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Item No. 6.2	Classification: OPEN	Date: 18 October 2023	Meeting Name: Planning Committee (Smaller Applications)
Report title:	Development Management planning application: Application 23/AP/0649 for: Planning Permission Address: Burgess Park Tennis Centre, 44 Addington Square, London Southwark SE5 7LA Proposal: Retention of the café (Class E (b)) in the southern end of the pavilion building, associated with a refuse store and hardstanding to the south of the pavilion.		
Ward(s) or groups affected:	Faraday		
From:	Director of Planning and Growth		
Application Start Date	08/03/2023	Application Expiry Date	02/11/2023
Earliest Decision Date	02/11/2023		

RECOMMENDATION

1. That the Planning Committee (Smaller Applications) which is located on Metropolitan Open Land (MOL) be granted subject to conditions.

EXECUTIVE SUMMARY

2. The proposal relates to retention of café use, with the same operating times, within the southern end of the pavilion building, effectively a retrospective change of use from community ancillary use (previously referred to Class F2) to the current café use only (Class E(b)). It would only relate to the southern end of the pavilion building, whereas the toilets and changing facilities to the northern end of the building would be unchanged.
3. The proposal originally sought to construct 4no. external doors to the western elevation of the pavilion building, in order to provide 3no. externally accessed toilets and 1no. tennis storage. Additionally, the southern end of the pavilion was sought to change of use from ancillary community use (Class F2) to Class E. Following public consultation, amendments have been made and resulted in the final proposal.
4. Following negotiations, it is proposed that Permitted Development Rights would be removed via a condition whereby the use of the café is restricted. Another condition would be in place requiring submission of operational plan by future operators to ensure the operations and associated internal layout

arrangement would maintain a safe and managed access to the toilets and showering/changing facilities essential to the function of tennis activities. A compliance condition will also be imposed to ensure no primary cooking will take place on site to prevent disturbance by way of noise and air pollution that would be at odds with the character of the open space.

5. Public comments have been raised over the lawfulness of the refuse store and hardstanding, Both structures would meet the definitions of Class A, Part 12, Schedule 2 of General Permitted Development (England) Order 2015 (as amended) and as such constitute as permitted development and would not require planning permission
6. In conclusion, the principle of the retrospective change of use is considered acceptable as it would reasonably preserve the community function of the Tennis pavilion that maintains the changing and toilet facilities. It would also respect the quality, accessibility and setting of the MOL. Additionally, it would ensure public safety for use of toilets, changing/showering facilities by internal design through the operational plan required by condition. The proposal is therefore recommended for approval subject to conditions.

BACKGROUND INFORMATION

Site location and description

7. The application site refers to the tennis pavilion, named as Burgess Park Tennis Centre associated with the tennis courts in the park. It is situated in the south west of Burgess Park. To the south east of the application site is the junction of Addington Square and Depot Street. It is a modern single-storey building, partly of concrete finned construction on the south elevation facing Addington Square and partly rendered with a bright orange finish on the northern elevation.

Figure 1: Site location plan

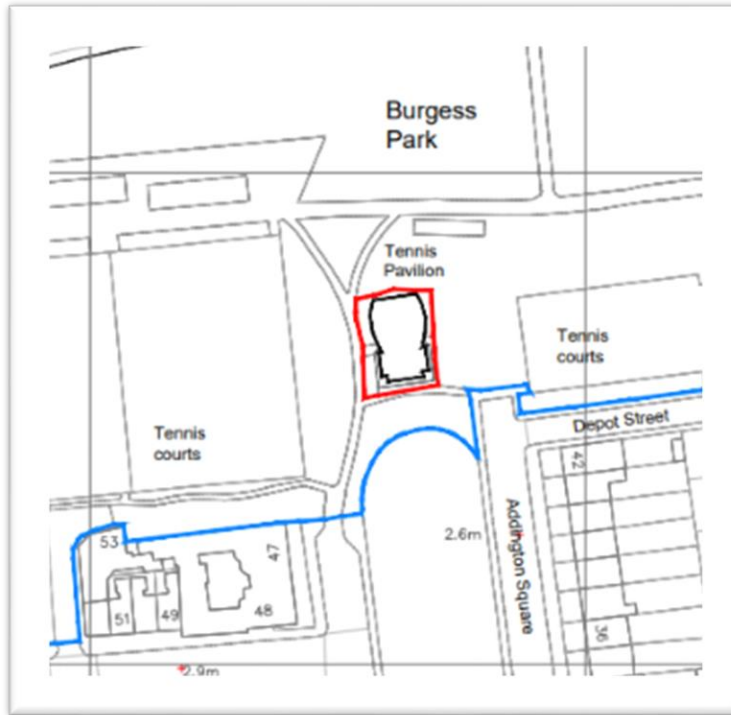
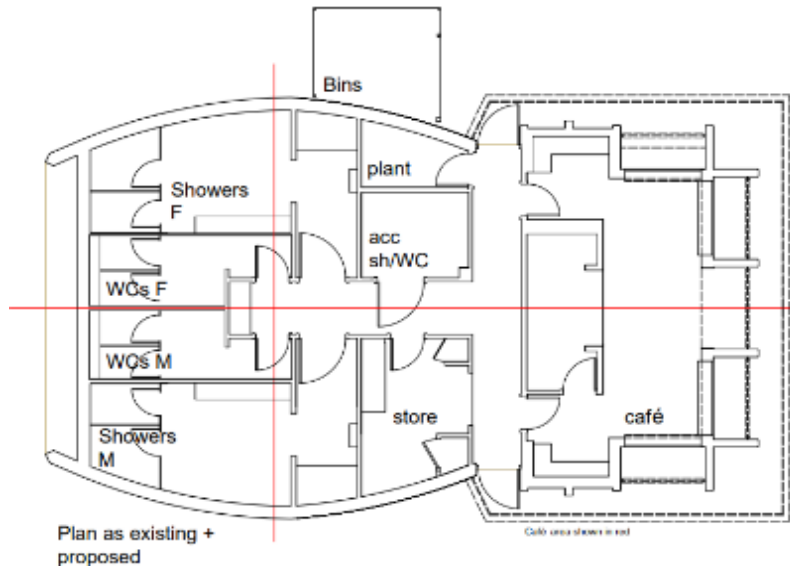


