

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:

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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
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 41 CHOUMERT SQUARE LONDON SE15 4RE
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 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
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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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