

Nunhead and Peckham Rye Community Council Planning

Thursday 19 January 2012

7.00 pm

John Donne Primary School, Woods Road, Peckham, London, SE15 2SW

Membership

Councillor Victoria Mills (Chair)
Councillor Mark Glover (Vice-Chair)
Councillor Sunil Chopra
Councillor Fiona Colley
Councillor Rowenna Davis
Councillor Nick Dolezal
Councillor Gavin Edwards
Councillor Renata Hamvas
Councillor Althea Smith

Members of the committee are summoned to attend this meeting

Annie Shepperd

Chief Executive

Date: Tuesday 10 January 2012



Order of Business

- | Item No. | Title |
|----------|--------------------------|
| 1. | INTRODUCTION AND WELCOME |
| 2. | APOLOGIES |

Item No.

Title

3. DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS

Members are asked to declare any interest or dispensation and the nature of that interest or dispensation which they may have in any of the items under consideration at this meeting.

4. ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT

The chair to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. MINUTES (Pages 5 - 6)

To confirm as a correct record the minutes of the meeting held on 16 November 2011.

6. DEVELOPMENT MANAGEMENT ITEMS (Pages 7 - 11)

6.1. 38-40 CHOUMERT ROAD, LONDON, SE15 4SE (Pages 12 - 30)

**6.2. 38-40 CHOUMERT ROAD, LONDON, LONDON SE15 4SE
(Pages 31 - 45)**

6.3. 124-126 RYE LANE , LONDON, SE15 4RZ (Pages 46 - 59)

Date: Tuesday 10 January 2012

INFORMATION FOR MEMBERS OF THE PUBLIC

CONTACT: Alexa Coates, Principal Constitutional Officer, Tel: 020 7525 7385 or email: alexa.coates@southwark.gov.uk
Website: www.southwark.gov.uk

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Deputations provide the opportunity for a group of people who are resident or working in the borough to make a formal representation of their views at the meeting. Deputations have to be regarding an issue within the direct responsibility of the Council. For further information on deputations, please contact the Constitutional Officer.

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Nunhead & Peckham Rye Community Council

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Haddii aad u baahan tahay macluumaadka ku saabsan Guddiyada Beelaha oo lagu tarjumay luqaddaada fadlan soo wac khadka taleefoonka 020 7525 7420 ama booqasho ugu tag hawladeennada ku sugan 160 Tooley Street, London SE1 2TZ

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Bi o ba nfe àlàyé kíkún l'ori awon Ìgbimò Àwùjò ti a se ayipada si ede abíníbí re , jòwọ tẹ wa l'aago si ori nombá yi i : 020 7525 7420 tabi ki o yo ju si awon òṣiṣé ni ojúlé 160 Tooley Street , London SE1 2TZ .

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Planning at Community Council Meetings

This sheet will tell you about what happens at the meeting when the community council considers a planning application, a planning enforcement case or other planning proposals.

The community council must follow the same rules and procedures as the council's main planning committee.

The items are heard in the order printed on the agenda, but the chair may change the running order of the items.

At the start of each item, the council's planning officer will present the report about the planning application and answer points raised by Members of the committee. After this, the following people may speak on the application if they wish, but **not more than 3 minutes each**:

1. A representative (spokesperson) for the objectors - if there is more than one objector wishing to speak the time is then divided within the 3 minute time slot
2. The applicant or their agent
3. A representative for any supporters who live within 100 metres of the development site
4. A ward councillor from where the proposal is located.

The chair will ask the speakers to come forward to speak. Once the speaker's three minutes have elapsed, members of the committee may ask questions of them, relevant to the roles and functions of the community council.

Members of the committee will then debate the application and consider the recommendation.

Note

If there are several objectors or supporters, they have to identify a representative who will speak on their behalf. If more than one person wishes to speak, the 3 minute time allowance must be shared amongst those who wish to speak. Objectors may wish to meet with other objectors in the foyer of the hall prior to the start of the meeting to appoint a representative.

Speakers should restrict their comments to the planning aspects of the proposal and should avoid repeating what is already on the report.

The arrangements at the meeting may be varied at the discretion of the Chair.



**NUNHEAD AND PECKHAM RYE COMMUNITY
COUNCIL
- Planning -**

MINUTES of the Nunhead and Peckham Rye Community Council held on Wednesday 16 November 2011 at 7.00 pm at John Donne Primary School, Woods Road, Peckham, London SE15 2SW

PRESENT: Councillor Victoria Mills (Chair)
Councillor Mark Glover (Vice-Chair)
Councillor Fiona Colley
Councillor Rowenna Davis
Councillor Gavin Edwards
Councillor Renata Hamvas
Councillor Althea Smith

**OFFICER
SUPPORT:** Andre Verster, Planning Team Leader
Rachel McKoy, Lawyer
Alexa Coates, Principal Constitutional Officer

1. INTRODUCTION AND WELCOME

The chair welcomed members of the public, councillors and officers to the meeting.

2. APOLOGIES

Apologies were received from Councillor Nick Dolezal.

3. DISCLOSURE OF MEMBERS' INTERESTS AND DISPENSATIONS

There were none.

4. ITEMS OF BUSINESS THAT THE CHAIR DEEMS URGENT

The chair gave notice of the following additional papers circulated prior to the meeting.

- Addendum Report relating to item 6 - development management items

5. MINUTES**RESOLVED:**

That the minutes of the meeting held on 4 October 2011 be agreed as a correct record of the meeting and signed by the chair.

6. DEVELOPMENT MANAGEMENT ITEMS**6.1 886 OLD KENT ROAD, LONDON SE15 1NQ****PROPOSAL:**

Two storey building to the rear, for light industrial/storage purposes.

The planning officer presented the report drawing members attention to the addendum which had been circulated. Members asked questions of the planning officer.

There were no objectors present.

The applicant spoke in favour of the application and members asked questions of the applicant.

A supporter who lived within 100 metres of the development spoke in favour of the application.

No members spoke in their capacity as ward councillor.

RESOLVED:

That application 11-AP-0481 be approved subject to conditions 1, 2, 3, 4, 12, 14, 15 and 16 set out in appendix 4 of the report.

Reasons

As the application was consistent with strategic plan policy 10 - safeguarding small and medium sized business and strategic policy 1 – sustainable development.

The meeting ended at 8.02 pm.

CHAIR:

DATED:

Item No. 6.	Classification: Open	Date: 19 January 2012	Meeting Name: Nunhead and Peckham Rye Community Council
Report title:		Development Management	
Ward(s) or groups affected:		All	
From:		Deputy Chief Executive	

RECOMMENDATIONS

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

BACKGROUND INFORMATION

- 4 The council's powers to consider planning business are detailed in Part 3F which describes the role and functions of the planning committee and Part 3H which describes the role and functions of community councils. These were agreed by the annual meeting of the council on 19 May 2010 and amended on 20 October 2010. The matters reserved to the planning committee and community councils exercising planning functions are described in parts 3F and 3H of the Southwark Council constitution. These functions were delegated to the planning committee.

KEY ISSUES FOR CONSIDERATION

5. In respect of the attached planning committee items members are asked, where appropriate -
6. To determine those applications in respect of site(s) within the borough, subject where applicable, to the consent of the Secretary of State for Communities and Local Government and any directions made by the Mayor of London.
7. To give observations on applications in respect of which the council is not the planning authority in planning matters but which relate to site(s) within the borough, or where the site(s) is outside the borough but may affect the amenity of residents within the borough.

8. To receive for information any reports on the previous determination of applications, current activities on site, or other information relating to specific planning applications requested by members.
9. Each of the following items are preceded by a map showing the location of the land/property to which the report relates. Following the report, there is a draft decision notice detailing the officer's recommendation indicating approval or refusal. Where a refusal is recommended the draft decision notice will detail the reasons for such refusal.
10. Applicants have the right to appeal to Planning Inspector against a refusal of planning permission and against any condition imposed as part of permission. Costs are incurred in presenting the Council's case at appeal which may be substantial if the matter is dealt with at a public inquiry.
11. The sanctioning of enforcement action can also involve costs such as process serving, court costs and of legal representation.
12. Where either party is felt to have acted unreasonably in an appeal the inspector can make an award of costs against the offending party.
13. All legal/Counsel fees and costs as well as awards of costs against the council are borne by the regeneration and neighbourhood's budget.

Community impact statement

- 14 Community impact considerations are contained within each item.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

15. A resolution to grant planning permission shall mean that the development & building control manager is authorised to grant planning permission. The resolution does not itself constitute the permission and only the formal document authorised by the committee and issued under the signature of the development & building control manager shall constitute a planning permission. Any additional conditions required by the committee will be recorded in the minutes and the final planning permission issued will reflect the requirements of the planning committee.
16. A resolution to grant planning permission subject to legal agreement shall mean that the development & building control manager is authorised to issue a planning permission subject to the applicant and any other necessary party entering into a written agreement in a form of words prepared by the strategic director of legal and democratic services, and which is satisfactory to the development & building control manager. Developers meet the council's legal costs of such agreements. Such an agreement shall be entered into under section 106 of the Town and Country Planning Act 1990 or under another appropriate enactment as shall be determined by the strategic director of legal & democratic services. The planning permission will not be issued unless such

an agreement is completed.

17. Section 70 of the Town and Country Planning Act 1990 as amended requires the council to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations when dealing with applications for planning permission. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
18. The Southwark Plan is part of the Development Plan along with the Core Strategy and London Plan. Some of the detailed Southwark plan policies were 'saved' in July 2010 with permission from the Secretary of State. Some of these policies have now been superseded by policies in the Aylesbury Area Action Plan and the Core Strategy which was adopted on April 6 2011. The enlarged definition of "development plan" arises from s38(2) of the Planning and Compulsory Purchase Act 2004. Where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).
19. Government policy on planning obligations is contained in the Office of the Deputy Prime Minister Circular 05/2005. Provisions of legal agreements must fairly and reasonably relate to the provisions of the development plan and to planning considerations affecting the land. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties can properly impose, i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests. From 6 April 2010 the Community Infrastructure Levy regulations (CIL) have given these policy tests legal force.

Regulation 122 provides that "a planning obligation may only constitute a reason for granting planning permission if the obligation is:

- a. necessary to make to the development acceptable in planning terms;
- b. directly related to the development; and
- c. fairly and reasonably related to the scale and kind to the development."