Figure 2: View from the south-west



8. The subject building is comprised of two main elements. The northern section is associated with the adjoining tennis courts, by way of providing changing and shower facilities for tennis players and WC facilities that are also available to the general public. All these facilities are accessed from either side of the building via a T-shaped internal corridor.
9. The southern section is currently used as a café comprising a counter and preparation area, with seating area provided outdoors. This was formerly used to provide court booking services and serve refreshments in form of kiosks, which was subsequently changed to the current use during the COVID period in 2020. The café area has internal access to the central corridor that leads to the toilet and changing facilities in the northern end of the pavilion.

Figure 3: internal layout of Burgess Park Tennis Pavilion



10. The current operating times of the café are 8:00am – 8:00pm Monday to Sunday during the periods of June and September; 08:00am – 4:00pm Monday to Sunday from October to May.
11. The application site is bounded by:
 - To the north: Burgess Community Playground
 - To the east and west: Tennis Courts
 - To the south: Addington Square (terraced residential properties)
12. The application site does not consist of a listed building nor does it fall within a conservation area, although it immediately adjoins the Addington Square Conservation Area to the south, which has a number of listed buildings in close proximity to the application site. It is subject to the following policy designations and spatial constraints:
 - Flood Zone 3
 - Aylesbury Action Area
 - Smoke Control Zone
 - Air Quality Management Area
 - Hot food takeaway exclusion zone
 - Site of Importance for Nature
 - Metropolitan Open Land

Details of proposal

13. Planning permission is sought for the retention of the café (Class E (b)) in the southern end of the pavilion building, associated with a refuse store and hardstanding to the south of the pavilion.
14. Effectively, it is a retrospective part change of use from community use (Class F) to café only (Class E(b)) in the southern end of the pavilion building. The toilets and changing facilities in the northern end of the building would

remain unchanged.

15. Following public consultation, the proposal has been amended in response to public representations received. The changes relate to removing the element of constructing x4 external doors on the western elevation and the associated internal reconfiguration for the provision of 3no. externally accessed WC compartments and 1no. tennis storage. Following public consultation, it has been confirmed by the applicant that these changes are no longer required. As raised by public comments, the proposal has also now included the external refuse facilities and the handstanding to the south of the pavilion, which had been built prior to this application.
16. The applicant confirms that the toilets and changing facilities will remain open and the access would be in line with the operating hours of the proposed café, which has been part of the original lease since the building was erected. These facilities would remain accessible from an internal corridor that requires management by the café staff on site. Outside of the café operating hours, only the contracted tennis coaches are allowed to enter the building with a key to access the internal storage space for essential equipment.
17. The applicant also confirms that the café operator would assume the responsibility for waste management and cleaning of the building to ensure it remains clean and safe for use. The proposed café operating hours would remain the same as existing, being 8:00am – 8:00pm Monday to Sunday during the periods of June and September; 8:00am – 4:00pm Monday to Sunday from October to May.

Consultation responses from members of the public and local groups

18. Site notices were displayed outside the pavilion on 14 March 2023. A total of 12 notification letters were sent to residential properties on Addington Square.
19. A total of nine representations have been received, however they are in effect equivalent to six responses as one of which were divided into four entries, due to the word limit and a separate document submitted on the register. In total, these break down as 1 in support and 5 objections.
20. The material considerations raised by the members of the public in the objections letters are summarised as below:
 - Proposed toilets will compromise the original community use
 - Position of the external toilet doors would impinge on a busy pathway for pedestrians and bikes
 - Loss of green space arising from potential additional hard landscaping for access to the proposed toilets
 - Safety issues with the access to toilet.

Officer response: these issues have been resolved following the revision of the proposal.

- Concern about the increased opening hours of the café
- Proposed use as a café/retail are not a use appropriate on MOL
- Introduction of a main town centre use in an out of town centre location.

Officer response: This is addressed in the ‘assessment’ section of the report.

