

Item No. 7.1	Classification: Open	Date: 30 January 2019	Meeting Name: Planning Sub-Committee A
Report title:	Development Management planning application: Application 18/AP/3338 for: Full Planning Application Address: 2-3 BLACK SWAN YARD, BERMONDSEY STREET, LONDON SE1 3XW Proposal: Change of use from B1 to Mixed Use (part B1 and part A3), involving the extension of the first floor mezzanine to provide an additional 43sqm of Class B1 Office space, and change of use of part of the ground floor from B1 Office space to provide 43sqm of Class A3 Cafe/Restaurant use. Together with associated plant installation with flues to the roof.		
Ward(s) or groups affected:	London Bridge and West Bermondsey		
From:	Director of Planning		
Application Start Date 15/10/2018		Application Expiry Date 10/12/2018	
Earliest Decision Date 24/11/2018			

RECOMMENDATION

1. Grant planning permission subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. 2-3 Black Swan Yard is occupied by a part single-storey, part two-storey warehouse-like building with direct access off Bermondsey Street. The premises are set back off Bermondsey Street between No. 73 and 75. The access to the yard is via a single track road, which is public highway. There are two other buildings in Black Swan Yard: No.1 and No.4.
3. To the front of 1 Black Swan Yard are four car parking spaces which serve its staff and customers. The application site has no forecourt or car parking facilities. The rear of the building backs directly onto the White's Grounds Estate (a housing estate).
4. The site has the following designations within the Core Strategy proposals map 2011:
 - Central Activities Zone
 - Bankside, Borough, London Bridge Strategic Cultural Area
 - Bankside, Borough and London Bridge Opportunity Area
 - Bermondsey Street Conservation Area
 - Archaeological Priority Zone (Borough, Bermondsey and Rivers)
 - Air Quality Management Area

Details of proposal

5. The proposal is for the extension of the first floor mezzanine to provide an additional 43sqm of office space (B1 use class) and change of use of 43sqm of the ground floor from office to cafe/restaurant (A3 use class). It is intended that the A3 floorspace would be used by small market style food stalls. A total of 401sqm of commercial space would be provided within the building, being 358sqm of B1 office and 43sqm of A3 use. Associated plant would be installed with flues to the roof.
6. The new area of mezzanine would be entirely office space which would sit within the existing confines of the building. The two uses at ground floor would be separated by a physical wall and would be clearly defined. Additional facilities such as cycle parking, meeting booths and toilets would be provided at ground floor. There would be no external changes to the appearance of the building except for the larger extraction flues on the roof. The existing doors would be cleaned and repaired.
7. The proposed opening hours for the A3 use are:

10:00 - 23:00hrs Monday-Friday
10:00 - 23:30hrs Saturday
12:00 - 22:00hrs Sunday

Planning history

8.

15/AP/3390. Change of use of existing industrial unit (Use Class B1) to a restaurant (Use Class A3). Withdrawn.
15/EN/0020 Enforcement type: Change of use (COU) Change of use from Use Class B1 (Light industry/Offices) to Sui Generis (events space). Sign-off date 12/04/2016 Sign-off reason: Final closure - breach ceased (FCBC)
18/EQ/0052 Application type: Pre-Application Enquiry (ENQ) An indoor set up of small stalls offering local street food and produce, with indoor seating, and storage for bikes and prams. Decision date 21/03/2018 Decision: Pre-application enquiry closed (EQC)
9. 18/AP/1774 for: Full Planning Application. Temporary change of use from B1 to flexible use (B1/A1/A3) with associated cycle parking and installation of kitchen extract. Decision date 31/07/18. Withdrawn.