20. Government policy on planning obligations is contained in the Office of the Deputy Prime Minister Circular 05/2005. Provisions of legal agreements must fairly and reasonably relate to the provisions of the development plan and to planning considerations affecting the land. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties can properly impose, i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council Assembly Agenda June 27 2007 and Council Assembly Agenda January 30 2008	Constitutional Team Communities, Law & Governance 2 nd Floor 160 Tooley Street PO Box 64529 London SE1 5LX	Kenny Uzodike 020 7525 7236
Each planning committee item has a separate planning case file	Council Offices, 5th Floor 160 Tooley Street, London SE1 2TZ	The named case Officer as listed or Gary Rice 020 7525 5437

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Nagla Stevens, Principal Planning Lawyer Kenny Uzodike, Constitutional Officer	
Version	Final	
Dated	25 October 2010	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Deputy Chief Executive	No	No
Head of Development Management	No	No

ITEMS ON AGENDA OF THE NUNHEAD AND PECKHAM RYE CC
on Thursday 19 January 2012

Appl. Type Full Planning Permission
Site 38-40 CHOUMERT ROAD, LONDON, SE15 4SE

Reg. No. 10-AP-2803
TP No. TP/2715-38
Ward The Lane
Officer Andre Verster

Recommendation GRANT PERMISSION

Proposal

Retention of Class A3 Use (restaurant) on the ground floor, installation of an extractor flue to the rear elevation and refuse storage facilities to the forecourt.

Item 6.1

Appl. Type Full Planning Permission
Site 38-40 CHOUMERT ROAD, LONDON, SE15 4SE

Reg. No. 11-AP-3581
TP No. TP/2715-38
Ward The Lane
Officer Andre Verster

Recommendation GRANT PERMISSION

Proposal

Retention of bathroom extract ducting on rear elevation.

Item 6.2

Appl. Type Full Planning Permission
Site 124-126 RYE LANE, LONDON, SE15 4RZ

Reg. No. 11-AP-2575
TP No. TP/2732-124
Ward The Lane
Officer Tom Buttrick

Recommendation GRANT PERMISSION

Proposal

Single storey rear extension with alterations, to provide garage/store for commercial unit (A1 Use Class). (Retrospective application with alterations).

Item 6.3

Item No. 6.1	Classification: OPEN	Meeting date: 19 January 2012	Meeting Name: Nunhead and Peckham Rye Community Council
Report title:	Development Management planning application: Application 10-AP-2803 for: Full Planning Permission Address: 38-40 CHOUMERT ROAD, LONDON, SE15 4SE Proposal: Retention of Class A3 Use (restaurant) on the ground floor, installation of an extractor flue to the rear elevation and refuse storage facilities to the forecourt.		
Ward(s) or groups affected:	The Lane		
From:	Head of Development Management		
Application Start Date 28 January 2011		Application Expiry Date 25 March 2011	

RECOMMENDATION

- 1 Grant planning permission.

BACKGROUND INFORMATION

- 2 The application is being reported to this committee due to 14 objections received.

Site location and description

- 3 The site comprises the ground floor of a mid terrace three storey storey property located on the north side of Choumert Road. The upper floors are in residential use and the site is within the Rye Lane Peckham Conservation Area.

Details of proposal

- 4 The application involves the retention of a restaurant (UseClass A3) on the ground floor and the installation of an extractor flue to the rear elevation to serve the kitchen.

The proposed opening hours are 7.30am to 11.30pm Monday to Saturday and 10am to 11pm on Sunday and Bank Holidays.

The silver metal extractor flue would be 0.4m wide and its highest point would be 0.3m above the eaves.

The application also seeks permission to regularise the current refuse storage arrangements to the forecourt by the provision of a large external commercial refuse bin.

- 5 It is also proposed to remove a redundant extractor fan comprising a small box from the roof of the single storey rear extension of the building.

Planning history

- 6 Planning permission was granted in August 1993 for the change of use of the west side of 38-40 Choumert Road from retail (Use Class A1) to restaurant (Use Class A3). Prior to that permission being granted, Nos. 38 and 40 were used as a fishmongers (Use Class A1). No. 38 continued to be used as a fishmonger and the approved change of use allowed the operation of a take-away fish bar from the western half / No. 40 of 38-40 Choumert Road.

In December 1999, planning permission was granted for the change of use of 38-40 Choumert Road to a residential dwelling. This permission was never implemented.

The restaurant use (Use Class A3) eventually expanded into the second eastern side of the unit, albeit without the benefit of planning permission, incorporating the two units.

02-AP-0677: An application for the retention of the restaurant use (Use Class A3) – change of use from A1 - was submitted in April 2002. The application was granted planning permission under delegated powers on 17 September 2002. Condition 1 attached states:

' The use hereby permitted shall not continue beyond 30/01/03 unless full particulars and details of a scheme for the ventilation of the premises to an appropriate outlet level, including details of sound attenuation for any necessary plant and the standard of dilution expected, has been submitted to and approved by the Local Planning Authority and the development shall from then on not be carried out otherwise than in accordance with any approval given'

Following complaints from residents in August 2004, and subsequent site inspections and complaints regarding cooking smells, it was clear that an unauthorised ventilation system was installed in 2004 without permission, and continued to be a source of complaint with regard to cooking smells dispersed in close proximity to residential dwellings.

05/AP/0477: In May 2005 an application for the installation of an extractor flue on rear elevation of building to roof level; elevational alterations to the front of the building to form new ground floor entrance door was withdrawn. The local authority advised that the proposal description was inaccurate and that the applicant should be seeking to retain the restaurant use (Use Class A3) as the 2002 permission was not implemented before 30/01/2003 as conditions were not discharged. The application should also include, in addition to the ventilation duct as stated in the submitted application, details of the ventilation duct extract system.

05/AP/1115: In February 2009 an application for retention of Class A3 use (food and drink) and installation of extractor flue to rear of building was refused for the following reason:

The details submitted for the proposed extractor system are insufficient, the system as proposed is therefore likely to be detrimental to residential amenity in terms of noise and smell nuisance and is therefore contrary to policy 3.2 Protection of Amenity, of the Southwark Plan 2007.

09/AP/1981: In August 2010 an application for change of use from retail (Use Class A1) to restaurant (Use Class A3) and erection of flue to rear of building was withdrawn as items of information requested were not provided by the applicant.

10/AP/0452: In June 2010 an application for approval of details of a scheme for the ventilation of the premises pursuant to condition 1 of planning permission dated 17.09.2002 (LBS Reg No:02-AP-0677) for retention of Class A3 restaurant use on ground floor was withdrawn.

The withdrawn application sought to discharge the ventilation equipment condition (1 of the 2002 appeal approval in relation to application 02-AP-0677). However, as the applicant failed to discharge the above condition in time, before 31/03/2003, the restaurant (Use Class A3) is unauthorised. A full application for a change of use from Use Class A1 to A3 is thus required.

11-AP-3581: An application for the retention of an extractor duct to the rear elevation, serving the ground floor WC, is currently pending.

Planning history of adjoining sites

- 7 None relevant.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 8 The main issues to be considered in respect of this application are:
- a) The principle of an A3 restaurant in this location;
 - b) the impact an amenity of neighbouring properties, specifically in terms of noise and odour;
 - c) the provision of adequate refuse storage facilities;
 - d) the impact on the appearance and character of the conservation area and the streetscene;
 - d) the impact on highway and pedestrian safety issues.

Planning policy

Saved Southwark Plan 2007 (July) policies

- 9
- 1.7 Development within town and local centres
 - 3.2 Protection of amenity
 - 3.6 Air quality
 - 3.7 Waste reduction
 - 3.11 Efficient use of land
 - 3.12 Quality in design
 - 3.13 Urban design
 - 3.15 Conservation of the historic environment
 - 3.16 Conservation areas
 - 3.18 Setting of listed buildings, conservation areas and world heritage sites
 - 5.2 Transport impacts
 - 5.3 Walking and cycling

Core Strategy

- 10 3 – Shopping, leisure and entertainment

- 10 – Jobs and businesses
- 12 – Design and conservation
- 13 – High environmental standards

Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

- 11 PPS 5: Planning for the Historic Environment
- 12 Draft National Planning Policy Framework (NPPF)
- 13 Planning for Growth

Principle of development

- 14 The draft National Planning Policy Framework (NPPF) was published at the end of July 2011 for consultation until 17 October 2011. The Government has set out its commitment to a planning system that does everything it can do to support sustainable economic growth. Local planning authorities are expected to plan positively for new development. All plans should be based on the presumption in favour of sustainable development and contain clear policies that will guide how the presumption will be applied locally.
- 15 The NPPF builds upon the Government's 'Plan for Growth' which was published in March 2011. The overall theme of this document is to support long term sustainable economic growth and job creation in the UK. This is set out as a clear and current Government objective (and accordingly should attract significant weight).
- 16 Strategic Policy 3 Shopping, leisure and entertainment of the Core Strategy 2011 aims to protect and enhance the town centres by ensuring that the scale of new development is appropriate to their role and character, that a balance of different uses, including shops, bars, restaurants and cafes is maintained, and that the provision of markets is supported. Although this policy states that small scale retail facilities ('A' class uses) would be protected outside town and local centres to help meet day-to-day needs, there is no protection per se afforded to A class uses within a town centre.
- 17 Peckham currently has a diverse range of shops and services, but with an emphasis on convenience shopping (i.e. day to day requirements). There is scope to improve the comparison goods shopping function of the town centre.
- 18 In the context of the above policy there is no indication that the provision of a restaurant in this part of the town centre should be resisted.
- 19 Criteria xiv of Saved Policy 7.1 Peckham Action Area aims to establish stronger pedestrian and public realm links between Rye Lane and the Bellenden Road shopping area, including extending the focus on public art and realising the potential of Choumert Market.
- 20 Objectors raised the issue of why this property should still be being considered for an A3 classification given that planning applications for A3 classification has already been refused on more than one occasion. Application 05/AP/1115, for retention of Class A3 use (food and drink) and installation of extractor flue to rear of building, was refused in February 2009 only due to insufficient details for the proposed extractor system. It was concluded that the extract duct was harmful to the amenity of occupiers of the residential premises to the rear of the application site by reason of disturbance from noise and smells. The officer report of application 05/AP/1115 states that 'the retention of the restaurant use in itself raises no specific policy issues given the Council's decision to grant planning permission for the said use in August 1993 and subsequently in December 1999.'