Planning history of the site, and adjoining or nearby sites

21. See Appendix 2 for the full planning history relevant to the site. Of particular reference to this application are the previous permissions as follows:

02/AP/0944

Replacement of single storey tennis court centre pavilion, court reconstruction with two lighted courts CCTV and pedestrian path lighting.

03/AP/1720

Details of multi-sport court and rebound wall as required by condition 3 of Planning Permission 25/07/2002 (LBS Reg. 02/AP/0944) for replacement of single tennis court with two floodlight courts, construction of a centre pavilion, provision of CCTV and pedestrian path lighting

KEY ISSUES FOR CONSIDERATION

Summary of main issues

22. The main issues to be considered in respect of this application are:
- Principle of development in terms of land use, specifically the designation of the development site as Metropolitan Open Land
 - Impact on the amenity of neighbouring occupiers
 - Good design and heritage
 - Transport
 - Flood Risk
 - Ecology
 - Trees
 - Fire safety regulations
 - Energy
 - Mayoral and borough community infrastructure levy (CIL)
 - Any other planning material considerations
 - Carbon Concurrent
 - Community impact and equalities assessment
 - Human rights implications, and
 - Positive and proactive statement.
23. These matters are discussed in detail in the ‘Assessment’ section of this report.

Legal context

24. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the London Plan 2021 and Southwark Plan 2022. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers determining planning applications for development within Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the Act also requires the Authority to pay special regard to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess.
25. There are also specific statutory duties in respect of the Public Sector Equalities Duty which are highlighted in the relevant sections below and in the overall assessment at the end of the report.

Planning policy

National Planning Policy Framework (NPPF)

26. The revised National Planning Policy Framework ('NPPF') was published in September 2023 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.
27. Paragraph 218 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.
28.
 - Chapter 8 Promoting Healthy and Safe Communities - note paragraph 103 states that policies for managing development within a Local Green Space (such as MOL) should be consistent with those for Green Belts.
 - Chapter 9 Promoting Sustainable Transport
 - Chapter 11 Making Effective Use of Land
 - Chapter 12 Achieving well-designed places
 - Chapter 13 Protecting Green Belt Land
 - Chapter 14 Meeting the challenge of climate change, flooding and coastal change
 - Chapter 15 Conservation and Enhancement of the Natural Environment
 - Chapter 16 Conserving and Enhancing the Historic Environment

The London Plan 2021

29. On 2 March 2021, the Mayor of London published the London Plan 2021. The spatial development strategy sets a strategic framework for planning in Greater London and forms part of the statutory Development Plan for Greater London. The relevant policies are:

- D4 - Delivering good design
- D12 - Fire safety
- G1 - Green Infrastructure
- G3 - Metropolitan Open Land
- G6 - Biodiversity and access to nature
- G7 - Trees and Woodland
- HC1 – Heritage Conservation and Growth
- S1 12 - Flood risk management

Southwark Plan 2022

30. The Southwark Plan 2022 was adopted on 23 February 2022. The plan provides strategic policies, development management policies, area visions and site allocations which set out the strategy for managing growth and development across the borough from 2019 to 2036. The relevant policies are:
- P13 – Design of places
 - P14 - Design quality
 - P16 – Designing out crime
 - P18 - Efficient use of land
 - P20 – Conservation Areas
 - P21 – Conservation of the historic environment and natural heritage
 - P56 - Protection of amenity
 - P47 – Community Uses
 - P57 - Open Space
 - P60 - Biodiversity
 - P61 - Trees

ASSESSMENT

Principle of the proposed development in terms of land use

P57 Open Space

31. MOL is given the highest protection from inappropriate development in the NPPF, the London Plan 2021 and the Southwark Plan 2022. The NPPF makes it clear that MOL should be treated in the same way as designated Green Belt Land.
32. Policy P57 of Southwark Plan 2022 states that development may be permitted on Metropolitan open Land in exceptional circumstances when:
- i. It consists of ancillary facilities that positively contribute to the setting, accessibility and quality of the open space and if it does not affect its openness or detract from its character. Ancillary facilities on MOL must be essential for outdoor sport or recreation, cemeteries or for other uses of land which preserve the openness of MOL and do not conflict with its MOL function; or
 - ii. It consists of the extension or alteration of an existing building providing

that it does not result in disproportionate additions over and above the size of the original building; or

- iii. It consists of the replacement of an existing building, provided that the new building is no larger than the building it replaces.

