

<b>Item No.</b>  <b>1.1</b>	<b>Classification</b>  OPEN	<b>Decision Level</b>  DULWICH COMMUNITY COUNCIL	<b>Date</b>  03/12/09
<b>From</b>  Head of Development Management		<b>Title of Report</b>  DEVELOPMENT MANAGEMENT	
<b>Proposal</b> (09-AP-0722)  Retention of a 4-storey building comprising 10 self-contained flats (Use Class C3).		<b>Address</b>  103 OVERHILL ROAD, LONDON, SE22 0PR  <b>Ward</b> College	
<b>Application Start Date</b> 10/09/2009		<b>Application Expiry Date</b>	

## PURPOSE

- 1 To consider the above application which is before Dulwich Community Council because it is contrary to the following policies in the Southwark Plan:
  - i) 2.5 'Planning obligations';
  - ii) 3.3 'Sustainability assessment';
  - iii) 3.4 'Energy efficiency' and
  - iv) 3.5 'Renewable energy' (and 4A.7 'Renewable energy' of the London Plan)

## RECOMMENDATION

- 2 Grant planning permission.

## BACKGROUND

### Site location and description

- 3 The application relates to a recently completed 4-storey building comprising 10 flats, located on the south-eastern side of Overhill Road. There is a tarmac parking area at the front of the building and amenity space at the rear.
- 4 The site forms part of the urban density zone and an air quality management area.

### Details of proposal

- 5 Full planning permission is sought for retention of the building and the 10 flats therein.
- 6 In May 2007 planning permission was granted at appeal for the erection of a building comprising 9 self-contained flats, together with 5 parking spaces, cycle / refuse storage and 3 motor-cycle spaces. Following an investigation by the Planning Enforcement Team it was found that a tenth flat had been built at the front of the building (ground floor level) in what should have been a garage and cycle store, and this application seeks to regularise the situation. At present, five of the flats have been sold.

- 7 With regard to external alterations, the scheme differs from extant permission for 9 flats in the following ways:
1. Provision of 4 additional windows to the side elevation of the building facing 107 Overhill Road, two at lower ground and two at ground floor level;
  2. Provision of a balcony at the rear of the building at ground floor level;
  3. Provision of 2 windows to the front elevation, in place of what should have been garage doors under the 9 unit scheme.

#### Amended plans

- 8 When the application was first submitted the description of development read as follows:

*Conversion of garage / cycle store to form a 2-bed flat (retrospective) and erection of cycle store and refuse store to front of building (Use Class C3).*

- 9 Following the advice of officers it was subsequently amended to its current form.

#### **Planning history**

- 10 06-AP-1271 - Demolition of existing house and erection of a four storey building comprising 9 self contained flats (5 x 1 bed flats and 4 x 2 bed flats), 5 parking spaces, 3 motor cycle spaces and cycle/refuse storage. Planning permission was REFUSED in September 2006 for the following reason:
- 11 *The proposed development, by reason of its depth, height and bulk to the rear would result in a detrimental visual impact on the neighbouring properties. The development also exceeds the recommended density range for the suburban north zone. As such the proposal is contrary to Policies 3.2 Protection of Amenity, 3.11 Quality in Design and 4.1 Density of Residential Development of the Southwark Plan (Modification Version) 2006 and Policies E.2.3 Aesthetic Control, E.3.1 Protection of Amenity and H.1.7 Density of Residential Development of the Adopted Southwark Unitary Development Plan and Supplementary Planning Guidance 1997 no. 5 Standards, Guidelines and Controls for Residential Development.*
- 12 An appeal was subsequently lodged and was ALLOWED (reference: APP/A5840/A/06/2029035).
- 13 06-AP-0255 - Demolition of existing house and erection of 10 self contained flats, 6 parking spaces to front and cycle/refuse storage in a block of part three and part four storeys. This application was WITHDRAWN in May 2006 as it was indicated that the application would be refused owing to concerns regarding the design and bulk of the proposed building.
- 14 06-AP-2358 - Demolition of existing building and erection of part 3 part 4 storey building comprising 8 self-contained flats, 5 car parking spaces, 3 motor cycle spaces & refuse storage. Landscaping to the front & rear gardens. Planning permission was GRANTED in March 2007.

#### **Planning history of adjoining sites**

- 15 No relevant planning history.

#### **FACTORS FOR CONSIDERATION**

##### **Main Issues**

16 The main issues in this case are:

- a] the principle of the development in terms of land use and conformity with strategic policies;
- b] amenity;
- c] transport;
- d] design;
- e] s106 planning obligations;
- f] sustainability.