- 21 However, the Southwark Unitary Development Plan 1995 has since been superseded and the change of use from Use Class A1 to A3 will now be assessed in terms of the relevant saved policies of the Southwark Plan 2007 and the Core Strategy 2011.
- 22 The principle of a change of use from Use Class A1 to Use Class A3 would be acceptable as it would meet the requirements of Saved Policy 1.7 Development within town and local centres of the Southwark Plan 2007, as assessed in full below.
- 23 Saved Policy 1.7 'Development within town and local centres' of the Southwark Plan 2007 states that most new developments for retail and other town centre uses should be accommodated within the existing town centres and local centres. The site is located within Peckham Major Town Centre.
- 24 Within the Peckham Major Town Centre developments providing a range of uses would be permitted, including retail and services, leisure, entertainment and community, civic, cultural and tourism, residential and employment (Class B1) uses, where the following criteria are met:
- 25 i. The scale and nature of the proposal is appropriate to the character and function of the centre and the catchment area it seeks to serve; and
- 26 The scale of the proposed development is acceptable as the floorspace of the proposed restaurant (Use Class A3) is at 75.2 sqm only a fraction of the total floorspace of commercial units within the Peckham Major Town Centre. The existing retail floorspace within the town centre is 75,000 sqm. The use of the premises as a restaurant is appropriate to the character and function of the centre and the catchment area it seeks to serve.
- 27 ii. The proposal will not harm the vitality and viability of the centre;
and
The use of the site as a restaurant would contribute to the vitality of the town centre as it is considered that it would contribute to the long term growth of the centre.
- 28 A mix of uses is provided where appropriate; and
- 29 There are a number of commercial premises along this part of Choumert Road and it is considered that the mix of uses provided is appropriate in this part of the town centre. To the east of the site there are a large number of commercial units located within the Protected Shopping Frontages along Rye Lane. The mix of uses in protected shopping frontages are closely monitored and controlled by saved policy 1.9 Protected Shopping Frontages of the Southwark Plan 2007 to ensure that not less than 50% of units are in use as retail units (Use Class A1).
- 30 iv. Any floorspace currently in A Class use should be retained or replaced, unless the proposed use provides a direct service to the general public and the proposal would not harm the retail vitality and viability of the centre; and
- 31 Restaurants (Use Class A3) provide a direct service to the public and in this case the proposed opening hours would ensure a service to the public for long periods from 7.30am to 11.30pm Monday to Saturday and 10am to 11pm on Sunday and Bank Holidays. As set out in criteria (ii) above it is considered that the proposed development would not harm the retail vitality and viability of the centre.
- 32 v. The proposal would not materially harm the amenities of surrounding occupiers;
- 33 Officers conclude that the amenity of surrounding occupiers would not be harmed. This aspect of the proposal is discussed in detail in the amenity section of this report.

- 34 vi. Where developments which are likely to attract a lot of people are proposed, the site should be highly accessible by sustainable modes of transport; and
- 35 In terms of the number of people visiting the site the following terms are relevant. "Covers" are how many dinners are served. Imagine the cover being lifted off a dinner plate. A "top" is the number of people that can sit at a table. A "four-top" is a table for four. In this case 10 four-top tables are proposed.
- 36 If all the tables are filled for a single seating at dinner, the restaurant could do 40 covers. In this case a 40-seat restaurant is proposed, meaning that if the restaurant does one serving in the afternoon and two "turns" in a night, for example, it would be a 120 cover restaurant.
- 37 The above predicted number of customers would be average for a restaurant of this size. Given the high Public Transport Accessibility Level (PTAL) of 5/6a of the site and parking restrictions along nearby streets, within a Controlled Parking Zone (CPZ), it is concluded that it is likely that customers would travel to the site by means of sustainable transport. The applicant has not provided information with regard to the catchment area of the restaurant, but given its modest size it is not considered that the site would be detrimental to the aim of the Council to promote sustainable travel in the borough.
- 38 vii. The road network has sufficient capacity to take any additional servicing traffic generated by the proposal without causing adverse effects on the environment, traffic circulation, or air quality; and
- 39 The restaurant has been operating since at least 2004 and it appears that the development has not been detrimental to the environment, traffic circulation or air quality (associated with vehicle movement) of the area.
- 40 viii. The development addresses the street, provides an active frontage on pedestrian routes and would not erode the visual continuity of a shopping frontage; and
- 41 The existing facade would not be altered and would thus continue to provide an active frontage and would not erode the visual continuity of this part of Choumert Road.
- 42 ix. The proposal provides amenities for users of the site such as public toilets, where appropriate.
- 43 Two WC's are provided on the ground floor. It is likely that these facilities would be restricted to customers only, which is acceptable in this case.

To conclude, there are no land use objections to the use of the premises for Class A3 restaurant purposes and this would accord with the relevant Council policies.

Environmental impact assessment

- 44 Not required in this case due to the limited scale of the proposed works.

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

- 45 Saved Policy 3.2 Protection of amenity of the Southwark Plan 2007 states that planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise, to present and future occupiers in the

surrounding area or on the application site. The reasoning is to protect the amenity of an area and the quality of life for people living, or working in, or visiting the borough.

- 46 Strategic Policy 3 Shopping, leisure and entertainment of the Core Strategy 2011 states that restaurants, bars and cafes add to the vitality and life of town centres but can also have negative impacts on the community such as noise until late at night. .
- 47 Residents of neighbouring properties raised concerns regarding smell / odour due to alleged unauthorised cooking at the premises. The applicant provided an explanation regarding cooking methods as part of the Design & Access statement.
- 48 The current application was submitted to regularise the cooking of food on site in the future and to regularise the unauthorised change of use from Use Class A1 to A3 (restaurant). It is considered that the new ventilation system and duct would disperse at an adequate height above the roof of the three storey building on the application site to overcome any odour problem experienced in the past by neighbouring properties.
- 49 Neighbours along Choumert Square however remain concerned that the odour issue would not be addressed by the installation of a high level duct due to the prevailing south-west wind. Although Choumert Square is located downwind from the site officers are satisfied that the proposed ventilation system would prevent any odour problem. The Environmental Protection Team advised that the proposed ventilation system should ensure sufficient dispersion, provided the ventilation system is properly maintained.
- 50 Choumert Square residents raised concerns that the proposed duct would be detrimental to the view and visual amenity from the rear of these properties. The properties along the south side of Choumert Square at the rear of the site have no rear gardens or open spaces, but have single storey rear extensions back-to-back with buildings along Choumert Road.
- 51 The application site and adjacent properties along the south side of Choumert Road are three storey buildings whilst the terrace along the south side of Choumert Square comprise two storey dwellings. Nos. 41 and 42 Choumert Square are located directly to the north of the site and it is considered that these properties would be most affected in term of visual amenity. It is considered that the scale and design of the extract duct, although to be installed in a confined space, are acceptable, and would not be detrimental to the visual amenity of neighbouring properties.
- 52 It is acknowledged that there is limited separation between the first floor windows serving either bathrooms or bedrooms and the first and second floor rear elevation of 38-40 Choumert Road.
- 53 Given the limited views and use of the rooms on the first floor rear elevations of Choumert Road dwellings, it is considered that the proposal would not be overly visually intrusive and visual harm would not substantiate a reason for refusal. Furthermore, the principle living areas of Choumert Square dwellings are on the ground floor and views from these windows would be to the north and would be unaffected by the proposed extract duct. Similary views to the south from these living rooms would not be affected as these properties back onto the rear walls of properties along Choumert Road.
- 54 Saved policy 3.6 Air quality of the Southwark Plan 2007 states that planning permission will not be granted for development that would lead to a reduction in air quality. The reasoning is that the Air Quality Management Area (AQMA) identifies where in Southwark levels of air quality are below national standards. The LPA has a

responsibility to reduce activities which cause air pollution in order to contribute to achieving national air quality objectives. Southwark's Air Quality Strategy and Improvement Plan contains policies and measures to improve the air quality in Southwark including measures that address the emissions from industry, construction, domestic properties and traffic. The strategy also promotes modal shifts towards public transport and low and zero emission vehicles and raises awareness of air quality issues. It identifies planning policies to be a key action in improving local air quality through influencing developments to consider air quality impacts.

- 55 It is considered that the proposed extract duct and ventilation system would improve the current air quality in the immediate vicinity as the current premises releases unpleasant odours to the detriment of nearby occupiers. It is reiterated that the Environmental Protection Team advised that the proposed ventilation system should ensure sufficient dispersion and this would prevent any odour problem in the future.
- 56 With respect to the opening hours, these are considered appropriate for a town centre location. The latest closing time would be 11.30pm. This is not so late as to lead to noise and disturbance at a time that would otherwise be much quieter. A condition is recommended.

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

- 57 The adjoining properties along the street frontage are commercial and Choumert Square residential properties are located to the rear. It is considered that these uses would not be detrimental to the occupiers and users of the application site.

Traffic issues

- 58 Given the modest size of the premises it is unlikely that the change of use to a restaurant would have an adverse impact on transport networks. The restaurant has been in operation since at least 2004 and there is no evidence to indicate that it has led to a significant increase in traffic in the immediate vicinity. Likewise, it appears that the current servicing and refuse collection is satisfactory. The dimensions of the proposed refuse bin shown on the submitted plans does not correspond with what is currently in place on site. As the applicant indicated that they would continue to use the refuse bin currently in use approval is recommended subject to an appropriate condition in this regard.
- 59 Saved policy 5.3 Walking and cycling of the Southwark Plan states that planning permission will be granted for A Use Class development provided there is provision of convenient, secure and weatherproof cycle parking to the minimum cycle parking standards. There is a requirement to provide a minimum of 2 cycle parking spaces for any development. In this case the site area at 74 sqm is well below the threshold to provide 1 space per 250 sqm. Officers accept that due to the limited space available and site layout restrictions to the forecourt it is not possible to provide any on site cycle parking.

Design issues

- 60 Objectors are concerned that the proposed extraction ducting would be visible from the rear of properties along Choumert Square and that this would be detrimental to visual amenity.
- 61 Officers consider that the proposed extract duct to the rear elevation would be in accordance with Saved Policy 3.13 Urban Design of the Southwark Plan 2007 as it would relate to the townscape, local context and character of the area. It is common

that town centres have restaurants and premises operating within Use Class A3 and these generally require extractor ducts similar to that proposed here in order to cook food on the premises and to disperse odour at high level. The duct would not be visible from a public space. In this respect it is considered that the proposed extract duct would be of an acceptable quality and design and would not detract from the character of the area.

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

- 62 In conservation areas extractor ducts should ideally be integral to the building, for example the use of existing chimneys to disperse of odours to a high level is encouraged. In this case the applicant advised that due to site restrictions and the unique relationship between the rear wall of the site and the rear walls of dwellings along Choumert Grove it would be difficult to implement the preferred design solution referred to above.
- 63 There are limited views from the first floor rear windows of dwellings along Choumert Square and due to the enclosed nature of the site the proposed duct would not be visible from a public vantage point. For these reasons it is concluded that the duct would not detract from the special interest or historic character or appearance of buildings within the Holly Grove conservation area.
- 64 The proposal does not include any other external alterations and would therefore not have an adverse effect on the historic environment.
- 65 External alterations are limited to the rear elevation of the three storey building on the site. Given its proximity and orientation in relation to the grade II listed buildings, the Girdlers Almshouse, to the west it is considered that the proposal would have no impact on the immediate or wider setting of these listed buildings.

Impact on trees

- 66 None identified.

Planning obligations (S.106 undertaking or agreement)

- 67 None identified.

Sustainable development implications

- 68 None identified.

Other matters

- 69 Refuse storage:
Condition 2 of planning permission granted in September 2002 (application reference number 02000677) for the retention of Class A3 restaurant on the ground floor, states that:

The use hereby permitted shall not be continued beyond 30/01/2003 unless details of the arrangements for the storing of refuse or waste have been submitted to and approved by the Local Planning Authority and the development shall not be continued otherwise than in accordance with any approval given.

The above condition was never discharged therefore the use of the site as a restaurant (Use Class A3) is unauthorised.