Retrospective Change of use

33. The proposed change of use does not involve extension, alteration or replacement of the existing building, therefore criteria (ii) and (iii) do not apply to this proposed element.
34. The part change of use is in retrospective nature, where the southern end of the pavilion is sought to change from ancillary community use (Class F2) to its current operations as a café (Class E(b)). Whilst retrospective developments are generally not encouraged on MOL, it is acknowledged that the change was not an intentional breach of planning control but rather an organic adaptation of the pavilion use during the COVID period.
35. The applicant submitted an addendum to the planning statement on 18 September 2023, stating that historically a third party lease was in place to cover the management of the pavilion building, where refreshments were served as an ancillary function of the tennis club. During the COVID period, the leaseholder was unable to allow access to the building, alongside the suspension of tennis court activities due to Government social distancing guidelines. Subsequently, a servery was created in the doorway to the southern end of the building to provide a kiosk-type facility. This allowed a local café provider to serve an enhanced refreshment offer, reflecting more of a café menu, outside of the building. The statement goes on to explain that since early 2021, a new operator has taken over the space to present, with a menu of beverages, toasties and baked goods, etc.
36. The council terminated the full lease agreement of the whole pavilion building on 31 March 2023 in order to resume its control over the tennis activities in Burgess Park. This has resulted in the requirement for a third party to take on running of the cafe and management of the toilets/changing facilities within the building. The current operator is subject to a tenancy at will, which will be terminated on the conclusion of the new letting process (starting in Autumn 2023).
37. By way of this retrospective application, the applicant seeks to regularise the current café operation and secure its independence from the community use in planning terms. Notwithstanding, it is anticipated that future café operators would maintain and manage access to the toilets and changing facilities for tennis users and the general public.
38. Public concerns were raised over the original proposal of 4no. doors on the western elevation for public safety reasons and its potential obstruction to the adjoining pedestrian pavement, as well as change of use to an overarching Class E for a wide range of commercial activities that are inappropriate on MOL. However, it is acknowledged the current café operation is generally supported.

39. In response, the applicant has agreed to withdraw the element of external and internal alterations for 3no. externally accessed toilets and 1no. tennis storage, and specify the proposed use as café only subject to a compliance condition. Additionally, the applicant has accepted a condition requiring submission of an operational plan by café operators upon every start of new lease to ensure the future operations and the associated internal layout arrangement would maintain safe and inclusive access to the internal toilet and showering/changing facilities.
40. Accordingly, it is considered that the retrospective change of use would reasonably maintain the building's community function for the tennis activities as it would not prejudice access to and safety of the toilet and showering/changing facilities essential to the outdoor sports activities. It is also observed that the continued café operation, as the only use of this part of the pavilion, would positively contribute to the setting, accessibility and quality of the open space, given cafes are a common offer in public parks which enhances and complements the enjoyment of green space and related activities. As such, the proposal would satisfy criteria (i) of Policy 57 Open Space of Southwark Plan 2022.

P47 Community Uses

41. Protection of the community facilities are safeguarded in Policy 47 of Southwark Plan 2022, which requires that development must retain community facilities. Given the reasoning above, the retrospective part of change is considered to reasonably preserve the function of the pavilion building for the tennis club. Consequentially, this is found sufficient to meet the policy objective.

Lawfulness of the existing refuse facility and hardstanding

42. Regards are had to the refuse facilities and the hardstanding to the south of the pavilion. Officers are aware of the public comments suggesting that these two facilities were erected prior to this application, albeit without planning permission. In response, the proposal has now included these two elements.
43. At officers' enquiry, the applicant confirmed the bin store was installed by the council's facilities management team with the consent of the Parks department, in order to prevent unauthorised use of the bins by the general public and anti-social movement of the bins or contents. Despite no records available, it was likely to be installed in early 2020. In terms of the extended paving, the Parks Department consented to the works in 2022 to improve the ground conditions for public use that had become worn, uneven and muddy.
44. Class A, Part 12, Schedule 2 of General Permitted Development (England) Order 2015 (as amended) allows development by local authorities, including:
- a) Any works on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;

- b) Refuse bins required in connection with the operation of any public services administered by them

Effectively, the two structures in question would meet the definitions of the relevant legislation and therefore constitute permitted developments without the need of planning permission.

Impact on the amenity of neighbouring occupiers

- 45. The proposal would be located 230m away from the nearest residential properties to the southeast. Due to the considerable distance and the minor scale of the proposal which does not involve any extension or external alteration to the building, it is not considered to create adverse impacts on the daylight, sunlight, privacy or openness afforded to neighbouring properties. The proposed development is considered to comply with Policy P56 Protection of Amenity of the Southwark Plan 2022.
- 46. The submitted addendum dated 16 September 2023 states that there is minimal cooking on site due to the limited kitchen space, where items are prepared by secondary cooking equipment such as grill plate and microwave. The applicant confirms there are no plans for the installation of primary cooking equipment such as oven. As such, the proposed café use is not considered to create any nuisance by way of noise, vibration, fumes air pollution, subject to a condition that no primary cooking is allowed on the premises.
- 47. The proposed operating times of the café would be the same as existing, being 8:00am – 8pm Monday to Sunday during the periods of June and September; 08:00am – 4pm Monday to Sunday from October to May. This is considered consistent with the opening hours of the park and would be secured by a compliance condition.

Good design and heritage

Impact on the character of the open space and setting of the adjoining conservation area

- 48. The tennis centre sits on the western end of Burgess Park. The building itself is modern, single-storey and not listed but immediately adjoins the Addington Square conservation area in the south, which has a number of listed buildings in close proximity to the application site. Since no external change is resulted from the final proposal, it is not considered to create any impacts on the surrounding context.

