

Item no. 7	Classification OPEN	Decision Level DULWICH COMMUNITY COUNCIL	Date 12/12/2005
From DEVELOPMENT AND BUILDING CONTROL MANAGER		Title of Report SOMERFIELD SUPERMARKET, 56-62 LORDSHIP LANE SE22 Ward East Dulwich	

1. PURPOSE

- 1.1 To inform members of a number of issues arising from the decision under delegated powers, on 2 February 2005, to grant planning permission for the conversion of the second and third floor offices at the above site into a total of ten self contained residential units. (Application reference 04-AP-1067).

2. RECOMMENDATION

- 2.1 That members note the contents of the report.

3. BACKGROUND

- 3.1 At your meeting on 31 October 2005, members discussed the above decision, in particular the consultation process, but noted that since the decision on the application a new consultation policy on planning applications has been adopted. However, you also expressed concerns that the new policy would not have significantly widened the consultation area.
- 3.2 Members resolved that a full report on this matter be brought forward, detailing the Council's new consultation policy on planning applications, and how it would have operated in this case.
- 3.3 Members also requested that the report details how the designation of East Dulwich as a town centre affected the application, and the responsibilities for the enforcement of planning conditions.
- 3.4 It was also resolved that the three ward councillors be kept informed on any related outstanding matters, such as applications for the approval of reserved matters.

The Site and its Surroundings

- 3.5 The premises are located on Lordship Lane between Matham Road and Ashbourne Grove. It comprises a four storey commercial building, currently occupied by Somerfield supermarket on the ground floor and with three floors of accommodation above, historically used as offices.

- 3.6 Properties to the north, south and east of the site, in Lordship Lane comprise shop units at ground floor with some residential accommodation above. Residential properties to the south of the site in Ashbourne Grove are mainly semi-detached, and many have their own off-street parking spaces in their front gardens, although many do not. The terraced dwellings in Matham Grove to the north have short front gardens, and as such they do not have off street car parking spaces. During a recent weekday lunchtime site visit it was apparent that on street parking was at a premium in both these roads, and that some vehicular accesses in Ashbourne Grove were partially blocked by parked cars, but that access was still possible to those properties.
- 3.7 Outside Somerfields, there are on street parking restrictions in the form of 'No Waiting, Monday to Friday, 0700-1000 and 1600-1900'. Parking is permitted on this part of Lordship Lane between 1000 and 1600 hours for 30 minutes only. There are similar parking restrictions on other sections of Lordship Lane, although some parts are subject to 'No Waiting At Any Time' controls. However, in Matham Road and Ashbourne Grove there are no on street parking restrictions apart from a short section close to their junctions with Lordship Lane.
- 3.8 Bus routes nos 40, 176, 185 and P13 serve Lordship Lane. East Dulwich Railway Station is about 600m to the north west.

Relevant Planning History

- 3.9 Application 02-AP-1794 for the erection of a single storey rear extension to provide additional retail floorspace was approved with conditions in May 2003. This extension was constructed on part of the Somerfield car park, which was not officially a customer car park, although customers did park there. At the time of the application, Somerfields had stopped using this area for deliveries, due to the potential for noise disturbance to houses surrounding the rear of the site. At present there is a sign at the rear of the store specifying 'All deliveries to the front of the site'.
- 3.10 Apart from the standard time limit, the only condition on this consent related to the submission and approval of facing materials.
- 3.11 A total of 23 local residents were sent consultation letters on this application, including 5 in Ashbourne Grove and 8 in Matham Grove.
- 3.12 Application 04-AP-1067 for the conversion of second and third floor offices into a total of ten self-contained residential units was approved, with conditions on 2 February 2005. The first floor of the building would remain in B1 (business) use. The proposed development did not provide any off street car parking provision.
- 3.13 The conditions on this consent related to the submission, approval and implementation of domestic refuse storage facilities and any external lighting or security surveillance equipment.
- 3.14 A total of 16 local residents were sent consultation letters on this application, including one in Ashbourne Grove and 6 in Matham Grove. Moreover, an official site notice was posted near the premises on 6 September 2004, and the proposal was

advertised in the local press on 2 September 2004.

4. MATTERS FOR CONSIDERATION

Main Issues

- 4.1 The main issues in this report are:
- The new policy on planning consultations, and how it would have related to the application
 - The status of East Dulwich as a town centre.
 - The responsibilities for the enforcement of planning conditions.

