry; or
  - ii. Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL; or
  - iii. Extension of or alteration to an existing dwelling, providing that it does not result in disproportionate additions over and above the size of the original building; or
  - iv. Replacement of an existing dwelling, providing that the new dwelling is not materially larger than the dwelling that it replaces.
15. While the proposal would not meet the above exceptions, officers are of the opinion that the current proposal is considered as a very special circumstance as a result of its temporary nature, the buildings exceptional quality of design and the cultural benefit enhanced public access to the heritage asset and attracting additional visitors that may not otherwise visit the gallery. For these reasons, officers are satisfied that the proposal is considered acceptable.
16. The application site is situated within Metropolitan Open Land and part (ii) saved policy 3.25 of the Southwark plan states that development will be allowed for:
  - (ii) Essential facilities for outdoor sport and recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL;
17. Whilst the pavilion would be relatively large and would have the potential to affect on the openness of MOL, it is for a temporary period up to October (15th) and as such, given the short term nature of the proposal, it is not considered that this is harmful to the openness of MOL. There would also be a public benefit that would result from the development.
18. For these reasons, the principle of the development in accordance with Metropolitan Open Land policies is considered acceptable.

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

19. The proposed single storey structure would be located within the gardens of the gallery, in front of the main gallery building and close to the entrance fronting College road. The proposal would not have a significant impact on the users of the gallery. It would be situated over 50m from any residential properties, a distance that would mean that there would be no adverse impact with respect to daylight, sunlight, outlook or privacy.
20. The hours proposed by the applicant's for the use of the pavilion are:

Monday to Wednesday: 08:00-22:00

Thursday – Sunday and Bank holidays: 08:00-23:00.

It is recommended that the use of the pavilion cease at 22:00 to protect the amenity of local residents.

21. Some concerns have been raised by objectors of potential noise impacts from the development. The applicant's planning statement says that the pavilion would host a varied programme of public events drawing in new audiences through talks, film, screenings, art activities and small scale live music or performance. All programming would draw on the gallery's core exhibition and permanent collection programme for inspiration. The pavilion would also be available for community and private hire use when not being used for public events.
22. Given the scale of the proposed building, the number of patrons that would access the building at any one time (150 capacity has been indicated) and the distance to the nearest dwellings (50m), an unacceptable impact from people noise is not expected.
23. There is the potential for amplified sound to affect residents so officers have recommended a condition that would prohibit its playing after 21:00. It should be noted that pavilion would be located in a courtyard and the nearest dwellings would benefit from acoustic shielding by the building fronting Gallery Road.
24. Overall, subject to conditions on hours of use and amplified sound, the proposal would not result in a detrimental impact on the neighbouring amenities and thus accords with saved policy 3.2 'Protection of Amenity' of the Southwark Plan.

#### **Transport issues**

25. The application site has a Public Transport Accessibility Level of 2 which denotes a relatively poor access to public transport. Notwithstanding this, the site is located within a short walk from both West Dulwich and North Dulwich overground stations. There are also access to buses from College Road. The existing site also contains a small car park and a number of cycle parking spaces.
26. Given the relatively small scale of the building and the temporary nature of the building, officers are satisfied that there would not be a significant impact on the surrounding transport network.

#### **Design issues and Impact on character and setting of a listed building and/or conservation area**

27. Dulwich Picture Gallery is a grade II\* listed building, located within the Dulwich Village Conservation Area. The building was designed by John Soane in 1811-14 however has been remodelled, including the facade extensively in 1911 by ES Hall, and again in 1954 following bomb damaged. A large extension to the north and east, creating a contemporary addition including a glazed cloister was added by Rick Mather Architects in 1997. The significance of the building is its age, architectural composition and materials and notable architects, as well as its historical association with Soane, and its form and detailing as a formal building, set in a loosely formal landscape, visible on a purposeful east/west axis from the street. The building's historic significance is also derived from its use as a purpose built gallery, and its location in a suburban setting surrounding by gardens.
28. Historic mapping suggest that the form and the setting of the building has altered throughout its life. The 1879 map suggests there was limited or no access from the east facade, and the central porch with formal access facing east is not shown until the 1915 map, suggesting the re-ordering of the facades at this time, and the landscape design on an east-west axis following in the 1960s. The visibility of the east facade from the street was altered in 1997 with the completion of extension and gates to College Road. Thus the significance of the building and its setting should be looked in context with the continuous development of the building and its setting, including

extensions and relocation of the principal access.