- 70 The current application proposes to continue to use the existing refuse storage facility in the form of a large commercial bin on the forecourt. It is understood that the bin is emptied three times per week by a contractor, Veola, on behalf of the Council. The applicant states that Veola requires that all commercial premises within the Peckham Market area store their commercial waste in a commercial bin outside their premises for collection.

Saved policy 3.7 Waste reduction of the Southwark Plan 2007 states that all developments are required to ensure adequate provision of recycling, composting and residual waste disposal, collection and storage facilities. The design of waste and recycling facilities must be easily and safely accessible, improving local amenity.

The aim of this policy is to reduce the amount of waste going to landfill and incineration. Better design of buildings to incorporate appropriate waste management facilities can assist with the sustainable management of rubbish produced in Southwark contributing to meeting the objectives of the council's waste management strategy and regional and national targets for waste management.

In this case the options are limited given a change of use is proposed. The local planning authority advised the applicant that it would be preferable to store commercial waste in smaller bins inside the premises and to take the bins out on collection days. This would provide the ability to segregate commercial waste and recyclable material.

However, given the current arrangements with Veola it is not possible in this case to improve the current refuse storage arrangement on the site.

Conclusion on planning issues

- 71 There are no objections to the principle of change of use to a restaurant (Use Class A3) and the new ventilation system and duct would disperse at an adequate height to overcome any odour problem experienced in the past by neighbouring properties. The design and location of the proposed duct is acceptable and it would not detract from the special interest or historic character or appearance of buildings within the Holly Grove conservation area.

Community impact statement

- 72 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.
- 73 a) The impact on local people is set out above.
- 74 b) The following issues relevant to particular communities/groups likely to be affected by the proposal have been identified as: none.
- 75 c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above. Specific actions to ameliorate these implications are: none.

Consultations

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

Consultation replies

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

Summary of consultation responses

78 Fourteen letters of objection have been received.

Environmental Protection Team:
No objection.

Human rights implications

79 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.

80 This application has the legitimate aim of providing a restaurant at this location and installing an associated extract duct. 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

81 None.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2715-38 Application file: 10-AP-2803 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5457 Council website: www.southwark.gov.uk

APPENDICES

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

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Andre Verster, Team Leader Team East	
Version	Final	
Dated	29 December 2011	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	No
Strategic Director of Regeneration and Neighbourhoods	No	No
Strategic Director of Environment and Housing	No	No
Date final report sent to Constitutional Team		9 January 2012

Consultation undertaken

- 84 **Site notice date:** 08/02/2011
- 85 **Press notice date:** 10/02/2011
- 86 **Case officer site visit date:** 08/02/2011
- 97 **Neighbour consultation letters sent:** 10/03/2011

Internal services consulted:

- 88 Environmental Protection Team

Statutory and non-statutory organisations consulted:

- 89 None

Neighbours and local groups consulted:

- 90 See appendix 3.

Re-consultation:

Na

Consultation responses received

Internal services

- 91 Environmental Protection Team:
No objection to the application providing the installation of the ventilation is installed as recommended in the acoustic report by Acoustics Plus 101613b.ad.06.10.issue1.
- 92 The new ventilation system is at a high level and dispersion should occur, so providing the ventilation is properly maintained, then the system should not cause an odour problem.
- 93 Transport Team:
No comments received.

Statutory and non-statutory organisations

None.

Neighbours and local groups

- 94 Fourteen letters of objection have been received raising the following concerns:

8 Choumert Square:

Why should this property still be being considered for an A3 classification? The issue of extraction only comes in to play should Southwark, against the objections of residents, give consent for A3 classification which has already been refused on more than one occasion.

The extraction ducting would be visible from the rear of properties along Choumert Square - this is inappropriate for a conservation area and would be detrimental to the view from these properties.

Nuisance from noise and fumes.

10 Choumert Square:

The issue of extraction only comes into play should Southwark, against the objections of residents of Choumert Square, give consent for A3 classification.

The rear of the property is currently in such poor condition that it is not sealed due to gaps around piping and inadequate pointing, so extraction would not be effective. Substantial repairs need to be made to the property to ensure extraction is effective and this would need to be enforced by the Council.

The extraction would not be acceptable both on grounds of noise levels and the issue of (continued) smells to those living behind in Choumert Square.

The close proximity to the properties in Choumert Square would make A3 classification inappropriate. The previous application for A3 was refused in 2005.

Industrial fittings (large extraction ducting) would be visible from the rear of the properties on the south side of Choumert Square - this is inappropriate for a conservation area.

14 Choumert Square:

The proposed rear elevation extraction flue was deemed to be unauthorised in December 2009.

The use of the premises as a Class A3 restaurant is in non-compliance with condition 1 of planning permission reference 0200677 granted on 17 September 2002. The premises were granted A1 retail shop use.

The Inspector's decision of 14 December 2009 should be upheld.

21 Choumert Square:

Objection to the proposed location of an extraction flue with the attendant noise and smells that will follow to the detriment of Choumert Square residences.

Refer to the case history and the experience of residents between July and September 2008 when an unauthorised extractor fan was installed and the tranquility of this Conservation Area and abutting residents' homes was shattered by a high pitched motor 24 hours a day.

35 Choumert Square:

Objectors understanding from previous applications is that change of use to A3 was refused because of the extreme proximity to private houses.

The owners have had their application for A3 status turned down once already and have been warned not to cook on site.

39 Choumert Square (2 letters):

Noise created by customers, particularly late at night. This includes: Loud conversations as people come and go and gather outside; slamming of car doors; and motors starting up.

The operation of the extractor and flue up to and possibly beyond 10.30 in the evening would disturb the sleep of neighbouring properties.

Pressure put on residents' parking places, which are taken by restaurant customers in the evenings and weekends.

40 Choumert Square:

There seems to be a large extractor fan now in position at the rear of the site. Is this particular planning application seeking permission retrospectively?

Concerns regarding potential of noise disturbance from plant noise.

Vibrations and noise from the proposed extractor could loosen already dangerously damaged and potentially unstable tall Victorian chimneys on the premises' roof.

41 Choumert Square:

No new issues raised (see above).

42 Choumert Square:

The crux of the problem is the finding of a solution to the extraction of the noxious odours from the cooking with the flue which is not unacceptably noisy and does not direct the output directly into the house at the rear (Choumert Square).

43 Choumert Square:

No new issues raised.

44 Choumert Square:
No new issues raised.

45 Choumert Square:
No new issues raised.

42 Choumert Road:
No new issues raised.

Appendix 3

38 CHOUMERT ROAD LONDON SE15 4SE
 40 CHOUMERT ROAD LONDON SE15 4SE
 40 Choumert Square London email SE15
 42 CHOUMERT ROAD LONDON SE15 4SE
 36 CHOUMERT ROAD LONDON SE15 4SE
 30 CHOUMERT ROAD LONDON SE15 4SE
 32 CHOUMERT ROAD LONDON SE15 4SE
 34 CHOUMERT ROAD LONDON SE15 4SE
 46 CHOUMERT ROAD LONDON SE15 4SE
 42B CHOUMERT ROAD LONDON SE15 4SE
 FIRST FLOOR AND SECOND FLOOR FLAT 32 CHOUMERT ROAD LONDON SE15 4SE
 FIRST FLOOR AND SECOND FLOOR FLAT 38-40 CHOUMERT ROAD LONDON SE15 4SE
 44 CHOUMERT ROAD LONDON SE15 4SE
 THOMAS CALTON COMMUNITY EDUCATION CENTRE ALPHA STREET LONDON SE15 4NX
 CHOUMERT HOUSE THOMAS CARLTON SECONDARY SCHOOL ALPHA STREET LONDON SE15 4NX
 36 CHOUMERT SQUARE LONDON SE15 4RE
 37 CHOUMERT SQUARE LONDON SE15 4RE
 38 CHOUMERT SQUARE LONDON SE15 4RE
 7C CHOUMERT ROAD LONDON SE15 4SE
 FLAT A 34-36 CHOUMERT ROAD LONDON SE15 4SE
 40A CHOUMERT ROAD LONDON SE15 4AX
 FIRST FLOOR AND SECOND FLOOR FLAT 30 CHOUMERT ROAD LONDON SE15 4SE
 39 CHOUMERT SQUARE LONDON SE15 4RE
 44 CHOUMERT SQUARE LONDON SE15 4RE
 45 CHOUMERT SQUARE LONDON SE15 4RE
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 43 CHOUMERT SQUARE LONDON SE15 4RE
 40 CHOUMERT SQUARE LONDON SE15 4RE
 41 CHOUMERT SQUARE LONDON SE15 4RE
 42 CHOUMERT SQUARE LONDON SE15 4RE
 10 Choumert Sq London SE15 4RE
 35 Choumert Square SE15 4RE
 21 Choumert Square Peckham Rye London SE15 4RE
 14 Choumert Square London SE15 4RE
 8 Choumert Square London SE15 4RE
 39 Choumert Square London SE15 4RE

RECOMMENDATION

This document shows the case officer's recommended decision for the application referred to below.
This document is not a decision notice for this application.

Applicant	Mrs. H Sanni	Reg. Number	10-AP-2803
Application Type	Full Planning Permission	Case Number	TP/2715-38
Recommendation	Grant permission		

Draft of Decision Notice

Planning Permission was GRANTED for the following development:

Retention of Class A3 Use (restaurant) on the ground floor, installation of an extractor flue to the rear elevation and refuse storage facilities to the forecourt.

At: 38-40 CHOUMERT ROAD, LONDON, SE15 4SE

In accordance with application received on 27/09/2010 08:01:46

and Applicant's Drawing Nos. Site location plan; 0910-005; PR/NRL/03rev1; Existing rear elevation page 1 of 2, Proposed rear elevation page 2 of 2, Section view page 3 of 3; Design and Access Statement; Environmental Noise Assessment.

Reasons for granting permission.

This planning application was considered with regard to various policies including, but not exclusively:

a] Policies 1.7 Development within town and local centres seeks to ensure that most new development for retail and other town centre uses are accommodated within existing town and local centres. Within the centres, developments providing a range of uses will be permitted providing a defined set of criteria is met, 3.2 Protection of amenity advises that permission will not be granted where it would cause a loss of amenity, 3.6 Air quality advises that permission will not be granted for development that would lead to a reduction in air quality, 3.11 Efficient use of land seeks to ensure that developments make an efficient use of land as a key requirement of the sustainable use of land, whilst protecting amenity, responding positively to context, avoids compromising development potential of adjoining sites, making adequate provision for access, circulation and servicing, and matching development to availability of infrastructure, 3.12 Quality in design requires new development to achieve a high quality of architectural and urban design, 3.13 Urban design advises that principles of good design must be taken into account in all developments, 3.15 Conservation of the historic environment requires development to preserve or enhance the special interest or historic character or appearance of buildings or areas of historical or architectural significance, 3.16 Conservation areas states that there will be a general presumption in favour of retaining buildings that contribute positively to the character and appearance of the conservation area and notes that consent will be granted for schemes in conservation areas provided that they meet specified criteria in relation to conservation area appraisals and other guidance, design and materials, 3.18 Setting of listed buildings, conservation areas and world heritage sites advises that permission will not be granted for developments that would not preserve or enhance the immediate views and/or wider settings of a listed building, conservation area or world heritage site, 5.2 Transport impacts states that permission will not be granted for development which has an adverse impact on transport networks through significant increases in traffic or pollution and consideration has been given to impacts on the Transport for London road network as well as adequate provision for servicing, circulation and access to and from the site, 5.3 Walking and cycling seeks to ensure that there is adequate provision for cyclists and pedestrians within developments, and where practicable the surrounding area of the Southwark Plan [July 2007].

b] Strategic Policies 3 Shopping, leisure and entertainment which defines a hierarchy of town and local centres which reflect their sizes and roles, 10 Jobs and businesses which seeks to protect business floorspace and supports the provision of additional floorspace in defined locations in the borough, 12 Design and conservation which requires the highest possible standards of design for buildings and public spaces, 13 High environmental standards which requires developments to meet the highest possible environmental standards of the Core Strategy 2011.

c] Planning Policy Statements [PPS] 5: Planning for the Historic Environment.

