

Item No:	Classification: Open	Date: 03 March 2015	Meeting Name: Planning Committee
Report title:		Addendum Late observations, consultation responses, and further information.	
Ward(s) or groups affected:			
From:		Head of Development Management	

PURPOSE

- 1 To advise Members of observations, consultation responses and further information received in respect of the following planning applications on the main agenda. These were received after the preparation of the report and the matters raised may not therefore have been taken in to account in reaching the recommendation stated.

RECOMMENDATION

- 2 That Members note and consider the late observations, consultation responses and information received in respect this item in reaching their decision.

FACTORS FOR CONSIDERATION

- 3 Late observations, consultation responses, information and revisions have been received in respect of the following planning applications on the main agenda:

3.1 Item 6.1 – Units 13 – 16 The Circle, Queen Elizabeth Street, SE1 2JE

Late and additional representation

- 3.2 19 further letters/emails received from residents (following consultation on the proposed Delivery & Servicing Plan). All 19 letters/emails raise objections on the following grounds:

- Inadequacy of highway to accommodate delivery/service vehicles
- Loss of highway safety
- Noise, pollution (light and air) and vibration from service/delivery vehicles
- Inappropriate development in the Shad Thames Conservation Area
- Loss of safety for Bermondsey Street Community Nursery
- Lack of need for A1 use and harm to viability of local shops
- Potential inappropriate signage
- Loss of parking
- Loss of/harm to street trees
- Creation of new exit door and increased footfall
- Refuse/on-street alcohol consumption
- Waste/environmental health issues
- Anti competitive selling

Some residents have also submitted material which they intend to circulate at the planning committee which comprises sections from the officer report, a plan and photos showing a delivery vehicle negotiating the proposed delivery route to the site.

- 3.3 Officer Comment: The officer report notes that the use of Units 13 – 15 for A1 (retail) purposes is permitted development and the principle of the Class A1 retail use of Unit 16 also raises no objections in land use terms. The main report wrongly includes reference to Policy 1.8 (Location of developments for retail and other town centre units) of the Southwark Plan which was not saved as it was not in general conformity with the NPPF. Instead regard should be given to Section 2 (Ensuring the vitality of town centres) of the NPPF when considering retail uses outside of town centres. The NPPF requires that an impact assessment be carried out if the floorspace proposed is above 2500sqm, and a sequential test is undertaken considering whether town centre sites have been used first. However, given the removal of part of the mezzanine floor within Units 13 – 15 the amount of new A1 floorspace which requires planning permission with this proposal is 2 sq m. As the amount of net additional retail floorspace which requires planning permission is so modest it is not necessary to carry out an impact assessment or sequential test in this case.
- 3.4 A Servicing & Delivery Plan is included with the application and, if planning permission is granted, it will be an approved document. It includes the provision of a designated loading bay, a restriction on the size of service/delivery vehicles and time restriction on servicing and deliveries. Any works to the highway, including the removal of existing parking bays and/or works to trees will be subject to the approval of the Council's Highways Development Management Team and dealt with under a S278 agreement.
- 3.5 The additional retail floorspace requiring planning permission (2 sq m) would not materially impact upon the amenity of neighbouring residents. No signage is proposed within the current application and the viability of existing retailers is not a matter which can be taken into consideration in this application which concerns a use which in part benefits from permitted development rights and in part represents an appropriate use in land use terms.

Transport Planning Team/LB Southwark Highways Public Realm

- 3.6 Advise the need for a designated loading bay and recommend this is subject to time restrictions. Agree with provisions of Servicing & Delivery Plan in terms of size of vehicles. Advise of need for the applicant to enter into a S278 agreement under the Highways Act in respect of any works to the Highway. The creation and modification of existing parking restrictions will be subject to Statutory and Constitutional Order making procedures.