29. The proposal is for temporary pavilion within the grounds of the gallery, located to the south east area, between the building and the street. The pavilion proposed is 16m x 12m and constructed of a timber frame with canopy and mirror panels, reflecting the surrounding area.
30. Paragraph 126 of the NPPF requires that local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. NPPF sets out the presumption in favour of the conservation of designated assets and the aims of the policies within the NPPF are to conserve these assets, for the benefit of future generations. Any harmful impact on the significance of the designated asset needs to be justified on the ground set out in paragraph 133 (substantial harm or total loss) or paragraph 134 (less than substantial harm). The NPPF stresses the importance of good design and states in paragraph 56 that: "Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people
31. In terms of the impact on the significance of the building, taking in to account the alterations which have taken place to the building and its setting over its lifetime and the currently existing facade, entrance and experience of the building in an informal landscape setting, this existing setting of the adjacent listed building would still be impacted upon to an extent by the introduction of a structure in the proposed location. While the setting is not the original, the experience of the double frontage with central porch, a primary component of the architectural significance of the asset would be impacted by the location of the pavilion in the proposed area. There would therefore be some minor harm to the significance of the asset by the proposals which affect the setting of the listed building.
32. Mitigating factors in this case are the temporary nature of the proposal, the high quality, and exemplary design of the pavilion and the scope of the project to attract more visitors to the gallery, enhancing its public access offer and thus alerting more of the public to the heritage asset. In accordance with the NPPF, officers are satisfied that, given these mitigating factors, in particular the temporary nature of the building, the proposal would result in less than substantial harm on the setting of heritage assets. On balance, the benefits of the development are considered to outweigh any harm that would occur from the development.
33. In conclusion, whilst some harm would result from the proposed development by alteration of its setting, owing to the "temporary" nature of the building and its high quality design, the impact is considered to be less than substantial harm and thus is considered acceptable for a temporary period until 15 October 2017.

#### **Impact on trees and biodiversity**

34. The proposal is a lightweight structure that has been located within a position that would not impact upon any of the surrounding trees root protection areas.
35. The council's ecology officer has reviewed the submitted Protected Species Assessment letter and confirmed that it adequately covers the issue of the lighting and impacts on bats. As the lighting is quite low level with limited levels of lux extending into the sky, officers are satisfied that it would not result in any detrimental impacts on bats migrating within the area.

#### **Other matters**

36. As the application is for a temporary structure, it would not attract a payment under the community infrastructure levy.

### **Conclusion on planning issues**

37. The building would not have a significant impact on the character and setting of the listed gallery building or the wider conservation area nor would it impact negatively on adjoining occupiers in terms of amenity. Accordingly approval is recommended for a temporary period until 15 October 2017 and subject to the conditions set out in the recommendation.

### **Community impact statement**

38. 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. No adverse impact on groups with the protected characteristics detailed above is expected.

### **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.

### **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 temporary pavilion structure for use in conjunction with the gallery. 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**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Site history file: TP/2083-C Application file: 17/AP/0624 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 5416 Council website: www.southwark.gov.uk

## APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

## AUDIT TRAIL

<b>Lead Officer</b>	Simon Bevan, Director of Planning
<b>Report Author</b>	Alex Cameron, Team Leader
<b>Version</b>	Final
<b>Dated</b>	5 April 2017
<b>Key Decision</b>	No

### CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER

Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Social Regeneration	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		6 April 2017

## APPENDIX 1

### Consultation undertaken

**Site notice date:** 20/03/2017

**Press notice date:** 02/03/2017

**Case officer site visit date:** n/a

**Neighbour consultation letters sent:** 03/03/2017

**Internal services consulted:**

Ecology Officer

**Statutory and non-statutory organisations consulted:**

Historic England

**Neighbour and local groups consulted:**

The Wardens Flat The Old College SE21 7AD	11 College Road London SE21 7BG
Dulwich Picture Gallery Gallery Road SE21 7AD	12 Gallery Road London SE21 7AD
15 College Road London SE21 7BG	11, College Road Dulwich SE21 7BG
Cloisters Flat 16a Gallery Road SE21 7AD	Bell Cottage 23 College Road SE21 7BG
The Old College 16 Gallery Road SE21 7AD	11 Druce Road London SE21 7DW
Flat 15 Edward Alleyn House SE21 7AS	7 Druce Road London SE217DW
Flat 14 Edward Alleyn House SE21 7AS	7 College Road Dulwich SE217BQ
Flat 13 Edward Alleyn House SE21 7AS	93 Dulwich Village London SE21 7BJ
Flat 16 Edward Alleyn House SE21 7AS	7 College Road Dulwich SE21 7BQ
13 College Road London SE21 7BG	7 College Road Dulwich SE217BQ

**Re-consultation:** n/a

## APPENDIX 2

### Consultation responses received

#### Internal services

None

#### Statutory and non-statutory organisations

None

#### Neighbours and local groups

Bell Cottage 23 College Road SE21 7BG  
11, College Road Dulwich SE21 7BG  
11 Druce Road London SE21 7DW  
15 College Road London SE21 7BG  
7 College Road Dulwich SE21 7BQ  
7 College Road Dulwich SE217BQ  
7 College Road Dulwich SE217BQ  
7 Druce Road London SE217DW  
93 Dulwich Village London SE21 7BJ