Planning history of adjoining sites

10. 15/AP/0988
Sati, The Tannery, Bermondsey Street, London, SE1 3XN. Outline Planning Permission: Erection of a two-storey terrace comprising of 4no. live/work studios. GRANTED: 10/08/2015
11. 18/AP/3434
LAND TO THE REAR OF 18-20 CRUCIFIX LANE, LONDON SE1 3JW. Application for approval of reserved matters (access, appearance, layout and scale) pursuant to Condition 1 of 16-AP-5034 (Approval date: 10/05/2017) for: 'Outline planning permission with all matters reserved for the construction of a building (of which the lowest storey would be partly below ground level) to be a maximum height of 9.650 metres above the existing ground level of the application site, comprising up to 728 square metres of live/work (sui generis) floorspace'. Granted 19/12/18

12. 01/AP/0327
1 Black Swan Yard. Full Planning Permission: Demolition of existing warehouse and office building and construction of new 4 storey building with office on ground, first and second floors and a single residential unit on the third floor. GRANTED: 08/08/2001

KEY ISSUES FOR CONSIDERATION

Summary of main issues

13. The main issues to be considered in respect of this application are:
- a) Land use principle and compliance with policy
 - b) Impact of proposed development on amenity of adjoining occupiers and surrounding area
 - c) Transport impacts (highway safety, servicing, refuse, trip generation, cycle parking).

Planning policy

National Planning Policy Framework (the Framework)

14. Chapter 6 Building a strong, competitive economy
Chapter 9 Promoting sustainable transport
Chapter 12 Achieving well-designed places
Chapter 16 Conserving and enhancing the historic environment

The London Plan 2016

15. Policy 4.1 - Developing London's economy
Policy 5.17- Waste capacity
Policy 6.3 - Assessing effects of development on transport capacity
Policy 6.9 - Cycling
Policy 6.10 - Walking
Policy 6.11 - Smoothing traffic flow and tackling congestion
Policy 7.2 - An inclusive environment
Policy 7.3 - Designing out crime
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.

Core Strategy 2011

16. Strategic Policy 1 - Sustainable development
Strategic Policy 2 - Sustainable transport
Strategic Policy 3 - Shopping, leisure and entertainment
Strategic policy 10 - Jobs and business
Strategic Policy 13 - High environmental standards

Southwark Plan 2007 (July) - saved policies

17. The council's cabinet on 19 March 2013, as required by parka 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 1.4 - Employment sites outside the Preferred Office Locations and Preferred Industrial Locations

Policy 3.2 - Protection of Amenity

Policy 5.1 - Locating developments

Policy 5.2 - Transport Impacts

Policy 5.3 - Walking and Cycling

Policy 5.6 - Car Parking

Emerging planning policy

Draft new London Plan

18. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2 March 2018. The document is expected to reach examination stage later this year however, given the stage of preparation it can only be attributed limited weight.

New Southwark Plan

19. For the last five years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. It is anticipated that the plan will be adopted in 2019 following an Examination in Public (EIP). Similarly with the OKR AAP, as the NSP is not yet adopted policy, it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

Consultation Responses

20. 20 representations have been received in relation to the application, these being two comments and 18 objections. The following matters were raised as concerns; each has been dealt with within the main body of the report.

- Noise
- Change of use
- Proposed use
- Emptying of bins
- Waste storage
- Use and access through Black Swan Yard.

Principle of development

21. The authorised use of the site is established as B1 office space. The consideration of this application therefore relates to the use of part of the site for A3 purposes.
22. The application requires assessment against saved policy 1.4 of the Southwark Plan (2007) as there is a change of use of B1 at the ground floor level.
23. This policy states that outside the preferred industrial locations, on sites which have

an established B class use and which meet any of the following criteria:

- i. the site fronts onto or has access to a classified road;
 - ii. the site is within the CAZ (Central Activities Zone)
 - iii. the site is within a Strategic Cultural Area
 - iv. the site is within a Town or Local Centre
 - v. the site is within an Action Area Core
 - vi. the site is within Camberwell Action Area,
24. Development will be permitted provided that the proposal would not result in a net loss of floorspace in Class B use.
25. In combination with the proposed change of use at ground floor level, the addition of the new area of mezzanine at first floor would ensure that there would be no overall net loss of Class B1 floorspace at the application site. The mezzanine would provide a direct replacement of 43sqm of floorspace with 8sqm of this being storage space.
26. At ground floor level a clear divide between the food offering and the remaining office space would be provided. Internal access between the uses however would be maintained and this connection would mutually support the operation of the two uses. The divide and clear definition also gives reassurances that the A3 use would not represent the majority of the space and therefore preserve the B1 use, which is strongly supported.
27. As the scheme does not reduce the B1 floorspace and promotes additional employment uses at the site through the introduction of 43sqm of A3 floorspace, it is considered beneficial as it would support the vitality of the building and local area.