Particular regard was had to the impact on amenity of neighbouring residential properties and the impact on visual amenities but any harm arising was insufficient to justify refusing permission. The development would preserve the character of the conservation area. It was therefore considered appropriate to grant planning permission having regard to the policies considered and other material planning considerations.

Subject to the following condition:

- 1 The development hereby permitted shall be completed before the end of 6 months from the date of the permission.

Reason

As allowed and required under Section 91 of the Town and Country Planning Act 1990, the standard 3 year period being inappropriate in this case because of the extensive enforcement history and in the interest of the amenity of neighbouring residential properties. This would be in accordance with saved policy 3.2 Protection of Amenity of the Southwark Plan 2007 and Strategic Policy 13 High Environmental Standards of the Core Strategy.

- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:

0910-005; PR/NRL/03rev1; Proposed rear elevation page 2 of 2, Section view page 3 of 3.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding drawing number 'pages 2 of 2' hereby approved the redundant low level fan shall be removed 3 months after this decision.

Reason:

In order to ensure that the low level fan is not used and to prevent odour, fume or noise nuisance therefrom in the interests of amenity of neighbouring properties in accordance with Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007, Strategic Policy 13 High Environmental Standards of the Core Strategy 2011 and Planning Policy Guidance 24 Planning and Noise.

- 4 The use hereby permitted for a restaurant (Use Class A3) shall not be carried on outside of the hours 7.30am to 11.30pm on Monday to Saturday or 10am to 11pm on Sunday and Bank Holidays.

Reason:

To safeguard the amenities of neighbouring residential properties in accordance with Strategic Policy 13 – High environmental standards of The Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007.

- 5 Before the installation of the flue hereby permitted and notwithstanding drawing PR NRL 03 rev 1 hereby approved details of the arrangements for the storing of commercial refuse shall be submitted to and approved in writing by the Local Planning Authority and the facilities approved shall be provided and made available for use by the occupiers of the commercial unit and the facilities shall thereafter be retained and shall not be used or the space used for any other purpose.

Reason

To ensure that suitable facilities for the storage of refuse will be provided and retained in the interest of protecting the amenity of the site and the area in general from litter, odour and potential vermin/pest nuisance in accordance with Saved Policies 3.2 Protection of Amenity and 3.7 Waste Reduction of The Southwark Plan 2007 and Strategic Policy 13 High Environmental Standards of the Core Strategy 2011.

- 6 The scheme of extract ventilation from the kitchen as shown on the approved drawings and detailed in acoustic report by Acoustics Plus 101613b.ad.06.10.issue1 shall be carried out before the end of 6 months from the date of the permission.

Reason

In order to ensure that that the ventilation ducting and ancillary equipment will not result in an odour, fume or noise nuisance and will not detract from the appearance of the building in the interests of amenity in accordance with Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007, Strategic Policy 13 High Environmental Standards of the Core Strategy 2011 and Planning Policy Guidance 24 Planning and Noise.

38-40 CHOUMERT ROAD, LONDON. SE15 4SE

Ordnance Survey

Date 4/1/2012



Item No. 6.2	Classification: OPEN	Meeting Date: 19 January 2012	Meeting Name: Nunhead and Peckham Rye Community Council
Report title:	Development Management planning application: Application 11-AP-3581 for: Full Planning Permission Address: 38-40 CHOUMERT ROAD, LONDON, SE15 4SE Proposal: Retention of bathroom extract ducting on rear elevation of commercial building.		
Ward(s) or groups affected:	The Lane		
From:	Head of Development Management		
Application Start Date 28 October 2011		Application Expiry Date 23 December 2011	

RECOMMENDATION

- 1 Grant planning permission.

BACKGROUND INFORMATION

- 2 The application is being reported to this committee due to 3 objections received.

Site location and description

- 3 The site comprises the ground floor of a mid terrace three storey commercial property located on the north side of Choumert Road.

Details of proposal

- 4 It is proposed to retain an existing silver metal bathroom duct to the rear elevation. The duct is 0.3m in diameter and its highest point is 0.45m above the eaves.

Planning history

- 5 Planning permission was granted in August 1993 for the change of use of the west side of 38-40 Choumert Road from retail (Use Class A1) to restaurant (Use Class A3). Prior to that permission being granted, Nos. 38 and 40 were used as a fishmongers (Use Class A1). With the benefit of planning permission the use of the premises allowed the continued use of the fishmongers from one of the units. The change of use allowed the operation of a take-away fish bar from the western half of 38-40 Choumert Road.

In December 1999, planning permission was granted for the change of use of 38-40 Choumert Road to a residential dwelling. This permission was never implemented.

The restaurant use (Use Class A3) eventually expanded into the second eastern side of the unit, albeit without the benefit of planning permission, incorporating the two units.

02-AP-0677: An application for the retention of the restaurant use (Use Class A3) – change of use from A1 - was submitted in April 2002. The application was granted planning permission under delegated powers on 17 September 2002. Condition 1 attached states:

' The use hereby permitted shall not continue beyond 30/01/03 unless full particulars and details of a scheme for the ventilation of the premises to an appropriate outlet level, including details of sound attenuation for any necessary plant and the standard of dilution expected, has been submitted to and approved by the Local Planning Authority and the development shall from then on not be carried out otherwise than in accordance with any approval given'

Following complaints from residents commencing August 2004, and subsequent site inspections and complaints regarding cooking smells, it was clear that an unauthorised ventilation system was installed in 2004 without permission, and continued to be a source of complaint with regard to cooking smells dispersed in close proximity to residential dwellings.

05/AP/0477: In May 2005 an application for the installation of an extractor flue on rear elevation of building to roof level; elevational alterations to the front of the building to form new ground floor entrance door was withdrawn. The local authority advised that the proposal description was inaccurate and that the applicant should be seeking to retain the restaurant use (Use Class A3) as the 2002 permission was not implemented before 30/01/2003 as conditions were not discharged. The application should also include, in addition to the ventilation duct as stated in the submitted application, details of the ventilation duct extract system.

05/AP/1115: In February 2009 an application for retention of Class A3 use (food and drink) and installation of extractor flue to rear of building was refused for the following reason:

The details submitted for the proposed extractor system are insufficient, the system as proposed is therefore likely to be detrimental to residential amenity in terms of noise and smell nuisance and is therefore contrary to policy 3.2 Protection of Amenity, of the Southwark Plan 2007.

09/AP/1981: In August 2010 an application for change of use from retail (Use Class A1) to restaurant (Use Class A3) and erection of flue to rear of building was withdrawn as invalid as various items of information were not provided by the applicant.

6 10/AP/0452: In June 2010 an application for approval of details of a scheme for the ventilation of the premises pursuant to condition 1 of planning permission dated 17.09.2002 (LBS Reg No:02-AP-0677) for retention of Class A3 restaurant use on ground floor was withdrawn.

The withdrawn application sought to discharge the ventilation equipment condition (1 of the 2002 appeal approval in relation to application 02-AP-0677). However, as the applicant failed to discharge the above condition in time, before 31/03/2003, the restaurant (Use Class A3) is unauthorised. A full application for a change of use from Use Class A1 to A3 is thus required.

10-AP-2803: Currently pending: Retention of Class A3 Use (restaurant) on the ground floor, installation of an extractor flue to the rear elevation (serving the kitchen) and

refuse storage facilities to the forecourt.

Planning history of adjoining sites

- 7 None relevant.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 8 The main issues to be considered in respect of this application are:
- a) the impact an amenity of neighbouring properties, specifically in terms of noise and odour; and
- b) the impact on the appearance and character of the conservation area.

Planning policy

Core Strategy 2011

- 9 12 Design and conservation
13 High environmental standards

Southwark Plan 2007 (July) - saved policies

- 10 3.2 Protection of amenity
3.6 Air quality
3.11 Efficient use of land
3.12 Quality in design
3.13 Urban design
3.15 Conservation of the historic environment
3.16 Conservation areas
3.18 Setting of listed buildings, conservation areas and world heritage sites

Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

- 11 PPS 5: Planning for the Historic Environment
National Planning Policy Framework (NPPF)
Planning for Growth

Principle of development

- 12 The draft National Planning Policy Framework (NPPF) was published at the end of July 2011 for consultation until 17 October 2011. The Government has set out its commitment to a planning system that does everything it can do to support sustainable economic growth. Local planning authorities are expected to plan positively for new development. All plans should be based on the presumption in favour of sustainable development and contain clear policies that will guide how the presumption will be applied locally.

The NPPF builds upon the Government's 'Plan for Growth' which was published in March 2011. The overall theme of this document is to support long term sustainable economic growth and job creation in the UK. This is set out as a clear and current Government objective (and accordingly should attract significant weight).

- 13 There is no land use objection to the principle of a bathroom extract duct associated with a commercial premises.

Environmental impact assessment

- 14 Not required. No significant environmental impacts would arise.

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

- 15 Saved Policy 3.2 Protection of amenity of the Southwark Plan 2007 states that planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise, to present and future occupiers in the surrounding area or on the application site. The reasoning is to protect the amenity of an area and the quality of life for people living, or working in, or visiting the borough.
- 16 It is considered that the bathroom duct would disperse at an adequate height above the roof of the three storey building to overcome any potential odour issues. Given that the duct serves a bathroom it is unlikely that odour issues, similar to those associated with restaurant kitchens, would arise.

It is considered that the scale and design of the extract duct, although located in a confined space, is acceptable and is not detrimental to the visual amenity of neighbouring properties.

The duct is attached to the rear wall by a number of brackets. The applicant has not submitted information in terms of noise and vibration and it is considered that the application can be approved subject to a condition to ensure that the duct would not cause undue noise levels in order to protect the amenity of neighbouring properties.

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

- 17 The adjoining properties along the street frontage are in commercial use and Choumert Square residential properties are located to the rear. It is considered that these uses would not be detrimental to the occupiers and customers of the application site.