The New Policy for Planning Consultations

- 4.2 It is apparent that there were less consultation letters sent on the 2004 application than that approved in 2002. This can be explained by the fact that the latter application was for a change of use of an existing building rather than for the erection of a new structure, and a change of use can often have less direct effects on the amenities of nearby residents.
- 4.3 In both cases, consultations were carried out in accordance with both the statutory requirements (either neighbour notification or a site notice) and (with one exception)* with the publicity arrangements for planning applications notified to the Development Control committee on 16 January 2002. The latter required that neighbour consultation letters be sent to all adjoining properties with a common boundary to the application site. (*No 5 Matham Grove was not consulted in 2002).
- 4.4 The new development control consultation policy was reported to the Council's Executive on 21 June 2005. The Executive agreed the policy, as set out in appendix 4 to the report, and a copy is attached as appendix 1 to this report.
- 4.5 Application 04-AP-1067 was for the conversion of second and third floor offices into a total of ten self-contained residential units. Therefore, it falls within the government's definition of 'major development'. As such it falls within category 12 of the consultation standards set out in the new consultation policy (Table 1). However, it could also be considered under category 11, which includes residential conversions. Both of these state that 'A site notice will be posted adjacent to the area **and neighbour consultation will be made over a wider adjoining area**'.
- 4.6 Further guidance on the extent of consultation is given in Table 2, which sets out typical examples of minimum consultations and indicates at point [6] that for 'Flat conversions to four or more flats - the two neighbouring properties on either side, and those directly opposite will be consulted. On streets where few or no conversions have been undertaken, the consultations will be extended'.
- 4.7 However, point [10] could equally apply to the development. This relates to changes of use in a shopping area and indicates that consultation will involve 'the two neighbouring properties on either side, the occupants of the property affected by the

application (unless this is a single undivided property where the occupier is the applicant), and active Trader's Associations will be consulted. Properties directly opposite may also be consulted depending on the width of the road and the character of the area.' It also states '**Major proposals will involve wider consultation**'.

- 4.8 It is acknowledged that the extent of wider consultation will depend on the judgement of planning officers. However, given the clear guidance setting out the requirement for wider consultation, had the new policy applied to this application then it is likely that the extent of neighbour consultations would have been greater than they were, although it is not possible to say how much greater with any degree of certainty.

The Status of East Dulwich as a Town Centre

- 4.9 Lordship Lane contains a wide range of retail and associated services, including two supermarkets (Somerfield and Iceland) shops selling both foodstuffs and consumer durables, banks, restaurants, public houses, a police station, community hall and places of worship. In the adopted Unitary development Plan (UDP), this section of Lordship Lane is defined as a secondary shopping frontage, and in the emerging UDP it is shown as a shopping frontage. Having regard to these facts, it falls within the definition of a district centre as defined in annex A to Planning Policy Statement 6, *Planning for Town Centres*, (PPS6), which has implications with regard to the application of planning policies
- 4.10 National planning policies relevant to the above applications are found in the following documents;
- Development Control Consultation Policy (*copies will be available at the meeting or refer to the executive meeting 21.6.05 reports page on southwark website -www.southwark.gov.uk/Uploads/File_14578.pdf*)
 - Planning Policy Statement 1 *Delivering Sustainable Development*, (PPS1), including the companion document *The Planning System: General Principles*.
 - Planning Policy Guidance 3 *Housing*, (PPG3).
 - Planning Policy Statement 6, *Planning for Town Centres*, (PPS6)
 - Planning Policy Guidance 13 *Transport*, (PPG13).
- 4.11 PPS1 states that planning authorities should ensure the provision of sufficient, good quality, new homes in suitable locations, whether through new development or the conversion of existing buildings. The aim should be to ensure that everyone has the opportunity of a decent home, in locations that reduce the need to travel. It also advises that local authorities should seek to ensure that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car and advise councils to promote the more efficient use of land through higher density, mixed use development and the use of suitably located previously developed land and buildings.
- 4.12 PPG3 requires that local authorities should give priority to re-using previously-developed land within urban areas, bringing empty homes back into use and converting existing buildings, in preference to the development of greenfield sites.

converting existing buildings, in preference to the development of greenfield sites. They should also avoid housing development which makes inefficient use of land and provide for more intensive housing development in and around existing centres and close to public transport nodes, and introduce greater flexibility in the application of parking standards, which the Government expects to be significantly lower than at present. It goes on to advise that conversions of housing, buildings formerly in other uses and the upper-floor space over shops, can provide an important source of additional housing, particularly in town centres. Therefore, local planning authorities should adopt positive policies to promote such conversions, by taking a more flexible approach to development plan standards with regard to densities, car parking, amenity space and overlooking.