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

28. The proposal would reconfigure the existing building to create an office hub with a connected A3 use. The A3 use would have three kiosks serving hot food and drinks.

Noise

29. The majority of the objections received in relation to this application concern potential noise being created from the proposal site. It should be noted that previous complaints to the council's noise and nuisance team have related to private events held at the site. An event style use is not being sought as part of this planning application. In the last two years two noise complaints to the noise and nuisance team were made. Other reported instances in the immediate locality have related to other properties nearby. Following these two complaints, the operator implemented mitigation measures which protects neighbours from noise escape. Following these mitigation measures, the site has operated without further complaint.
30. The principal concern relates to the noise of people using Black Swan Yard to dwell, the potential for live music played inside, and sound generated by plant equipment. To address these concerns conditions would be attached to the planning permission. In terms of people using Black Swan Yard, this is a public highway between commercial buildings. The coming and going of people is not considered to be detrimental to the surrounding occupants as this would be confined to the daytime and night, up to 23:00. In this commercial and cultural location it is not unusual for people to be present on the street at 23:00. In addition, access to the development is served by Black Swan Yard, which takes people away from the residents of New Whites Ground. It is therefore not considered that the small provision of an A3 use would exacerbate existing levels of noise in the area.

31. With regards to people congregating at the front of property during activities, it is noted that the forecourt does not form part of the demise of the applicant. The applicant has indicated that any potential disturbance resulting from people congregating in the forecourt will be controlled by security staff as proposed in the premises licence application.
32. As part of the alcohol license being sought, conditions attached would restrict and require the management of people to and from the site plus the use of any outdoor area. It is considered that noise emanating from people would be controlled sufficiently to limit the impact on surrounding residents and occupiers.
33. In terms of music, the applicant has not demonstrated that sufficient insulation is provided to restrict noise breakout. As such, to address concerns about the impact of music being played, a condition is recommended restricting the use of amplified music. Apart from this, given the small amount of additional floorspace (43sqm of A3 use) noise from people inside the building would not be minimal.
34. A replacement plant is proposed at the site, this is to ventilate the unit given the implementation of the A3 use. The extraction points would be on the roof to the south. They would replace the existing flues. This keeps the extraction points away from surrounding buildings. A condition requiring the plant to meet the environmental protection team's standards of achieving a -10dB below existing background levels would be attached. With this in place, the noise from the proposed plant would be acceptable.
35. The waste management of the site would require appropriate measures to limit the isolated occurrence of glass disposal. Glass can be very loud when being disposed of and as such a condition would be attached requiring glass to be disposed of during social daytime hours.
36. It is considered that with the appropriate measures the noise concerns can be overcome so as not to pose a threat to the neighbours.

Odour

37. The proposal includes a scheme of ventilation which includes air cleaners. The system is set away from neighbouring windows and there is space on all sides of the ventilation extraction points. The installation includes extraction canopies for the food kiosks and a dedicated fresh air intake system. The council's environmental protection team are satisfied with the details of the filtration system.

Hours of use

38. The applicant has proposed hours which replicate similar A3 uses within the vicinity. Again, given the commercial nature of the area, the proposed hours of operation would be acceptable.
39. Given the controls proposed and the positioning of the site which adjoins the London Bridge Town Centre and strategic cultural area of the borough, it is considered that the proposal offers a fringe service to the benefit of the community (economical and socially) and thus the impact on amenity is acceptable.

Transport issues

40. The application site is highly accessible with a PTAL of 6b to accommodate any additional footfall to the site by public transport. However, the vast majority of

customers are expected to arrive on foot. It is not considered that pedestrians accessing the site would cause a highway concern on Black Swan Yard. Given the nature of this road and that it provides access to a small amount of units, vehicle numbers can be expected to be very low. Equally, given the narrowness and short distance of the road drivers would be travelling at very low speeds. This situation would therefore not result in any highway concerns between pedestrians and vehicles.