Designing out crime

- 49. Policy P16 Designing out Crime of Southwark Plan 2022 requires that developments demonstrate high quality of design to reduce the likelihood of crimes. It is acknowledged that anti-social behaviour and serious crimes were previously reported as a result of the unsupervised access to the toilets within the pavilion. The applicant confirms that the toilets and changing facilities would remain accessible from an internal corridor that requires

management by the café staff on site. These facilities would remain open and the access would be in line with the operating hours of the proposed café, which has been part of the original lease since the building was erected. Outside of the café operating hours, only the contracted tennis coaches are allowed to enter the building with a key to access the internal storage space for essential equipment.

50. Whilst this proposal is a retrospective change of use and does not involve any design changes internally and externally, officers are of view the outstanding safety issues may be mitigated by a condition requiring submission of an operational plan by future café operators. This would ensure the future café must be operated in appropriate ways to secure effective surveillance of use and access of the internal facilities.

Transport

Car Parking

51. The application site is located in a Public Transport Accessibility Level (PTAL) are rated 4, as such, has good levels of access to public transport. The proposed development would be car-free, which is acceptable. The retrospective change of use would not be dissimilar to what is already existing, as such it is not envisaged to result in car parking intensification in the surrounding area or on site.

Cycle Parking

52. Since this application involves retrospective change of use to continue the café operation, it is not considered to create a significant uplift in demand for cycle parking following the grant of permission. The applicant has demonstrated that there are currently 3 and 4 cycle racks respectively in the north and south, as such Officers are satisfied that there are sufficient existing cycle parking space within a walking distance that can provide for the proposed cafe use.

Figure 4: existing cycle parking in the park



Flood Risk

53. The site is located in Flood Zone 3. Since the proposed development is retrospective change of use and involves a less vulnerable use, it refers to internal changes associated with the proposed use of a minor nature and is therefore not considered to increase risks of flooding to the area.

Ecology and trees

54. With the retrospective change of use inside the pavilion, it is not considered to create any ecological concerns or impacts on the surrounding trees.

Policy D12 (A) of the London Plan (2021) - Fire Safety

55. Paragraph 3.12.9 of Policy D12 explains that Fire Statements should be produced by someone who is “third-party independent and suitably-qualified”. The council considers this to be a qualified engineer with relevant experience in fire safety, such as a chartered engineer registered with the Engineering Council by the Institution of Fire Engineers, or a suitably qualified and competent professional with the demonstrable experience to address the complexity of the design being proposed.
56. This should be evidenced in the fire statement. The council accepts Fire Statements in good faith on that basis. The duty to identify fire risks and hazards in premises and to take appropriate action lies solely with the developer.
57. A reasonable exemption statement has been submitted as the application does not alter the external wall materials and the internal layout. The existing

fire safety measures including the evacuation strategy would not be affected accordingly.

58. In any case, a full technical assessment of the requirements of fire safety in the new building will be dealt with comprehensively at the building regulations stage. Officers considered that the information provided satisfies the requirements of planning policy.

Mayoral and borough community infrastructure levy (CIL)

59. Section 143 of the Localism Act states that any financial contribution received as community infrastructure levy (CIL) is a material 'local financial consideration' in planning decisions. The requirement for payment of the Mayoral or Southwark CIL is therefore a material consideration. However, the weight attached is determined by the decision maker. The Mayoral CIL is required to contribute towards strategic transport invests in London as a whole, primarily Crossrail. Southwark's CIL will provide for infrastructure that supports growth in Southwark.
60. Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy.
61. The application is for the change of use as such the proposal is not liable for the levy.

Summary of consultation responses from external, internal and divisional consultees

Urban Forester (Tree Officer):

- No objection to the application as the proposed works only affect hard surfaced areas, i.e. the adjacent highway.

Officer response: noted.

Transport policy:

- No parking is proposed. Due to PTAL 4 a car-free development is acceptable
- The proposal does not include details of long-stay or short-stay/visitor cycle parking. The applicant should provide details on the existing/proposed cycle parking spaces, plus gross external area (GEA) of the building. The minimum amount of long-stay cycle parking for a café is 1 space per sqm GEA (minimum of 2 spaces). Visitor cycle parking should be provided within the public realm of the scheme
- The applicant should provide details of refuse and recycle bins, which currently is not shown on plans

Officer response: These issues will be assessed in the relevant sections of the report.

Local Highways Authority:

- No comment.

Officer response: noted.

Design and Conservation:

- The proposed dimensions of the doors are appropriate to the host building as they match the height of the adjacent existing door and are consistent across the 4 new doors
- The proposed doors would be flush steel-faced, finished in an anti-vandal manner, and to match the adjacent existing doors, which is encouraged. A condition should be attached to ensure the materials/finish would match the existing

Officer response: the above comments are no longer relevant as a result of the proposal revisions.

- The small scale of change is not considered to pose harm to the setting of the nearby listed buildings nor the character of the Addington Square Conservation Area.

Officer response: Noted.

Ecology:

- No ecological concerns

Officer response: Noted.

Arboricultural Services Team:

- No comments received.

Any other matters

62. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.
63. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.
64. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:
 - a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 - b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it, and
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
65. The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.
66. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership. The positive impacts have been identified throughout this report.