- 4.13 On car parking PPG3 advises that car parking standards for housing have become increasingly demanding and have been applied too rigidly, often as minimum standards. Developers should not be required to provide more car parking than they or potential occupiers might want, nor to provide off-street parking when there is no need, particularly in urban areas where public transport is available or where there is a demand for car-free housing. Parking policies should be framed with good design in mind, recognising that car ownership varies with income, age, household type, and the type of housing and its location. They should not be expressed as minimum standards. It goes on to require that local authorities should revise their parking standards to allow for significantly lower levels of off-street parking provision, particularly for developments in locations, such as town centres, where services are readily accessible by walking, cycling or public transport and those involving the conversion of housing or non-residential buildings where off-street parking is less likely to be successfully designed into the scheme. It also advises that local planning authorities should examine critically the standards they apply to new development, particularly with regard to roads, layouts and car parking.
- 4.14 PPS6 advises that wherever possible, growth should be accommodated by more efficient use of land and buildings within existing centres and that local authorities should aim to increase the density of development, where appropriate. It also counsels that, subject to other planning considerations, residential development should be encouraged as appropriate uses above ground floor level and that diversity of uses in town centres makes an important contribution to their vitality and viability.
- 4.15 PPG13 advises that local authorities should accommodate housing principally within existing urban areas, planning for increased intensity of development for both housing and other uses at locations which are highly accessible by public transport, walking and cycling, and use parking policies, alongside other planning and transport measures, to promote sustainable transport choices and reduce reliance on the car for work and other journeys. It goes on to state that car parking takes up a large amount of space in development is costly to business and reduces densities. Reducing the amount of parking in new development (and in the expansion and change of use in existing development) is essential, as part of a package of planning and transport measures, to promote sustainable travel choices. Crucially it advises that local authorities should ensure that levels of parking provided in association with development will promote sustainable transport choices and that they should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are

significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls. It should be noted that at present there are (for the most part) no parking controls in either Ashbourne Grove or Matham Grove. PPG13 also confirms that policies in development plans should set maximum levels of parking for broad classes of development.

- 4.16 Government advice in *The Planning System: General Principles*, confirms that local planning authorities must determine planning applications in accordance with the statutory development plan, unless material considerations dictate otherwise. Once such consideration is whether the plan policies are relevant and up to date. Moreover, the courts have held that the government's statements of planning policy are material considerations, which must be taken into account in decisions on planning applications, and if planning authorities elect not to follow relevant statements of the government's planning policy they must give clear and convincing reasons. The document also confirms that emerging policies can be regarded as material considerations, as their existence may indicate that a policy is under review and the circumstances behind that review may need to be taken into account.
- 4.17 In Southwark, the statutory development plan comprises the London Plan, 2004, and the Southwark Unitary Development Plan (UDP), adopted in 1995. The UDP is under review and a public inquiry into this emerging plan was undertaken in April-July 2005.
- 4.18 The statutory London Plan contains policy 3A.2 which encourages Borough's to exceed housing targets through the change of use of unneeded employment land to residential or mixed use development and the intensification of housing provision through development at higher densities, particularly where there is good access to public transport. Policy 3C.22 encourages Boroughs to adopt maximum parking standards and parking policies that limit the use of the car, and to allow for reduced car parking provision in areas of good transport accessibility.
- 4.19 The adopted UDP for Southwark contains policy T.6.3 'Parking Space in New Developments', which applies minimum parking standards of one space per dwelling. The development does not comply with this policy as no off-street parking provision has been made in the application. However, given that this policy dates from 1995, the government advice outlined above has effectively overtaken it and it is therefore correct to give it less weight than more relevant and up-to-date policies.
- 4.20 The emerging UDP contains policy 3.10 'Efficient Use of Land', which requires all development to maximise the use of the site, whilst meeting certain criteria. The development complies with this policy as the proposal would not affect the amenities of the neighbouring occupiers, would provide a satisfactory standard of accommodation for future occupiers, complies with policies relating to design, would not compromise any future development of neighbouring sites and is well served by local infrastructure.
- 4.21 Emerging policy 5.6 'Car Parking' seeks to minimise car parking spaces in new development and refers to maximum standards. The proposal complies with this policy as the maxima are not exceeded and the building is located in an area with good transport links.

4.22 Therefore having regard to national planning guidance, the age of the adopted UDP and the heightened relevance of the emerging Southwark Plan, it was considered that in this location, a scheme of the density proposed and without the provision of off street car parking could be supported. Therefore, permission was granted.

Responsibilities for the Enforcement of Planning Conditions.

4.23 This responsibility, as with that for all breaches of planning control rests with the Council's Planning Enforcement Team, which comprises four enforcement officers headed by the Enforcement Manager. However, due to resource constraints, this is essentially a reactive service that investigates matters referred to it by members, local residents, amenity societies and other groups.

4.24 Moreover, when dealing with alleged breaches of planning control, the decisive issue for the Council (as stated in government advice in Planning Policy Guidance 18 *Enforcing Planning Control* (PPG18)) is whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Indeed, PPG18 also advises that enforcement action should always be commensurate with the breach of planning control to which it relates, for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control that causes no harm to amenity in the locality of the site.

4.25 This means that formal enforcement action is not taken against all breaches of planning control. However, where those breaches are significant, and cause harm to land uses or amenity that warrants protection in the public interest then action is appropriate.

4.26 If any Council member or member of the public believes that there is a breach of planning control, including non-compliance with conditions then they should contact the enforcement team on 020 7525 5403 or email planning.enquiries@southwark.gov.uk.

5. COMMUNITY IMPACT STATEMENT

5.1 The decision on the 2004 application has resulted in issues of concern being raised by local residents, particularly in terms of car parking. This report seeks to clarify why that decision was taken in the light of the contemporary policy context.

6. LOCAL AGENDA 21 [Sustainable Development] IMPLICATIONS

6.1 None specific to the subject of this report.

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