### **Planning Policy**

17 Southwark Plan 2007 [July]

- SP1 - Sustainability, equality and diversity
- SP3 - Quality and accessibility
- SP10 - Development impacts
- SP11 - Amenity and environmental quality
- SP12 - Pollution
- SP13 - Design and heritage
- SP14 - Sustainable buildings
- SP17 - Housing
- SP18 - Sustainable transport

- 2.5 - Planning obligations
- 3.2 - Protection of amenity
- 3.3 - Sustainability assessment
- 3.4 - Energy efficiency
- 3.5 - Renewable energy
- 3.7 - Waste reduction
- 3.11 - Efficient use of land
- 3.12 - Quality in design
- 3.13 - Urban design
- 3.14 - Designing out crime
- 4.1 - Density of residential development
- 4.2 - Quality of residential accommodation
- 4.3 - Mix of dwellings
- 4.4 - Affordable housing
- 4.5 - Wheelchair affordable housing
- 5.2 - Transport impacts
- 5.3 - Walking and cycling
- 5.6 - Car parking
- 5.7 - Parking standards for disabled people and the mobility impaired

- Section 106 Planning Obligations SPD (July 2007)
- Residential Design Standards SPD (September 2008)
- Affordable Housing SPD (September 2008)
- Sustainable Design and Construction SPD (February 2009)

18 London Plan 2004

2A.1 Sustainability criteria  
3A.1 Increasing London's supply of housing  
3A.2 Borough housing targets  
3A.3 Maximising the potential of sites  
3A.5 Housing choice  
3A.6 Quality of new housing provision  
3A.9 Affordable housing targets  
3A.11 Affordable housing thresholds  
3A.18 Protection and enhancement of social infrastructure and community facilities  
3C.1 Integrating transport and development  
3C.3 Sustainable transport in London  
3C.22 Improving conditions for cycling  
3C.23 Parking strategy  
4A.1 Climate change  
4A.3 Sustainable design and construction  
4A.4 Energy assessment  
4A.7 Renewable Energy.  
4A.9 Adaptation to Climate Change  
4A.11 Living Roofs and Walls  
4A.14 Sustainable drainage  
4A.16 Water supplies and resources  
4A.19 Air quality  
4A.22 Waste management  
4B.1 Design principles for a compact city  
4B.5 Creating an inclusive environment  
4B.6 Safety, Security and fire prevention and protection  
4B.8 Respect local context and communities

19 Planning Policy Guidance [PPG] and Planning Policy Statements [PPS]

PPS1: Delivering Sustainable Development (January 2005)  
PPS3: Housing (November 2006)  
PPG13: Transport (April 2001)

**Consultations**

20 Site notice date: 16/06/09 and 28/09/09 following the amendment to the description of development.

Press notice date: 28/09/09

Neighbour consultation letters sent: 15/06/09 and /09/09 following the amendment to the description of development.

Case officer site visit date: 16/06/09 and 28/09/09.

21 Internal consultees

Transport Group  
Planning Policy Team  
Planning Enforcement Team

Statutory and non-statutory consultees

N/A.

22 Neighbour consultees

Notification letters have been sent to properties on Overhill Road, Belvoir Road and Bredinghurst Road.

Re-consultation

- 23 The same properties were notified by letter on 28/09/09 following the revised description of development.

**Consultation replies**

Internal consultees

Transport Group

- 24 Advised that 1.1 cycle parking space is required per residential unit therefore 11 cycle parking spaces are required in total (10 for residents and 1 visitor space).

Planning Policy Team

- 25 The additional dwelling complies with Part M (Access to and within buildings) of the Building Regulations.

Planning Enforcement Team

- 26 No objection to this application provided the additional flat meets the requirements of the Residential Design Standard SPD 2008 and any applicable UDP policies.

Statutory and non-statutory consultees

N/A.

Neighbour consultees

- 27 One representation has been received expressing support for the application on the grounds that more flats need to be built at a rent that people can afford, and all waste empty ground should be built on.

- 28 One representation has been received objecting to the proposal on the following grounds:

- i) If the proposal is to build at the front of the building the author cannot object, except that there will not be enough space for cars;
- ii) if the proposal is to build on the garden side which overlooks the rear garden, strong objections are raised on the grounds that there are enough tenants in the building already, and when trees lose their leaves in winter the building, which is an eyesore, will be very visible.

Re-consultation

- 29 A further representation was received following re-consultation, objecting to the proposal on the following grounds:

- i) the last development was extremely noisy and caused disruption during building works (response - this is not a material planning consideration and is covered separately under environmental protection legislation. In any event, the development has already been completed).

ii) disruption to wildlife (response - the development has already been completed).