In general, the proposal would promote:

- Public safety: the condition requirement of an operational plan by future café operator would ensure safe and managed access to the internal toilets and changing/showering facilities. This would particularly enhance the safety of vulnerable residents including young/old age, female users in particular.
- Specified café use in the pavilion: it would complement and enhance the enjoyment of the green space and the related activities, as cafes are a common offer in public parks that are well received by the general public. It would benefit people from all protected characteristics and help to foster positive relationship among the groups through participation in public life.

By way of maintaining the safe provision of changing/toilet facilities, the proposal would specifically benefit users of following protected characteristics:

- Age – changing facilities for all ages
- Disability – the disabled toilet is maintained
- Gender reassignment – still providing facilities which can be used and private facilities for changing as well

- Pregnancy and maternity – changing facilities would still be provided which would be able to be used by mothers etc
- Sex – separate toilets and facilities are provided
- Sexual orientation – toilets and facilities are still provided.

Carbon concurrent

Achieving net carbon zero development in Southwark

67. All development is required to take measures to reduce carbon emissions on site with the aim of contributing to net carbon zero by 2050 in accordance with the adopted development plan.
68. The measures identified for this minor development are summarised in the table below:

Net carbon zero: summary table	
Be Lean measures (energy efficient design and construction)	Not applicable due to the minor scale and change of use.
Be Clean measures (low carbon energy supply)	
Be Green measures (on site renewable energy generation and storage)	
Any other comments	

Meeting Southwark’s Climate Change Strategy and Action Plan

69. In July 2021, the council adopted its Climate Change Strategy and Action Plan for tackling the climate emergency. The plan sets out how emissions in the borough can be reduced from buildings, transport and waste disposal.
70. The Strategy sets out 148 Action Points that the council will undertake to achieve its ambition to do all it can to achieve a net zero carbon borough by 2030 across five key priority areas:
- Greener Buildings: these actions relate to Southwark’s built environment and new developments e.g., emissions from privately rented homes, commercial offices and private property development. They cover scope one and two emissions

- Active and Sustainable Travel: these actions relate to surface transport across the borough, e.g., emissions from private car travel. They cover scope one, two and three emissions
- A Thriving Natural Environment: these actions relate to the maintenance and security of the borough’s natural environment e.g., increasing tree canopy coverage
- A Circular Economy with Green Jobs: these actions relate to waste within the borough e.g., emissions from non-recyclable waste disposal. They cover scope one and two emissions
- Renewable Energy: these actions relate to the provision of more renewable energy within the borough i.e., local installation of technologies such as solar PV.

71. The following Action Point/s have identified as relevant to this planning application:

Priority Area:	Active and Sustainable Travel
Theme	Make cycling and walking easier
Officer commentary	The proposal is a car-free development.

Positive and proactive statement

72. The council has published its Plan 2022 on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

73. The council provides a pre-application advice service that is available to all applicants in order to assist applicants in formulating proposals that are in accordance with the development plan and core strategy and submissions that are in accordance with the application requirements.

Conclusion

74. The proposal demonstrates conformity with the principles of sustainable development. The proposed retrospective change of use would preserve the community function of the tennis pavilion by way of maintaining safe access to the changing and toilet facilities. The continued café operation would also complement the character of the MOL designation by enhancing the enjoyment of the green space and the associated activities. Additionally it would respect the amenity of neighbouring properties and does not involve changes in the external appearance. Accordingly, it is recommended that planning permission be granted subject to conditions.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file:TP 2032 - M2022 Application file: 23/AP/0649 Southwark Local Development Framework and Development Plan Documents	Environment, Neighbourhoods & Growth Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 0207 525 0254 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Recommendation
Appendix 2	Relevant planning policy
Appendix 3	Relevant planning history
Appendix 4	Consultation undertaken
Appendix 5	Consultation responses received

AUDIT TRAIL

Lead Officer	Stephen Platts, Director of Planning and Growth	
Report Author	Winnie Wing Lam Tse, Planning Officer	
Version	Final	
Dated	21 September 2023	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance	No	No
Strategic Director of Environment, Neighbourhoods and Growth	No	No
Strategic Director of Housing	No	No
Date final report sent to constitutional team		6 October 2023

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.

Southwark Council	Jardine Finn Southwark Council	Reg. Number	23/AP/0649
Application Type	Minor application		
Recommendation	GRANT permission	Case Number	2032 - M2022

Draft of Decision Notice**Planning permission is GRANTED for the following development:**

Retrospective application for part change of use from ancillary community use to cafe (Class Eb), associated with a refuse store and hardstanding to the south of the pavillion.

Burgess Park Tennis Centre, 44 Addington Square, London, Southwark, SE5 7LA

In accordance with application received on 8 March 2023 and Applicant's Drawing Nos.:

Existing Plans

Proposed Plans
320/11 Rev PLAN + ELEVATIONS AS EXISTING + PROPOSED

Other Documents
Planning Statement Addendum dated 18 September 2023

Time limit condition

1. The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 as amended.

Compliance conditions

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and any associated provisions of the Town and Country Planning

General Permitted Development Order (including any future amendment of enactment of those Orders), the Class E floorspace hereby approved shall be used for use class E (b) purposes only unless otherwise agreed by way of a formal application for planning permission.

