

Item No. 6.1	Classification: OPEN	Date: 11 April 2012	Meeting Name: Nunhead and Peckham Rye Community Council
Report title:	Development Management planning application: Application 10-AP-2563 for: Full Planning Permission Address: 129 BELLENDEN ROAD, LONDON, SE15 4QY Proposal: Retrospective change of use of ground floor and basement from a florists (Use Class A1) to an estate agents (Use Class A2) (retrospective).		
Ward(s) or groups affected:	The Lane		
From:	Victoria Lewis		
Application Start Date 26/10/2010		Application Expiry Date 21/12/2010	

RECOMMENDATION

- 1 That planning permission be granted.

BACKGROUND INFORMATION

Site location and description

- 2 This application is referred to Nunhead and Peckham Rye Community Council because it is contrary to saved policy 1.9 'Change of use within protected shopping frontages' of the Southwark Plan (2007)The application relates to a 3-storey plus basement mid terrace property located on the eastern side of Bellenden Road, the ground floor and basement of which are being used as an estate agents (Use Class A2) and have been since January 2007.
- 3 The site forms part of the Holly Grove Conservation Area, protected shopping frontage 28, the urban density zone, an air quality management area and the Peckham and Nunhead Action Area.

Details of proposal

- 4 Retrospective planning permission is sought for change of use from A1 retail (the ground floor and basement of the building were formerly used as a florists) to A2 (financial and professional services), to enable the use as an estate agents to continue.

Planning history

- 5 9900580 - Installation of new shopfront. Planning permission was GRANTED in June 1999.

Planning history of adjoining sites

6 None relevant.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

7 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) amenity;

c) transport.

Planning policy

Core Strategy (2011)

- 8 Strategic policy 1 - Sustainable development
Strategic policy 2 - Sustainable transport
Strategic policy 3 - Shopping, leisure and entertainment
Strategic policy 13 - High environmental standards

Southwark Plan 2007 (July) - saved policies

- 9 1.9 - Change of use within protected shopping frontages
3.2 - Protection of amenity
5.2 - Transport impacts
5.3 - Walking and cycling
5.6 - Car parking

London Plan (2011)

- 10 Policy 4.9 Small shops

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

- 11 PPS4: Planning for sustainable economic growth

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.

13 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).

Principle of development

- 14 Saved policy 1.9 of the Southwark Plan states that planning permission for a change

of use from A1 Use Class within protected shopping frontages will be granted provided that the following criteria are met:

i) The proportion of units within any protected shopping frontage in A1 Use Class does not fall below 50% and:

ii) The premises have been vacant for a period of at least 12 months with demonstrated sufficient effort to let, or have not made a profit over a 2 year period; and

iii) The proposal would not result in a material loss of amenity for surrounding occupiers; and

iv) The proposed use provides a service involving visits to the premises by members of the public;

- 15 The protected shopping frontage spans 113-161 and 168-196 Bellenden Road and contains 52 units in total. At present 20 of these units are in retail use, which equates to 38.4%, well below the 50% threshold. It is noted that if the application site reverted to its lawful A1 use, 40% of the units would be in A1 use. It has not been possible to establish the use of 172 Bellenden Road and it is noted that the protected shopping frontage includes a number of residential properties, numbers 115, 135, 146-166 and 153 Bellenden Road. These appear to have been included in the frontage in spite of their residential use, which has the effect of lowering the overall percentage of retail units.
- 16 A valuation report submitted with the application states that the premises was vacant at the time of an inspection on 9th October 2006, and the applicant has advised that he purchased the property in January 2007. There have been difficulties in obtaining information relating to the former A1 use because the property was vacant when the applicant purchased it. He has however, made contact with the previous owners who ran 'Bellenden Flowers' from the premises from February 2002 until April 2004, and which employed two people; the shop was open four days a week plus Saturdays. The person who owned the shop has advised the applicant that it did not make a profit and they closed the shop after a bus stop was erected in front of the shop window which concealed the premises from passing traffic and removed some on-street parking. Following this the premises was empty for just over a year before a florist called Sweet Pea moved in from mid 2005 until mid 2006, at which point the premises was closed owing to poor trade and the business is understood to have relocated to East Dulwich.
- 17 The proposal is contrary to part i of saved policy 1.9 on the grounds that the proportion of units in A1 use is below 50%. It is noted however, that it is already well below 50% and that this has not been as a result of the proposal. The application is also contrary to part ii of the policy in that no information has been submitted with regard to profits or marketing, given that the premises was already vacant when it was purchased by the applicant. From the information that the applicant has managed to obtain however, it appears that two former A1 uses on the site, both florists, were unable to sustain a viable business from the premises and closed down.
- 18 The A2 use has brought a vacant unit back into use, offering a service to the public with an active frontage which maintains the viability and vitality of the parade. It currently employs 5 full-time members of staff on the site, two full-time maintenance men and three part-time gas and electric engineers and operates 6 days a week, 09:00-18:00 Monday to Friday and 10:00-17:00 on Saturdays, and this in itself is likely to contribute to the success of the shopping frontage as employees are likely to use the nearby shops and services. Other specialist firms are also employed when required, including for pest control, roofing, damp and minor construction works. A2 uses are commonly found within town centres and local shopping parades without causing any loss of amenity to neighbouring occupiers.