## **PLANNING CONSIDERATIONS**

### **Principle of development**

- 30 The principle of a residential building on this site has already been established through the earlier grant of planning permission. The site is located in a residential area and the provision of additional housing is welcomed.

### **Impact of proposed development on amenity of existing and future occupiers**

- 31 Policy 3.2 of the Southwark Plan seeks to ensure an adequate standard of amenity for existing and future occupiers and policy 4.2 requires all residential accommodation to be of an acceptable standard; further information is contained in the Residential Design Standards SPD.

#### Existing occupiers

- 32 As stated, there is an extant permission for 9 flats on this site and the provision of a tenth flat would not result in any significant additional noise or disturbance to neighbouring properties.
- 33 With regard to the insertion of 4 new windows in the side elevation of the building facing 107 Overhill Road, these are shown on the plans as obscure glazed, although what appears to be a small basement window to non-habitable accommodation is the only opening in the flank wall of number 107, and the additional windows have not resulted in any loss of privacy.
- 34 A small balcony which has been added to the rear of the building overlooks the rear garden to number 107, but given its limited size it is not considered that any significant loss of amenity has occurred and there do not appear to be any direct views into habitable accommodation.
- 35 The appeal permission for the 9 unit scheme contains a condition requiring the windows on the eastern elevation of the projecting rear extension to be obscure glazed, and a further condition that no windows can be constructed on the western elevation of the projecting rear extension. It is recommended that these conditions be attached to any forthcoming permission to ensure no loss of privacy to the neighbouring properties.

#### Future occupiers

- 36 Flats 1-9 are as per the appeal permission which was granted in May 2007 and remains extant until 9th May 2010. The tenth flat has two bedrooms and measures 61.6sqm which just exceeds the Residential Design Standards SPD minimum (60sqm is required). In terms of the individual room sizes, the second bedroom is shown as a double but is 2.8sqm undersize, although it could be used as a single bedroom for which only 7sqm is required. The kitchen is 0.7sqm undersize which is negligible, and the livingroom / diner is 1.9m undersized. In spite of the undersized livingroom / diner, this is not considered to be so harmful as to warrant refusal of planning permission and enforcement action thereafter.
- 37 A large refuse and recycle store has been constructed in front of the building which is of sufficient size to serve the 10 flats and a condition requiring it to be retained as such hereafter is recommended, to ensure compliance with policy 3.7 'Waste

reduction'.

### **Traffic issues**

38 Policy 5.2 of the Southwark Plan seeks to ensure that developments would not result in any adverse highway conditions.

39 The retention of ten flats is unlikely to result in significant additional traffic generation over and above the consented 9 unit scheme and the Transport Group has not raised any objections.

40 Policy 5.6 relates to car parking and maximum car parking standards are set out in Appendix 15 which requires a maximum of 1.5 spaces per flat in this location, plus one visitor space per 10 flats.

41 There are three car parking and three motorcycle parking spaces to serve the development, which is located in a low PTAL area (2). It is noted that the consented 9 unit scheme included 5 off-street parking spaces and the loss of two spaces is regrettable. There were however, spaces available on-street during both officer site visits and not all of the on-site parking spaces were in use. Given that the Southwark Plan operates maximum standards, as advocated by PPG13: Transport, it is not considered that the proposed level of parking would be so harmful as to warrant the refusal of planning permission. A condition requiring the spaces to be retained as such hereafter is recommended, in order to reduce the likelihood of any overspill parking.

42 Policy 5.3 of the Southwark Plan requires developments to adequately cater for pedestrians and cyclists.

43 Ten cycle parking spaces are shown on the plans, located behind the refuse store in a location that would be convenient, secure and weatherproof. The store had not been provided at the time of the site visits and a condition requiring it to be completed within 2 months of the date of any forthcoming planning permission is recommended. One visitor space is required, but given that there is ample space in the curtilage to provide this, a condition is not considered necessary.

### **Design issues**

44 Policies 3.12 and 3.13 of the Southwark Plan seek to ensure that developments achieve a high standard of design.

45 The minor alterations to the exterior of the building when compared with the consented 9 unit scheme are acceptable on design grounds and preserve the appearance of the building. The new refuse store is large, but given the slope of the site is not considered to be harmful to the streetscene.