Reason:

In order to ensure that the site continues to operate in cafe use and prevent wider Class E uses inappropriate to the MOL designation, in accordance with Policy P57 Open Space of Southwark Plan 2022, Policy G3 Metropolitan Open Land of London Plan 2021, and Chapter 8 Promoting Healthy and Safe Communities of NPPF 2021.

3. No primary cooking shall place in the development hereby approved.

Reason:

In order to ensure that that the café operation 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 Chapter 12 (Achieving well-designed places) of the National Planning Policy Framework (2021); Policy D13 (Agent of Change) of the London Plan (2021); Policy SI 1 (Air quality) of the London Plan (2021); P64 (Contaminated land and hazardous substances) P65 (Improving air quality) and P56 (Protection of Amenity) of the Southwark Plan (2022).

4. The operating times of the café approved hereby shall be 8:00am – 8:00pm Monday to Sunday during the periods of June and September; 08:00am – 4:00pm Monday to Sunday from October to May. It shall not be carried on outside of the specified hours.

Reason:

To safeguard the amenities of neighbouring residential properties in accordance with Chapter 8 (Promoting healthy and safe communities) of the National Planning Policy Framework (2021); Policy D4 (Delivering good design) of the London Plan (2021); and Policy P56 (Protection of amenity) of the Southwark Plan (2022).

Special condition

5. Prior to the commencement of third-party lease for the cafe operation, an operational plan, detailing the cafe operations in relation to managed access and surveillance to the toilets, changing/showering facilities in the northern end of the pavilion building, shall be submitted to and approved in writing by the Local Planning Authority, and the scheme shall therefore be carried out in accordance with the approved details.

Reason:

To ensure the approved development would remain to preserve the ancillary community use of the pavilion building for the adjacent tennis courts), in accordance with Policy P16 Designing out Crime, P47 Community Uses and P57 Open Space of Southwark Plan 2022; G3 Metropolitan Open Land of London Plan 2021; Chapter 8 Promoting Healthy and Safe Communities of NPPF 2021.

Relevant planning policy**National Planning Policy Framework (2021)**

The revised National Planning Policy Framework ('NPPF') was published in July 2021 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental. Paragraph 212 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.

The relevant chapters from the Framework are:

- Chapter 8 Promoting Healthy and Safe Communities
- Chapter 9 Promoting Sustainable Transport
- Chapter 11 Making Effective Use of Land
- Chapter 12 Achieving well-designed places
- Chapter 13 Protecting Green Belt Land
- Chapter 14 Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 Conservation and Enhancement of the Natural Environment
- Chapter 16 Conserving and Enhancing the Historic Environment

The London Plan (2021)

On 2 March 2021, the Mayor of London published the London Plan 2021. The spatial development strategy sets a strategic framework for planning in Greater London and forms part of the statutory Development Plan for Greater London.

The relevant chapters from the Plan are:

- Policy D4 Delivering good design
- Policy D12 Fire safety
- Policy G1 Green Infrastructure
- Policy G3 Metropolitan Open Land
- Policy G6 Biodiversity and access to nature
- Policy G7 Trees and Woodland
- Policy HC1 Heritage Conservation and Growth
- Policy S1 12 Flood Risk Management

Southwark Plan 2022

The Southwark Plan 2022 was adopted on 23 February 2022. The plan provides strategic policies, development management policies, area visions and site allocations which set out the strategy for managing growth and development across the borough from 2019 to 2036. The relevant policies are:

- P13 – Design of places
- P14 - Design quality

- P16 – Designing out crime
- P18 - Efficient use of land
- P20 – Conservation Areas
- P21 – Conservation of the historic environment and natural heritage
- P56 - Protection of amenity
- P47 – Community Uses
- P57 - Open Space
- P60 - Biodiversity
- P61 - Trees

APPENDIX 3

Relevant planning history

18/AP/0924 – Approval of details granted on 28 September 2018

Details of Condition 8 - Drawings of a hard and soft landscaping scheme as required by planning permission dated 30/11/16 [LBS Ref 16AP3165] for re-landscaping the South-West region of Burgess Park including a new play area, new access pathways, new lighting fixtures, new surfaces, trees, shrubs, meadow and to include new park furniture.

17/AP/4452 – approval of details granted on 5 January 2018

Details of Condition 6, a landscape management plan, pursuant to planning permission 16-AP-3165 for: Re-landscaping the South-West region of Burgess Park including a new play area, new access pathways, new lighting fixtures, new surfaces, trees, shrubs, meadow and to include new park furniture.

17/AP/4441 – approval of details granted on 5 January 2018

Details of Condition 4, a programme of archaeological evaluation works, pursuant to planning permission 16-AP-3165 for: Re-landscaping the South-West region of Burgess Park including a new play area, new access pathways, new lighting fixtures, new surfaces, trees, shrubs, meadow and to include new park furniture.