41. The three food stands are expected to generate three servicing trips per day. The office use has less than one trip per day (over a week) and therefore the total servicing could be accommodated within the Yard.
42. Refuse would be stored internally at the rear of the site. It would be collected under the existing arrangement, which is daily. There would be no additional refuse collections associated to the use; this is because waste can be accommodated in the same collections as those that exist. Under these circumstances, the collection and storage of waste is considered acceptable. It is not considered either that the refuse collection would impact on the safe use of Black Swan Yard.
43. The applicant has provided six cycle parking spaces. This is more than required by the London Plan and is welcomed. The proposal would have limited impacts in terms of transport and is considered acceptable.

Design issues

44. The only external changes would be the flue points on the roof and improvements to the existing doors. Neither of these elements would harm the appearance of the building. The extraction vents would be larger than the existing but would not be visible from the public highway. The mezzanine level would be accommodated internally by reducing the height of the ground floor, this allows the existing roof plain to remain unaltered. In design terms, the proposal is considered to be acceptable.

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

45. The site is not within a conservation area but adjoins the Bermondsey Street Conservation area. As discussed within the design section of the report the proposal does not alter the appearance of the yard. The appearance and colour of the timber used can be conditioned to ensure that it positively contributes to the streetscene and wider conservation area.

Planning obligations (S.106 agreement / CIL)

46. The proposal would not attract planning obligations including CIL.

Conclusion on planning issues

47. The proposal includes a modest increase in floorspace of 43sqm achieved through the installation of a new mezzanine. This allows the provision of a A3 use at ground floor without any resulting loss of B1 floorspace and represents an efficient, innovative use of the space available. The use would be open to the public and contribute to the vitality of the area. The scheme would not harm the surrounding amenity or neighbouring residents. As such, the application is recommended for approval subject to conditions.

Consultations

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

Consultation replies

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

Summary of consultation responses

50. EPT: No objections - conditions recommended.

Community impact statement / Equalities Assessment

51. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three “needs” which are central to the aims of the Act:

- a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- c) The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

52. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.

53. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.

54. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.

Human rights implications

55. 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.

56. This application has the legitimate aim of providing a new A3 use with enhanced B1 floorspace. 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/57-2 Application file: 18/AP/3338 Southwark Local Development Framework and Development Plan Documents	Place and Wellbeing 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 4004 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	Simon Bevan, Director of Planning	
Report Author	Craig Newton, Planning Officer	
Version	Final	
Dated	10 January 2019	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team	15 January 2019	

APPENDIX 1

Consultation undertaken

Site notice date: 31/10/2018

Press notice date: 01/11/2018

Case officer site visit date: n/a

Neighbour consultation letters sent: 30/10/2018

Internal services consulted:

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

Statutory and non-statutory organisations consulted:

n/a

Neighbour and local groups consulted:

76 Whites Grounds Estate Whites Grounds SE1 3JU	Fashion And Textile Museum 83 Bermondsey Street SE1 3XF
75 Whites Grounds Estate Whites Grounds SE1 3JU	Third Floor Bramah House SE1 3XF
74 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 9a 79 Bermondsey Street SE1 3XF
77 Whites Grounds Estate Whites Grounds SE1 3JU	First Floor Bramah House SE1 3XF
80 Whites Grounds Estate Whites Grounds SE1 3JU	Fourth Floor Bramah House SE1 3XF
79 Whites Grounds Estate Whites Grounds SE1 3JU	61 Whites Grounds Estate Whites Grounds SE1 3JU
78 Whites Grounds Estate Whites Grounds SE1 3JU	60 Whites Grounds Estate Whites Grounds SE1 3JU
73 Whites Grounds Estate Whites Grounds SE1 3JU	62 Whites Grounds Estate Whites Grounds SE1 3JU
68 Whites Grounds Estate Whites Grounds SE1 3JU	65 Whites Grounds Estate Whites Grounds SE1 3JU
67 Whites Grounds Estate Whites Grounds SE1 3JU	64 Whites Grounds Estate Whites Grounds SE1 3JU
66 Whites Grounds Estate Whites Grounds SE1 3JU	63 Whites Grounds Estate Whites Grounds SE1 3JU
69 Whites Grounds Estate Whites Grounds SE1 3JU	2-3 Black Swan Yard London SE1 3XW
72 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 6 79 Bermondsey Street SE1 3XF
71 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 5 79 Bermondsey Street SE1 3XF
70 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 4 79 Bermondsey Street SE1 3XF
91 Whites Grounds Estate Whites Grounds SE1 3JX	Flat 7 79 Bermondsey Street SE1 3XF
90 Whites Grounds Estate Whites Grounds SE1 3JX	75 Bermondsey Street London SE1 3XF
89 Whites Grounds Estate Whites Grounds SE1 3JX	Flat 9 79 Bermondsey Street SE1 3XF
92 Whites Grounds Estate Whites Grounds SE1 3JX	Flat 8 79 Bermondsey Street SE1 3XF
95 Whites Grounds Estate Whites Grounds SE1 3JX	73 Whites Grounds London SE13JU
94 Whites Grounds Estate Whites Grounds SE1 3JX	57 Bermondsey Street London SE1 3XJ
93 Whites Grounds Estate Whites Grounds SE1 3JX	62 Southwood Road London SE9 3QT
88 Whites Grounds Estate Whites Grounds SE1 3JU	2nd Floor, Shakti The Tanneries SE1 3XJ
83 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 2, 165 Brick Lane, London London E2 7EE
82 Whites Grounds Estate Whites Grounds SE1 3JU	First Floor 55 Bermondsey Street SE1 3XN
81 Whites Grounds Estate Whites Grounds SE1 3JU	The Tanneries 55 Bermondsey Street SE1 3XG
84 Whites Grounds Estate Whites Grounds SE1 3JU	64 Whites Grounds Estate London SE1 3JU
87 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 113 Whites Grounds London SE1 3JX
86 Whites Grounds Estate Whites Grounds SE1 3JU	79 Holst Lodge Holst Lodge BR2 9BW
85 Whites Grounds Estate Whites Grounds SE1 3JU	Flat 3 Stanmore HA7 1FX
81 Bermondsey Street London SE1 3XF	57 Bermondsey Street London SE1 3XJ
1 Black Swan Yard London SE1 3XW	Whites Grounds Estate London SE1 3JX
4 Black Swan Yard London SE1 3XW	1 Black Swan Yard London se1 3xf
Flat 3 79 Bermondsey Street SE1 3XF	Flat 42 12 Bermondsey Square SE1 3FD
Flat 2 79 Bermondsey Street SE1 3XF	The Tanneries, 55 Bermondsey Street SE1 3XN
Flat 1 79 Bermondsey Street SE1 3XF	Chess Chambers 2 Broadway Court HP5 1EG
Flat 9b 79 Bermondsey Street SE1 3XF	Members Room Tooley Street SE1 2QG
Ground Floor Bramah House SE1 3XF	C/O Members Room 160 Tooley Street SE1 2QH
Second Floor Bramah House SE1 3XF	C/O Members' Room 160 Tooley Street SE1 2QH

Re-consultation: n/a

APPENDIX 2

Consultation responses received

Internal services

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

Statutory and non-statutory organisations

None

Neighbours and local groups

The Tanneries, 55 Bermondsey Street SE1 3XN
Chess Chambers 2 Broadway Court HP5 1EG
C/O Members' Room 160 Tooley Street SE1 2QH
C/O Members Room 160 Tooley Street SE1 2QH
Flat 113 Whites Grounds London SE1 3JX
Flat 2, 165 Brick Lane, London London E2 7EE
Flat 3 Stanmore HA7 1FX
Flat 42 12 Bermondsey Square SE1 3FD
Flat 5 79 Bermondsey Street SE1 3XF
Members Room Tooley Street SE1 2QG
First Floor 55 Bermondsey Street SE1 3XN
The Tanneries 55 Bermondsey Street SE1 3XG
Whites Grounds Estate London SE1 3JX
1 Black Swan Yard London se1 3xf
1 Black Swan Yard London SE1 3XW
2nd Floor, Shakti The Tanneries SE1 3XJ
57 Bermondsey Street London SE1 3XJ
57 Bermondsey Street London SE1 3XJ
62 Southwood Road London SE9 3QT
64 Whites Grounds Estate London SE1 3JU
64 Whites Grounds Estate Whites Grounds SE1 3JU
73 Whites Grounds London SE13JU
76 Whites Grounds Estate Whites Grounds SE1 3JU
79 Holst Lodge Holst Lodge BR2 9BW