### **Planning obligations [S.106 undertaking or agreement]**

46 Policy 2.5 of the Southwark Plan states that the Council will seek to enter into planning obligations to avoid or mitigate the adverse impacts of development which cannot otherwise be adequately addressed through conditions; further guidance is contained within the Section 106 planning obligations SPD. As the proposal is for 10 flats, the following s106 contributions are required and have been calculated in accordance with the Council's s106 toolkit:

1. Terms to secure one unit as affordable housing (or a commuted sum of £200,000 in lieu of on-site provision);

2. £3,681 education contribution;
3. £7,945 open space, children's play equipment and sports development contribution;
4. £3,808 strategic transport contribution;
5. £9,612 health facilities contribution;

Total: £225,046 (plus 2% administration charge).

- 47 There is no section 106 agreement in place to secure the above contributions because the development is loss-making as a result of the current economic downturn. The applicant has advised that an additional flat was incorporated into the building in order to reduce losses.
- 48 The S106 SPD at note 6 (p15) recognises the considerable financial pressure that planning obligations can place on development proposals, and states that in situations where developers consider their scheme cannot support the required level of contribution, they should submit an economic appraisal to the Council. Usually this is a development appraisal setting out how much the development will cost to build together with end values, and is assessed against the GLA's 'Three-Dragons' toolkit. In this instance however, because the development has already been built, the applicant has submitted the actual build costs which shows that the scheme has made a loss of £79, 972.
- 49 Officers have reviewed the financial appraisal and find it to be reasonable, therefore whilst the failure to provide any s106 contributions is regrettable, it is considered to have been adequately justified in this instance and would not set an undesirable precedent making it difficult to resist similar applications in the future.

### **Sustainability**

- 50 Policy 3.3 of the Southwark Plan states that planning permission will not be granted for major development unless the economic, environmental and social impacts of the proposal have been addressed through a sustainability assessment.
- 51 As this application is for retrospective planning permission and sustainability assessments are generally carried out at the beginning of the process, no such assessment has been undertaken therefore the proposal is contrary to policy 3.3.
- 52 Policy 3.4 'Energy efficiency' states that all developments must be designed to maximise energy efficiency and minimise and reduce energy consumption and carbon dioxide emissions; major developments for residential use are required to provide an ecohomes (now Code for Sustainable Homes - CSH) assessment. Again, as this is a retrospective application, no code for sustainable homes assessment has been undertaken, and the proposal does not comply with the 20% renewable energy requirement under policy 4A.7 of the London Plan.
- 53 In seeking to address sustainability issues, the Design and Access Statement lists the measures which have been incorporated, including the use of energy efficient boilers, low energy light fittings, eco-labelled white goods, responsibly sourced building materials and fittings and improved insulation.
- 54 It is accepted that the sustainability credentials the development are well below what would normally be required of a major development, but given that this is a retrospective application for a loss making development and the likely cost implications of retro-fitting the building, no objections are raised in this instance.

### **Other matters**



## Density

- 55 Policy 4.1 of the Southwark Plan states that residential developments in the urban density zone (lower zone) will be expected to achieve a density of between 200 and 400 habitable rooms per hectare. The development achieves a density of 250 habitable rooms per hectare and therefore complies with policy 4.1.

## Additional windows to side elevation, lower ground floor level

- 56 Two windows have been added to both flank walls of the building at lower ground level which were not shown on the approved plans for the 9 unit scheme, and are in locations where there was not supposed to be any habitable accommodation. A further visit to the site revealed that at least two of the windows serve habitable accommodation (on the left hand side; the two windows to the right hand side of the building were inaccessible) and officers have asked the applicant to confirm what rooms these windows serve and will update Members at the meeting.

## **Conclusion**

- 57 The proposal fails to provide any s106 contributions and does not meet the sustainability requirements set out under policies 3.3, 3.4 and 3.5 of the Southwark Plan and policy 4A.7 of the London Plan. However, in recommending that planning permission be granted, officers are mindful that the tenth flat was constructed in an attempt to recover losses brought about as a result of the economic downturn and the economic appraisal submitted supports this. It is also noted that the consented 9 unit scheme was below the threshold for requiring a sustainability assessment, code for sustainable homes assessment and renewable energy and that to retrofit the building to comply with these standards is likely to further add to the development losses. As such, it is recommended that conditional planning permission be granted.

## **COMMUNITY IMPACT STATEMENT**

- 58 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.

## **SUSTAINABLE DEVELOPMENT IMPLICATIONS**

- 59 The proposal makes an efficient use of the site, in accordance with sustainability aims and objectives.

## **HUMAN RIGHTS**

- 60 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.
- 61 The rights potentially engaged by this application, including a 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.

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CASE FILE TP/2555-105  
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