15/AP/5098 – approval of details granted on 23 February 2016

Details of Condition 5 - Hard and Soft Landscaping as requested by LBS Listed Building Consent 15/AP/0516 (Replacement and reconfiguration of existing external ramp; amendments to paving to facilitate new external ramp; reduction of length of the freestanding wall at its western end; installation of x2 new entrances to toilets in north elevation; installation of replacement staircase; installation of new lift; reconfiguration of public toilets; and all associated amendments to the internal layout to accommodate these changes. REVISED DESCRIPTION)

15/AP/5097 – approval of details granted on 29 January 2016

Details of Condition 3 - Detailed Drawing of New Door and proposed ramp and handrail as requested by LBS Listed Building Consent 15AP0516 (Replacement and reconfiguration of existing external ramp; amendments to paving to facilitate new external ramp; reduction of length of the freestanding wall at its western end; installation of x2 new entrances to toilets in north elevation; installation of replacement staircase; installation of new lift; reconfiguration of public toilets; and all associated amendments to the internal layout to accommodate these changes. REVISED DESCRIPTION)

14/AP/4396 – TPO granted on 15 January 2015

Fell and remove stumps of 4 x Ailanthus Altissima (dead) and replace with 5 x Quercus SPP.

13/AP/1068 – Local Authority Development granted on 7 August 2013

The installation of five new containers including doors, windows and green roof incorporated into the BMX track layout.

11/AP/2941 – withdrawn on 11 April 2012

Details of a scheme to deal with the risks associated with contamination of the site pursuant to condition 13 of planning permission dated 03.02.2011(LBS Reg No:10-AP-3246) for alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.

11/AP/2940 – granted on 12 April 2012

Details of a remediation verification report pursuant to condition 12 of planning permission dated 03.02.2011 (LBS Reg No:10-AP-3246) for alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.

11/AP/2932 – granted on 12 April 2012

Details of a scheme to deal with the risks associated with contamination of the site pursuant to condition 11 of planning permission dated 03.02.2011(LBS Reg No:10-AP-3246) for alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.

11/AP/1835 – approval of details granted on 12 August 2011

Details of works in connection with new paths, or alterations or extension to the lake and a surface water drainage scheme for the site as required by Condition 14 of planning application 10AP3246 dated 03.02.2011 for the Alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road;

general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park

11/AP/1834 – granted on 12 August 2011

Details of a hard and soft landscaping scheme as required by Condition 7 of planning application 10AP3246 dated 03.02.2011 for the Alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.

11/AP/1832 – granted on 12 August 2011

Details of trenches, pipe runs or foundations for roads or pathways dug or excavated within 0.5 metres of base of any tree on the site as required by Condition 6 of planning application 10AP3246 dated 03.02.2011 (for the Alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.)

11/AP/1831 – granted on 2 August 2011

Details of tree protection measures as required by Condition 5 of planning application 10AP3246 dated 06/02/2011 (for the Alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.)

11/AP/1830 – granted on 26 July 2011

Details of precautions to secure and protect the existing listed buildings against accidental and structural damage during the earth moving works as required by Condition 2 of application 10AP3246 dated 03.02.2011 (for the Alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park)

10/AP/3246 – local authority development granted on 3 February 2011

Alterations to Burgess Park including: Alterations to the entrances and boundaries at Old Kent Road and Camberwell Road; general alterations to accessibility and footpaths; repair and enlargement of Burgess Park lake including habitat enhancements/alterations, conversion of an area of amenity grassland east of canal bridge to meadow; works in relation to biodiversity across the park; felling and planting of trees; installation of new street furniture; maintenance of a fitness circuit and provision of outdoor gym equipment; structure landscaping relating to the great lawn and the plateau adjacent to Albany Road; creation of a new play area; conversion of existing internal roads to parkland and reorganisation and reduction of car parking spaces within the park.

Consultation undertaken

Site notice date: 14/03/2023

Press notice date: n/a.

Case officer site visit date: 14.03.2023

Neighbour consultation letters sent: 13/03/2023

Internal services consulted

Environmental Protection

Urban Forester

Transport Policy

Highways Development and Management

Design and Conservation Team [Formal]

Ecology

Statutory and non-statutory organisations

Neighbour and local groups consulted:

42 Addington Square London Southwark

39 Addington Square London Southwark

53 Addington Square London Southwark

48 Addington Square London Southwark

Ground Floor And Part First Floor 47-48 Addington Square London

41 Addington Square London Southwark

40 Addington Square London Southwark

38 Addington Square London Southwark

34 Addington Square London SE5 7LB

39 Addington Sq Camberwell

42 Addington Square London SE5 7LB

39 Addington Square London SE57IB

30 Coleman Road London SE5 7TG

2a addington Square London se5 7jz

2a addington Square London se5 7jz

1 Hambling Court 42 Southampton Way London

Friends of Burgess Park

Burgess Park Run

Re-consultation

Consultation responses received

Internal services

Urban Forester

Transport Policy

Highways Development and Management

Design and Conservation Team [Formal]

Ecology

Statutory and non-statutory organisations

Neighbour and local groups consulted:

34 Addington Square London SE5 7LB

39 Addington Sq Camberwell

42 Addington Square London SE5 7LB

39 Addington Square London SE57IB

30 Coleman Road London SE5 7TG

1 Hambling Court 42 Southampton Way London

2a addington Square London se5 7jz

2a addington Square London se5 7jz