LB Southwark Environmental Protection Team

- 3.7 The EPT Team commented upon matters which are addressed within the Delivery & Servicing Plan such as the hours of servicing. Comments were also made in relation to plant noise. However, the proposed plant will be housed internally within the building, and the only external alterations are the proposed louvres. The applicants' noise assessment submits that noise output here will be 10dB below background noise levels during day time and in the evening. Were concerns of noise nuisance to arise these can be dealt with under existing

Environmental Protection legislation. Other matters raised by the EPT Team fall within the remit of Highways legislation (control of refuse/refit works) the Building Regulations (effective sound insulation between the commercial and residential uses) and Thames Water control (drains).

3.8 Item 6.2 - Castle Day Centre, Hampton Street, London, SE1 6SN

Late and additional representation

3.9 3 representations received from Arches 143, 144 and 146 Eagle Yard. These raise the following areas of concern:

- The removal of storage and parking will increase congestion in the area.
- Eagle Yard will become a dark and windy passageway.
- Detrimental impact on the trade of the adjacent arches, including reduced visibility of business frontages.
- Removal of parking, vehicular access and communal space in front of the arches.

All of the above issues have been considered in full in the committee report and no new planning considerations have been raised.

3.10 One supplemental representation received in response to committee report from the operator of Arches 145, 148 and 149 Eagle Yard. This raises the following matters:

- The reduction in gap between the arches and the church results in insufficient space available for the operation of these adjacent businesses.
- Access will be severely restricted.
- Insufficient consultation undertaken.
- The Council's use of compulsory purchase powers.
- Insufficient consideration of the views of the Latino community who occupy four of the adjacent arches.

3.11 Officer Comment: The planning considerations raised within this letter including the access to and impact on the adjacent arches have been fully discussed within the committee report, no new matters have been raised. Although the width of the access in front of the arches is reduced by virtue of the increased footprint vehicle access to these arches remains and the area can continue to function in a similar manner to the current arrangement.

3.12 The Council has undertaken consultation on this application in accordance with its statutory duties. The application has been advertised on site and consultation letters have been sent to neighbouring occupiers in the usual way.

3.13 Matters concerning compulsory purchase orders and the ownership of land are not planning considerations.

3.14 The committee report considers the implications of the proposed development on the adjacent adjoining businesses within the Eagle Yard arches, some of which are occupied and operated by members of the Latino community. The proposed development would not be detrimental to the continued operation of these arches for business purposes. As such the established Latino community and other occupiers would not be prejudiced by the proposed development.

3.15 One supplemental representation received from a residential occupier of the Strata Tower being 8 Walworth Road, raising the following query:

- Concern about the control of noise and the background noise readings detailed in the noise report. Specifically the time of day that these readings were undertaken represents the noisiest time of day and are not representation of when the area is quieter.
- The background noise levels for the purposes of the noise report were taken on a Saturday afternoon. However this only establishes the background noise levels at this time, and as is pointed out, at night time the background noise levels will be lower.

3.16 Recommended condition 11 takes the natural fluctuation of noise levels into account. The condition establishes an appropriate level above the background noise level and so therefore this level will change throughout the day. So whilst the noise report has only taken readings on Saturday afternoons the condition controlling noise does not relate to these readings as the static.

3.17 A noise insulation strategy would normally be designed for the worst possible scenario, being the quietest time of operation during the day or night when background noise levels are at their lowest. However it may be that at 2am they couldn't achieve the levels specified within the condition if they have amplified music playing. For that reason the condition relates to the noise levels emitted rather than the standard of insulation provided. This therefore allows louder activities to take place during the day without being of harm, but at night operation may have to be quieter (i.e. not using amplified music). The condition is measurable and enforceable.

3.18 One representation received from Wedlake Bell Solicitors acting on behalf of the occupier of Arches 145,148 and 149 Eagle Yard. This letter raises a number of legal matters unrelated to the planning merits and considerations of this case. It also discusses the Council's consultation procedure, which as previously noted has been fully undertaken in accordance with the Council's statutory requirements.