Traffic issues

- 18 None identified.

Design issues

- 19 The Council's saved design policies from the Southwark Plan and Strategic Policy 13 of the Core Strategy requires a good standard of design that is appropriate for its location.
- 20 Officers consider that the proposed extract duct to the rear elevation is in accordance with Saved Policy 3.13 Urban Design of the Southwark Plan 2007 as its location to the rear elevation does not impact on the townscape, local context and character of the area. It is common that town centres have restaurants and premises operating within Use Class A generally require extractor ducts serving bathrooms, be it associated with a shop (Use Class A1) or a restaurant (Use Class A3), and to disperse any odour at high level. Whilst the proposed duct is larger than that commonly found for bathrooms, the design of the duct does respect the local context and is of an acceptable quality and appearance and does not detract from the character of the area.

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

- 21 In conservation areas, extractor ducts should ideally be integral to the building, for example the use of existing chimneys to disperse of odours to a high level is encouraged. In this case the applicant advised that due to site restrictions and the unique relationship between the rear wall of the site and the rear walls of dwellings along Choumert Grove it would be difficult to implement this approach.
- 22 There are limited views from the first floor rear windows of dwellings along Choumert Square and due to the enclosed nature of the site the duct is not visible from a public vantage point. For these reasons it is concluded that the duct does not detract from the special interest or historic character or appearance of buildings within the Holly Grove conservation area.
- 23 External alterations are limited to the rear elevation of the three storey building on the site. Given its proximity and orientation in relation to the grade II listed buildings, the Girdlers Almshouse to the west, it is considered that the proposal has no impact on the immediate or wider setting of these listed buildings.

Impact on trees

- 24 Not relevant.

Planning obligations (S.106 undertaking or agreement)

- 25 Not relevant as the scale of development would not trigger any contribution to mitigate the proposed development.

Sustainable development implications

None identified.

Other matters

- 26 None identified.

Conclusion on planning issues

- 27 The duct has been in place since at least 2009 and although neighbouring properties have complained that it lead to noise and disturbance in the past it has not been used recently. It is considered that any impact in terms of noise, disturbance and odours can be addressed by an appropriate condition and the application is recommended for approval.

Community impact statement

- 28 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

b) The following issues relevant to particular communities/groups likely to be affected by the proposal have been identified as: none.

c) The likely adverse or less good implications for any particular communities/groups

have been also been discussed above. Specific actions to ameliorate these implications are: none.

Consultations

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

Consultation replies

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

Summary of consultation responses

- 31 Three letters of objection has been received from neighbouring properties.

Environmental Protection Team:
Inadequate information submitted to provide comments.

Human rights implications

- 32 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.
- 33 This application has the legitimate aim of providing an extractor duct associated with the bathroom of a commercial premises. 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

- 34 N/A

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2715-38 Application file: 11-AP-3581 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5457 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Neighbour consultees

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Andre Verster, Team Leader Team East	
Version	Final	
Dated	29 December 2011	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	No
Strategic Director of Regeneration and Neighbourhoods	No	No
Strategic Director of Environment and Housing	No	No
Date final report sent to Constitutional Team	9 January 2012	

Consultation undertaken

- 36 **Site notice date:** 21/11/2011
- 37 **Press notice date:** 24/11/2011
- 38 **Case officer site visit date:** 21/11/2011
- 39 **Neighbour consultation letters sent:** 23/11/2011

Internal services consulted:

- 40 Environmental Protection Team

Statutory and non-statutory organisations consulted:

- 41 None

Neighbours and local groups consulted:

- 42 Refer to appendix 3

Re-consultation:

- 43 Na

Consultation responses received

Internal services

Environmental Protection Team

- 44 There is inadequate information provided with this application, there is no plan of the ground floor, no indication of the fans serving the bathroom / toilets.

Officer comment: The associated application 10-AP-2803 contains information in relation to proposed ducting from the kitchen and it is considered that the required information can be secured through an appropriate condition.

Statutory and non-statutory organisations

- 45 Na

Neighbours and local groups

- 46 Three letters of objection have been received from 10, 40 and 41 Choumert Square raising the following concerns:

47

The site is located directly to the right / south west of the rear of 40 Choumert Square. Concerns that this is a retrospective application regarding a bathroom extractor flue installation – when it appears to be in the site which was highlighted under Application 10-AP 2803, for the installation of an extractor flue from a kitchen at the rear of the premises – an application which, according to the Council website is still open and pending a decision. Are local residents to expect two extractor flues attached to the rear of 38-40 Choumert Road?

Confused about the size and scope of the current extractor duct if this is designed for the purposes of ventilating a bathroom.

Concerned as to whether or not the extractor has been in operation at any stage since the flue duct was built: It is felt that neighbouring properties are not offered sufficient indication of noise or vibration levels to be expected or tolerated in this retrospective application.

Because of the two issues raised above neighbouring properties are concerned about the design of the extractor flue, given its proximity (just a few feet) to private residences' bedrooms and studies in adjoining Choumert Square. Noise levels are a significant issue.

Members are referred to a visit to Choumert Square undertaken by the then case officer and a senior colleague on 28th September 2006, in connection to an identical design and positioning of extractor flue which was then marked as a proposed kitchen extractor: The proposal then was dismissed as inappropriate by the senior colleague present.

Neighbouring properties remain concerned about the poorly maintained fabric of the premises building's exterior (chimneys/rear walls & roof) – the state of which is clearly discernible from the rear of southside properties on Choumert Square. The operation of an extractor of this scope on a wall that adjoins them runs a risk of vibration which could further weaken the already damaged fabric of the tall Victorian chimneys on the roof of 38-40 Choumert Road. Were they to fall, there is potential for damage to

adjoining properties.

The occupier of 40 Choumert Square hold copies of correspondence with the Council about Lolak Restaurant from herself and fellow Choumert Square residents dating back to 2002. Over those years, the Council consulted local residents about various planning proposals raised by the premises' owners. Nearby residents' concerns collectively highlighted across that period of time have been clear: While they wish to support local enterprise, it cannot be at the cost of compromising the quality of life for adjacent private residencies.

Choumert Square sits within one of Southwark Council's highly-regarded - and recently much-quoted in the National Press - Conservation Areas. Poor planning enforcement on its borders has blighted the Square now for the past nine years.

The occupier of 40 Choumert Square emphasise her total support for local enterprise; but the details of this application and the confusion around it do not offer local residents the assurance that the plant operating at these premises will do so without detrimental impact on the lives of surrounding residents.

The large scale industrial ducting is inappropriate for the location. The back of 38-40 Choumert Road backs onto a residential area and is a matter of a couple of meters from the backs of residential properties.

Many of the residential properties in Choumert Square have bedrooms and/or offices which look directly onto the backs of properties in Choumert Road. The ducting negatively impacts the views from the first floor rear windows of these houses.

Choumert Square is in a conservation area and due care and attention should be taken re planning and development of properties abutting conservation areas. It is not believed the design, material selection, detailing and scale are therefore acceptable, considering the proximity to the boundary of the conservation area..

It appears that the council is not taking into account the smell impact if an extractor seemingly directed from a kitchen which has no licence for commercial cooking

Neighbour consultees

28 CHOUMERT ROAD LONDON SE15 4SE
 30 CHOUMERT ROAD LONDON SE15 4SE
 9 CHOUMERT SQUARE LONDON SE15 4RE
 26 CHOUMERT ROAD LONDON SE15 4SE
 32 CHOUMERT ROAD LONDON SE15 4SE
 38-40 CHOUMERT ROAD LONDON SE15 4SE
 42 CHOUMERT ROAD LONDON SE15 4SE
 34 CHOUMERT ROAD LONDON SE15 4SE
 36 CHOUMERT ROAD LONDON SE15 4SE
 8 CHOUMERT SQUARE LONDON SE15 4RE
 43 CHOUMERT SQUARE LONDON SE15 4RE
 44 CHOUMERT SQUARE LONDON SE15 4RE
 41 CHOUMERT SQUARE LONDON SE15 4RE
 42 CHOUMERT SQUARE LONDON SE15 4RE
 45 CHOUMERT SQUARE LONDON SE15 4RE
 6 CHOUMERT SQUARE LONDON SE15 4RE
 7 CHOUMERT SQUARE LONDON SE15 4RE
 46 CHOUMERT SQUARE LONDON SE15 4RE
 5 CHOUMERT SQUARE LONDON SE15 4RE
 FIRST FLOOR AND SECOND FLOOR FLAT 26 CHOUMERT ROAD LONDON SE15 4SE
 42B CHOUMERT ROAD LONDON SE15 4SE
 CHOUMERT HOUSE THOMAS CARLTON SECONDARY SCHOOL ALPHA STREET LONDON SE15 4NX
 FIRST FLOOR AND SECOND FLOOR FLAT 38-40 CHOUMERT ROAD LONDON SE15 4SE
 FLAT 1 HANOVER HOUSE 7 CHOUMERT ROAD LONDON SE15 4SE
 FLAT 2 HANOVER HOUSE 7 CHOUMERT ROAD LONDON SE15 4SE
 FLAT 3 HANOVER HOUSE 7 CHOUMERT ROAD LONDON SE15 4SE
 44 CHOUMERT ROAD LONDON SE15 4SE
 7A CHOUMERT ROAD LONDON SE15 4SE
 1 GIRDLERS COTTAGES CHOUMERT ROAD LONDON SE15 4SF
 46 CHOUMERT ROAD LONDON SE15 4SE
 7 CHOUMERT ROAD LONDON SE15 4SE
 2 GIRDLERS COTTAGES CHOUMERT ROAD LONDON SE15 4SF
 5 GIRDLERS COTTAGES CHOUMERT ROAD LONDON SE15 4SF
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 7C CHOUMERT ROAD LONDON SE15 4SE
 1 CHOUMERT SQUARE LONDON SE15 4RE
 FLAT A 34-36 CHOUMERT ROAD LONDON SE15 4SE
 FIRST FLOOR AND SECOND FLOOR FLAT 28 CHOUMERT ROAD LONDON SE15 4SE
 10 CHOUMERT SQUARE LONDON SE15 4RE
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3 CHOUMERT SQUARE LONDON SE15 4RE

RECOMMENDATION

This document shows the case officer's recommended decision for the application referred to below.
This document is not a decision notice for this application.

Applicant Mrs Sanni
Application Type Full Planning Permission
Recommendation Grant permission

Reg. Number 11-AP-3581

Case Number TP/2715-38

Draft of Decision Notice

Planning Permission was GRANTED for the following development:

Retention of bathroom extract ducting on rear elevation.

At: 38-40 CHOUMERT ROAD, LONDON, SE15 4SE

In accordance with application received on 28/10/2011 08:00:33

and Applicant's Drawing Nos. Site Plan Rev.1, Existing Rear Elevation; Design and access statement.

Reasons for granting permission.