With regard to advice contained in the draft National Planning Policy Framework, which sets out the government's commitment to a planning system which does all that it can to support sustainable economic growth and job creation, it is not considered that it would be appropriate to refuse planning permission in this instance. If permission were granted, it may well mean that enforcement action would have to be taken to close the business down, which could result in the loss of 5 full time jobs. For these reasons, it is not considered to be appropriate to refuse planning permission on the basis of saved policy 1.9.

Traffic issues

- 20 Saved policy 5.2 of the Southwark Plan seeks to ensure that developments do not result in adverse highway conditions.
- 21 No objections are raised in this regard. The premises is likely to have a fairly local catchment with many people walking to and from the site. Parking is available on the surrounding streets and there is a bus stop outside the site. The site has a public transport accessibility level (PTAL) of 4 (medium).

Other matters

- 22 There are no other matters arising from the proposal.

Conclusion on planning issues

- 23 The proposal to retain the premises in A2 use is contrary to saved policy 1.9 of the Southwark Plan because the number of units in A1 use is below 50% and no information with regard to profits or marketing has been submitted. It is noted however, that even without factoring in the application site, the number of A1 uses in the parade is already below 50%, partly because the designation includes residential properties. In addition, the premises was vacant when purchased by the applicant thereby making it difficult to obtain information with regard to profits and marketing.
- 24 What is clear from the information it has been possible to obtain, is that two previous A1 uses at the site were not successful and consequently closed down. The estate agents now operating at the site has been doing so since January 2007 and employs 5 full-time members of staff. The use offers a service to members of the public, retains a full shopfront which contributes to the vitality of the parade, and the employees are likely to use local services. The proposal does not appear to be resulting in any loss of amenity or adverse highways conditions. In light of this, and with regard to advice contained in the draft National Planning Policy Framework which requires the planning system to do all that it can to support sustainable economic growth and job creation, it is recommended that planning permission be granted and the use allowed to continue. Each application is assessed on its own merits and it is not considered that this approach would undermine the retail function of the parade as other sites would all have their own unique circumstances.

Community impact statement

- 25 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 above.

c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above.

Consultations

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

Consultation replies

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

Summary of consultation responses

26 One representation has been submitted objecting to the application on the following grounds:

- The site is in a protected shopping frontage and retail uses should be protected;
- There is already an estate agents in the parade;
- Questions whether a temporary and personal permission could be granted;
- Questions whether a limit to the number of estate agents in the parade could be imposed.

27 One representation has been received in support of the application on the following grounds:

- This is a good, local, independent business which supports and is interested in the locality;
- It maintains the property as a retail business and it is important to maintain Bellenden Road as a good local commercial street;
- There are many applications to change retail / commercial premises to residential which is detrimental to local amenity therefore the application should be commended.

Human rights implications

28 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.

29 This application has the legitimate aim of continuing to provide an A2 use on the site. 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

N/A.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2655-129 Application file: 10-AP-2563 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 5410 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	Victoria Lewis, Planning Officer	
Version	Final	
Dated	21 February 2012	
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		29 March 2012

Consultation undertaken

Site notice date: 09/11/2010

Press notice date: 04/11/2010

Case officer site visit date: 08/02/2012

Neighbour consultation letters sent: 05/11/2010

Internal services consulted: None.

Statutory and non-statutory organisations consulted: None.

Neighbours and local groups consulted:

05/11/2010	131 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	160 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	129 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	125 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	127 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	123 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	FIRST FLOOR AND SECOND FLOOR FLAT 127 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	117 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	166 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	113 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	162A BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	162B BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	121B BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	119A BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	GROUND FLOOR FLAT 119A BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	164A BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	119 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	121 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	115 BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	164B BELLENDEN ROAD LONDON	SE15 4QY
05/11/2010	98 CHOUMERT ROAD LONDON	SE15 4AX

Re-consultation: Not required.

Consultation responses received

Internal services N/A.

Statutory and non-statutory organisations N/A.

Neighbours and local groups

Bellenden Residents' Group

- 1 Object to the application on the following grounds:
- 2 We understand that the shop frontage along this shopping parade is retail protected; The reasons for this are still valid - that this parade needs to be for retail uses and these uses need to be protected. There is already an estate agent on the parade. If planning permission had been sought for this change of use in 2007, when we first alerted the Council Planning Enforcement Team to the reports that it was being converted into non-retail use, we would have objected to that planning application then for that reason. The situation has not changed.
- 3 We realise that the estate agent's business is now in operation. If any permission is granted for the current estate agents, can it be temporary and granted on condition that it is for that estate agent's business only?

Officer response: for the reasons set out in the report the proposal is considered to be acceptable and a temporary or personal permission is not considered necessary.

- 4 Can a limit be imposed on the number of estate agents in that shopping area?

Officer response: It is not possible to control this through this planning application. Any applications at other premises in the parade would be assessed upon their merits.

66 Talfourd Road

- 5 Wish to support the change of use for the following reasons:
 - The estate agent is a good local independent business which is interested in and supports the locality;
 - The change of use maintains the property as a retail business. It is very important to maintain Bellenden Road as a good local commercial street;
 - It appears that there are many applications to change retail / commercial properties into residential. In my opinion this is detrimental to the local amenity, so such an application should be commended.