Amendments proposed to recommended conditions

The following amendments to be made to the conditions as outlined within the recommended decision notice:

3.19 NEW CONDITON

No roof plant, equipment or other structures shall project above the parapet roofline of any part of the building as shown on the hereby approved elevational drawings or shall be permitted to extend outside of the hereby approved roof plant enclosures.

Reason

In order to ensure that no additional plant is placed on the roof of the building in the interest of the appearance and design of the building and the visual amenity of the area in accordance with The National Planning Policy Framework 2012, Strategic Policy 12 - Design and Conservation of The Core Strategy 2011 and Saved Policies 3.2 Protection of Amenity and 3.13 Urban Design of the Southwark Plan 2007.

3.20 Condition 6 – To be DELETED

This condition required details of the ventilation of the church to be submitted with the intention of controlling noise and appearance. This condition is no longer considered to be necessary given the above mentioned new condition and recommended condition 16 being 'plant noise'.

3.21 Condition 7 – to be DELETED

This condition required details of a green/brown roof to be submitted for approval. It has been established that the roof of the proposed building will have a large proportion of roof lights and will be predominantly be occupied by PV cells. The remaining space is insufficient in size to provide a meaningful area of green/brown roofing and it is therefore recommended that this condition be deleted.

3.22 Condition 9 – to be AMENDED

The first part of this condition relating to a BREEAM pre-assessment report should be removed. A BREEAM pre-assessment report has already been submitted in support of the application and as such this section of the condition is not required.

3.23 Item 6.3 - 21 Dulwich Wood Avenue, London, SE19 1HB

Late and additional representation

3.24 One representation received 01 March in objection on behalf of Nos.19, 23, 25 Dulwich Wood Avenue and 28 Colby Road setting out the following points:

- The previous owners regularly maintained the trees for over 20 years.
- The current owners of 21 purchased the house with no survey and with a mature oak and bay in the garden.
- The bay is close to the extension and is larger than it has ever been due to lack of maintenance. It is over twice as big as it was when the previous owners left.
- The previous application to remove the oak was refused by the council and the owners were advised to remove the bay and maintain the oak. None of this has been done.
- Home owners have a legal obligation to maintain their property and grounds, including trees evidenced in Perrin & Ramage v Northampton Borough Council.
- Question the evidence submitted by the insurers does not show measurement of the whole house nor to number 19 in order to prove the influence of the oak. There is no claim of movement to the main house.
- The oak has high aesthetic, wildlife and historic value and is an important feature of Dulwich Wood Avenue and the London Green Grid. It should only be removed once owners have shown responsibility for it, their property and the local community.
- Should TPO consent be granted all adjacent property owners will be notifying their insurers of the potential of heave. Should damage occur as a result of removal neighbours will be seeking redress from the owners of 21, their insurers and the council.

3.25 Officer comment: Consideration of heave and previous management are outlined in the officer's report paragraph 21, whereby liability rests solely with the land owner.

Although the bay tree undoubtedly contributes to soil desiccation, positive identification has only been found of oak roots which, combined with evidence of cyclical ground movement, implicates the tree proposed for removal.

The appeal against the judgment in the case of Perrin v. Northampton Borough Council has been upheld by the Court of Appeal, allowing the possibility of engineering works being considered when looking at whether works to abate an actionable nuisance are necessary.

In this case, the tree is too close to the rear extension for a root barrier to be installed to the necessary depth. Although underpinning can be undertaken, costs for this may be sought by the applicants.

REASON FOR LATENESS

4. The comments reported above have all been received since the agenda was printed. They all relate to an item on the agenda and Members should be aware of the objections and comments made.

REASON FOR URGENCY

5. Applications are required by statute to be considered as speedily as possible. The application has been publicised as being on the agenda for consideration at this meeting of the sub-committee and applicants and objectors have been invited to attend the meeting to make their views known. Deferral would delay the processing of the applications/enforcements and would inconvenience all those who attend the meeting

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Individual files	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403