This planning application was considered with regard to various policies including, but not exclusively:

a] Policies 3.2 Protection of amenity advises that permission will not be granted where it would cause a loss of amenity, 3.6 Air quality advises that permission will not be granted for development that would lead to a reduction in air quality, 3.11 Efficient use of land seeks to ensure that developments make an efficient use of land as a key requirement of the sustainable use of land, whilst protecting amenity, responding positively to context, avoids compromising development potential of adjoining sites, making adequate provision for access, circulation and servicing, and matching development to availability of infrastructure, 3.12 Quality in design requires new development to achieve a high quality of architectural and urban design, 3.13 Urban design advises that principles of good design must be taken into account in all developments, 3.15 Conservation of the historic environment requires development to preserve or enhance the special interest or historic character or appearance of buildings or areas of historical or architectural significance, 3.16 Conservation areas states that there will be a general presumption in favour of retaining buildings that contribute positively to the character and appearance of the conservation area and notes that consent will be granted for schemes in conservation areas provided that they meet specified criteria in relation to conservation area appraisals and other guidance, design and materials, 3.18 Setting of listed buildings, conservation areas and world heritage sites advises that permission will not be granted for developments that would not preserve or enhance the immediate views and/or wider settings of a listed building, conservation area or world heritage site of the Southwark Plan [July 2007].

b] Strategic Policies 12 Design and conservation which requires the highest possible standards of design for buildings and public spaces,
13 High environmental standards which requires developments to meet the highest possible environmental standards of the Core Strategy 2011.

c] Planning Policy Statements [PPS] 5: Planning for the Historic Environment.

Particular regard was had to the impact on amenity of neighbouring residential properties and the appearance of the ductwork. Subject to conditions, it was concluded that no significant loss of residential amenity would arise and the location at the rear of the property limited any visual harm. It was therefore considered appropriate to grant planning permission having regard to the policies considered and other material planning considerations.

Subject to the following condition:

- 1 Within one month of the date of this permission, details of sound attenuation for the duct and the standard of dilution, shall be submitted to and approved in writing by the Local Planning Authority, and the development shall then operate at all times in accordance with the details approved.

Reason

In order to ensure that that the ventilation ducting and ancillary equipment will not result in an odour, fume or noise nuisance in the interests of amenity in accordance with Strategic Policy 13 - High Environmental Standards of The Core Strategy 2011, Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007 and Planning Policy Guidance 24 Planning and Noise.

- 2 Notwithstanding drawing number 'pages 1 of 3' hereby approved, the redundant low level fan shall be removed 3 months after this decision.

Reason:

In order to ensure that the low level fan is not used and to prevent odour, fume or noise nuisance therefrom in the interests of amenity of neighbouring properties in accordance with Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007, Strategic Policy 13 High Environmental Standards of the Core Strategy 2011 and Planning Policy Guidance 24 Planning and Noise.

- 3 The duct hereby approved shall only provide ventilation for the bathroom in the application premises. It shall not be used for any other purpose, including providing ventilation for any kitchens/cooking purposes.

Reason

In order to protect the amenity of residents to the rear in Choumert Square, in accordance 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.

- 4 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:

Existing Rear Elevation

Reason:

For the avoidance of doubt and in the interests of proper planning.

124-126 RYE LANE, PECKHAM, LONDON, SE15 4RZ

Ordnance Survey

Date 6/1/2012



Agenda Item 6.3



Item No. 6.3	Classification: OPEN	Meeting Date: 19 January 2012	Meeting Name: Nunhead and Peckham Rye Community Council
Report title:	Development Management planning application: Application 11-AP-2575 for: Full Planning Permission Address: 124-126 RYE LANE, LONDON, SE15 4RZ Proposal: Single storey rear extension with alterations, to provide garage/store for commercial unit (A1 Use Class). (Retrospective application).		
Ward(s) or groups affected:	The Lane		
From:	Head of Development Management		
Application Start Date 15 August 2011		Application Expiry Date 10 October 2011	

RECOMMENDATION

- 1 Grant planning permission.

BACKGROUND INFORMATION

- 2 This application is brought before members as 3 objections have been received.

Site location and description

- 3 The application site refers to the building and plot located at 124/126 Rye Lane, Peckham Rye, London. The existing building is a three storey building with roof accommodation and commercial unit at ground floor. The commercial unit is single storey and projects beyond the first floor building line at both the front and rear of the property in context with the surrounding built form along this section of Rye Lane, whereby the upper floors of the buildings are set back from the ground floor commercial frontage at street level.
- 4 The application refers specifically to the ground floor commercial unit and the currently unauthorised single storey extension to the rear of the property.
- 5 The application site is bounded to the north and south by adjoining commercial properties with residential accommodation at upper levels, to the east by Rye Lane and bounded to the west by Choumert Grove Car Park. Immediately to the south of the extension in question lies Quantock Mews, a residential development located on a narrow strip of land accessed from Choumert Road.
- 6 The application site lies within Rye Lane Conservation Area that was recently designated on 18 October 2011, but it is not listed. In land use terms the area lies within the Peckham Town Centre area and is characterised by mixed use commercial and residential.

Details of proposal

- 7 Planning consent is sought for the retention of and revisions to an unauthorised single storey rear extension to the ground floor commercial unit. The existing extension involved enclosing the rear yard area by forming a roof to span both the existing boundary walls. The yard was then fully enclosed with a rear wall and sliding doors to provide access to the new store. This application seeks to revise the as-built unauthorised extension to overcome the previous reasons for refusal under planning application 09-AP-2480, and remedy the adverse impact on amenity caused by the existing unauthorised rear extension, that resulted in the serving of an Enforcement Notice on 11 July 2011. The notice had an effective date of 11 August 2011 and a compliance period of one month.
- 8 The height of the existing parapet wall to adjacent to Quantock Mews is 3500mm; however the application proposes a reduction of the parapet wall to 2440mm. Furthermore, the rear elevation of the extension facing the Choumert Grove Car Park, would be stepped, resulting in a 1400mm section of the elevation perpendicular to the boundary with Quantock Mews matching the height of the proposed boundary wall at 2440mm. The elevation and roof height would then step up by 840mm with the construction of the new parapet wall (1400mm from the boundary with Quantock Mew) to a height of approximately 3280mm for the remaining 6550mm of the elevation. A mono pitch roof would rise from a height of 2900mm to 3250mm behind the parapet new parapet.
- 9 The elevation would be rendered in white and grey to match the existing
- 10 It is considered that the height of the boundary wall on site prior to the formation of the extension measured approximately 2400mm.

Planning history

- 11 09-AP-2480
Retention of single storey rear extension to provide a store for commercial unit.
Refused on 14/06/2010 for the following reason/s:

The development, due to the height of the extension along the boundary of the application site adjacent to Quantock Mews, results in an overbearing impact and excessive sense of enclosure, leading to poor outlook for the residents of Nos. 9 and 10 Quantock Mews. As such the proposal is contrary to Policy 3.2 - Protection of Amenity of The Southwark Plan 2007 (July).

The development, by reason of the poor standard of finish, particularly on the boundary walls and parapet adjacent to Quantock Mews, results in a loss of visual amenity that is detrimental to both the surrounding area and the residents of Quantock Mews whose properties are bounded by the application site. As such the proposal is contrary to Policy 3.2 - Protection of Amenity and Policy 3.12 - Quality in Design of The Southwark Plan 2007 (July).
- 12 95/AP/0287
Installation of new shop front.
Granted on 29/03/1995
- 13 09/EN/0324
Increase in height of parapet wall along southern boundary and the installation of a roof to create a rear extension without planning permission.

Enforcement notice served on 11/07/2011.

Further action has been held in abeyance following negotiation, as this application seeks to regularise the unauthorised development, while overcoming the previous issues for refusal under 09-AP-2480 outlined above.

The requirements of the notice are:

- (i) *Remove the roof from the rear extension;*
- (ii) *Reduce the height of all the parapet and boundary walls of the rear extension to 2.38 metres, (shown for the purposes of illustration only on plan MT/2A(1));*
- (iii) *Any part of the boundary wall requiring reconstruction following these works is to be rebuilt in brick, rendered and painted white to match the remaining wall;*
- (iv) *Remove from the Land all waste, materials and debris resulting from complying with (i) to (iii) above.*

- 14 06/EN/0590
Open shopfront
Case closed

Planning history of adjoining sites

- 15 0200249
29-33 Choumert Grove
Redevelopment of the site comprising 2x3 bedroom two storey houses fronting Choumert Grove and a terrace of 10x3 bedroom part two/ part three storey houses to the rear with 13 car parking spaces and outdoor amenity space.

KEY ISSUES FOR CONSIDERATION**Summary of main issues**

- 16 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 on the residential, commercial and visual amenity of the area and the setting of the Rye Lane Conservation Area
 - c) Design quality.

Planning policyCore Strategy 2011

- 17 Strategic Policy 12 – Design and conservation
Strategic Policy 13 - High Environmental Standards of the Core Strategy.

Southwark Plan 2007 (July) - saved policies

- 18 Policy 3.2 - Protection of Amenity

Policy 3.12 - Quality in Design
 Policy 3.13 - Urban Design
 Policy 3.16 - Conservation areas

Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

- 19 PPS5 – Planning for the Historic Environment.
 PPG18 - Enforcing Planning Control

Principle of development

- 20 The development raises no land use issues that will result in a conflict of use detrimental to amenity. The development accords with the relevant policies of The Southwark Plan 2007 (July) with regards to amenity and is considered acceptable in principle.

Environmental impact assessment

- 21 The development lies outwith the scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 1995 and as such an EIA is not required.

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

- 22 Quantock Mews lies south/south east of the extension. Given the position of Quantock Mews to the south of the development and the fact that the windows in question are orientated due north, it is considered that the development will have no impact in terms of a loss of daylight/sunlight and there will be no detrimental overshadowing. The dwellings at Quantock Mews pass the daylight and sunlight tests specified by the Building Research Establishment and the development will cause no marked reduction in available sunlight.
- 23 The application proposes the decrease in height of the boundary wall from the existing height of 3500mm to 2440mm, and the construction of a new parapet wall at a height of 3280mm, 1400mm to the north of the boundary wall.
- 24 In light of this revision, it is considered that the proposal would improve the current outlook and level of amenity due to the reduction in the sense of enclosure. As, Quantock Mews is located on what is considered a narrow, constrained site, the reduction in height of the boundary wall would alleviate the increased sense of enclosure caused by the parapet wall of the unauthorised extension.
- 25 It is considered that the proposal would remedy the harm to residential amenity of the occupiers of Nos. 9 and 10 Quantock Mews caused by the existing unauthorised rear extension, if implemented. Subsequently, a 3 month implementation condition is recommended if planning permission is granted.
- 26 The boundary wall prior to the construction of the unauthorised extension was approximately 2400mm in height and would increase to 2440mm following the implementation at proposal. It is not considered that the raised height of the wall will aid access to the gardens/dwellings of Quantock Mews and the increased height of the wall is not in itself considered to reduce security.
- 27 Three objections have been received from residents who object to the proposal in terms of loss of light and a sense of enclosure. However, in light of the above points,

the proposed development is acceptable in amenity terms and compliant with saved policy 3.2 Protection of Amenity of the Southwark Plan and Strategic Policy 13 High Environmental Standards of the Core Strategy.

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

- 28 There are no land use issues that will result in a conflict of use detrimental to the amenity of the occupiers of the proposed development.

Traffic issues

- 29 The development relates to the enclosure of the existing rear yard and as such will not intensify the commercial operations currently undertaken on site. As such it is not considered that there are any significant transport or traffic issues relevant to the determination of this application.
- 30 The regularisation of vehicular access to the application site via the car park is considered acceptable in principle, as adjoining commercial properties have established existing access gates.
- 31 Comments from the council's Transport Planning Team note that the proposals are not forecast to increase trip generation to the site. There is only a minimal increase in floor area and the area is intended to be used for the storage of stock for an existing commercial unit. The adjacent property already has a vehicular access from the Choumert Grove car park. Therefore we would not object on these grounds.

Design issues

- 32 The revised design of the extension is functional and appropriate to the rear of the commercial property. It is now considered an appropriate scale with regards to the adjacent dwellings along Quantock Mews, as is the height of the proposed boundary wall between the application site and the Quantock Mews dwellings.
- 33 It is considered that the proposed development would have an acceptable standard of finish that would not have an adverse impact on the visual amenity of the area.
- 34 In light of the above points, the proposal would not harm the character or appearance of the existing building when viewed from the west. The proposal complies with saved policy 3.13 Quality in Design of the Southwark Plan and Strategic Policy 12 Design and Conservation of the Core Strategy.
- 35 However, as the property is located within the Rye Lane Conservation Area the proposed extension has to accord with further planning policies. Subsequently, design issues regarding the proposal and the setting of the conservation area are set out in the section below.

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

- 36 Policy 3.16 - Conservation Areas states that planning permission will be granted for new development, including the extension or alteration of existing buildings provided that the proposals:

i. Respect the context of the conservation area, having regard to the content of

Conservation Area Appraisals and other adopted Supplementary Planning Guidance / Documents; and

ii. Use high quality materials that complement and enhance the conservation area; and

iii. Do not involve the loss of existing traditional features of interest which make a positive contribution to the character or appearance of the Conservation Area; and

iv. Do not introduce design details or features that are out of character with the area, such as the use of windows and doors made of aluminium, uPVC or other non-traditional materials.

37 It is considered that as the proposed extension is sited to the rear of the property and is in a mixed residential and commercial area, it will not have a negative effect on the character and appearance of the Rye Lane Conservation Area, whose primary value is found on Rye Lane. The design of the extension is functional and appropriate to the rear of the commercial property. It will not introduce new design details that are out of character within the Conservation Area. Subsequently, it is considered that the proposal complies with the saved policies 3.15 'Conservation of the historic environment' and 3.16 'Conservation areas' of the Southwark Plan (2007).

38 The impact of this proposal on the heritage asset - the setting of the Rye Lane Conservation Area - is considered against the requirements of PPS5 - Planning for the Historic Environment. Policy HE 9.4 of PPS5 – which states that : "*Where a proposal has a harmful impact on the significance of a designated heritage asset which is less than substantial harm, in all cases local planning authorities should:*

(i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and

(ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss."

39 In this instance the proposal, due to its design and position will not have a detrimental impact on the character and appearance of the Rye Lane Conservation Area or the appearance of the host building.

Impact on trees

40 The development will have no adverse impact on any trees.

Planning obligations (S.106 undertaking or agreement)

41 No planning obligations or S106 Agreements are required as part of this planning application.

Sustainable development implications

42 The development involves the reuse of existing brownfield land and as such is considered sustainable in principle. The formation of the single storey rear extension itself does not present any further issues with regards to sustainable development.

Other matters

43 None identified.

Conclusion on planning issues

- 44 The proposed development is considered acceptable in terms of scale and massing and the subsequent impact on the residential amenity of the adjacent occupiers of 9 and 10 Quantock Mews. Revisions have been undertaken by the applicant following the refusal of planning application 09-AP-2480 and serving of an enforcement notice on the unauthorised extension,
- 45 Furthermore, is considered that the proposal preserves the character and appearance of the Rye Lane conservation area and subsequently complies with saved policies 3.15 'Conservation of the historic environment' and 3.16 'Conservation areas' of the Southwark Plan (2007) and Policy SP12 of the Core Strategy (2011). Accordingly, the application is being recommended for approval. Accordingly, the application is being recommended for approval.

Community impact statement

- 46 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

Consultations

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

Consultation replies

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

49 Summary of consultation responses

The three neighbour objections were received from the initial consultation. No further responses were received following the re-consultation.

Neighbour Objection - 8 Quantock Mews.

- 50 Loss of daylight and sunlight, and reduced security

Neighbour Objection – 9 Quantock Mews

- 51 Loss of daylight and sunlight, and reduced security

52 Neighbour Objection – 7 Quantock Mews

Loss of daylight and sunlight, sense of enclosure, and allowing vehicular access to the application property will limit development potential.

53 Transport Planning Team

No objection

54 Planning Enforcement Team

No objection

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 increased storage space for a commercial unit. 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

- 57 None.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2732-124 Application file: 11-AP-2575 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5604 Council website: www.southwark.gov.uk

APPENDICES

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

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Tom Buttrick, Planning Officer	
Version	Final	
Dated	5 January 2011	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	No
Strategic Director of Regeneration and Neighbourhoods	No	No
Strategic Director of Environment and Housing	No	No
Date final report sent to Constitutional Team		9 January 2012

Consultation undertaken

Site notice date: 22/11/2011

Press notice date: Not applicable for first consultation. Re-consultation due to conservation area designation - 01/12/2011

Case officer site visit date: 19/19/2011

Neighbour consultation letters sent: 19/19/2011

Internal services consulted:

Transport Planning Team
Planning Enforcement Team

Statutory and non-statutory organisations consulted:

None

Neighbours and local groups consulted:

8 QUANTOCK MEWS LONDON SE15 4RG
118 RYE LANE LONDON SE15 4RZ
9 QUANTOCK MEWS LONDON SE15 4RG
7 QUANTOCK MEWS LONDON SE15 4RG
122 RYE LANE LONDON SE15 4RZ
120 RYE LANE LONDON SE15 4RZ
GROUND FLOOR AND FIRST FLOOR 128 RYE LANE LONDON SE15 4RZ
10 QUANTOCK MEWS LONDON SE15 4RG
1 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
2 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
FLAT 4 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
3 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
7 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
8 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
5 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ
6 SEDNEM COURT 118-120 RYE LANE LONDON SE15 4RZ

Re-consultation:

A re-consultation was undertaken on 22/11/2011 after the application site was designated within the Rye Lane Conservation Area. No further responses were received as a result of this re-consultation.

Consultation responses received

Internal services

Transport Planning Team

The proposals are not forecast to increase trip generation to the site. There is only a minimal increase in floor area and the area is intended to be used for the storage of stock for an existing commercial unit.

The adjacent property already has a vehicular access from the Choumert Grove car park. Therefore we would not object on these grounds. We do not feel a vehicular access at this location would cause any highway issues. If the applicant feels that they would require any amendments to the car park in terms of access we feel this would be a private matter between the land owners of the car park (this happens to be Southwark Council) and there selves.

Planning Enforcement

No objection.

Statutory and non-statutory organisations

Not applicable.

Neighbours and local groups

Neighbour Objection - A. Armourer, Quantock Mews.

Loss of daylight and sunlight, and reduced security

Neighbour Objection – J King, 9 Quantock Mews

Loss of daylight and sunlight, and reduced security

Neighbour Objection – J Collingridge, 7 Quantock Mews

Loss of daylight and sunlight, sense of enclosure, and allowing vehicular access to the application property will limit development potential.

RECOMMENDATION

This document shows the case officer's recommended decision for the application referred to below.
This document is not a decision notice for this application.

Applicant Mr M. Nawaz
Application Type Full Planning Permission
Recommendation Grant permission

Reg. Number 11-AP-2575

Case Number TP/2732-124

Draft of Decision Notice

Planning Permission was GRANTED for the following development:

Single storey rear extension with alterations, to provide garage/store for commercial unit (A1 Use Class).
(Retrospective application with alterations).

At: 124-126 RYE LANE, LONDON, SE15 4RZ

In accordance with application received on 02/08/2011

and Applicant's Drawing Nos. 4344/1, 4344/2, 4344/6A, 4344/7, 4344/8, 4344/9, 4344/10, 4344/11, 4344/12, 4344/13, Design and Access Statement.

Reasons for granting permission.

This planning application was considered with regard to various policies including, but not exclusively:

a] Saved policies Southwark Plan [July 2007].

3.2 - 'Protection of Amenity' (which seeks to ensure an adequate standard of amenity for existing and future occupiers);
 3.12 - 'Quality in Design' (which requires developments to be of a high standard of architectural design);
 3.13 - 'Urban Design' (which requires developments to be of a high standard of urban design);
 3.16 - 'Conservation areas' (which seeks to preserve and/or enhance conservation areas); and

b] Core Strategy [2011]

Strategic policy 12 - 'Design and conservation' (which seeks to secure high quality developments and to protect the borough's historic environment)

Strategic policy 13 - 'High environmental standards' (which requires development to help us live and work in a way that respects the limits of the planet's natural resources, reduces pollution and damage to the environment and helps us adapt to climate change.

Particular regard was had to the impact the proposal would have on amenity of adjoining residential occupiers at Quantock Mews and the setting of the Rye Lane Conservation Area. However, the proposal is not considered to have an unacceptable adverse impact on the amenity of the neighbouring properties, and will preserve the character and appearance of the Rye Lane Conservation Area. It was therefore considered appropriate to grant planning permission having regard to the policies considered and other material planning considerations.

Subject to the following condition:

1 The development hereby permitted shall be begun before the end of 3 months from the date of the permission.

Reason

As allowed and required under Section 91 of the Town and Country Planning Act 1990, the standard 3 year period being inappropriate in this case because the extension has already been constructed and 3 months is considered an appropriate period of time to implement the approved revisions to the existing unauthorised single storey rear extension.

2 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans: 4344/6A, 4344/7, 4344/8, 4344/13

Reason:

For the avoidance of doubt and in the interests of proper planning.

3 The materials to be used in the implementation of this permission shall not be otherwise than as described and

specified in the application and on the drawings hereby approved unless the prior written consent of the local planning authority has been obtained for any proposed change or variation.

Reason:

To ensure the use of appropriate materials in the interest of the design and appearance of the building, and the character and appearance of the Rye Lane Conservation Area, in accordance with saved policies 3.12 'Quality in Design' , 3.13 'Urban Design' and 3.16 'Conservation Areas' of the Southwark Plan 2007 and SP12 - 'Design and Conservation' of the Core Strategy 2011.

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Councillor Fiona Colley	1	Elephant & Castle	
Councillor Rowenna Davis	1	SE1 6TE	
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