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Item No. 7.3	Classification: Open	Date: 17 November 2020	Meeting Name: Planning Sub-committee A
Report title:	Development Management planning application: Application 20/AP/1043 for: Full Planning Application Address: UNIT 7 & 8, 17-19 BLACKWATER STREET, LONDON SOUTHWARK SE22 8SD Proposal: Demolition of 2 light industrial units (Use Class B8) and the construction of 2 x two bedroom dwellings (Use Class C3).		
Ward(s) or groups affected:	Goose Green		
From:	Abbie McGovern		
Application Start Date	09/04/2020	Application Expiry Date	04/06/2020
Earliest Decision Date	30/10/2020		

RECOMMENDATION

1. That planning permission is granted, subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. The application site refers to Units 7 and 8 Blackwater Court, which are light industrial units accessed from Blackwater Street. The units are single storey buildings which occupy a shared courtyard with Units 4, 5 and 6, immediately to the south of Units 7 and 8.
3. To the east of the site is the rear of East Dulwich Picturehouse Cinema, which fronts Lordship Lane, and to the north and south of the site are rear gardens of residential properties on Bassano Street and Blackwater Street. The surrounding area comprises a mix of predominantly residential and commercial uses. Lordship Lane, adjacent to the application site, is designated as a District Town Centre.
4. Unit 7 is used for storage (Use Class B8), whilst Unit 8 is currently used as a workshop and associated premises, registered as Mission Bubble Studios. Unit 8 has been subject to various enforcement cases. Notwithstanding this, the unit

does not have planning permission for such uses and is therefore unlawful. It has been subject to various enforcement cases.

5. The application site is subject to the following designations:
 - Suburban Density Zone
 - Critical Drainage Area
 - Air Quality Management Area
6. The site is not located within a conservation area and does not comprise any listed buildings, nor are any located within close proximity.

Details of proposal

7. The proposed development seeks the demolition of the existing units and the construction of 2 x part single and part two storey residential dwellings (Use Class C3). Both units would be 2 bedroom residential dwellings. Associated works also include

Relevant Planning history

8. See appendix 1 for any relevant planning history of the application site.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

9. The main issues to be considered in respect of this application are:
 - Principle of the proposed development in terms of land use;
 - Quality of accommodation;
 - Impact of proposed development on amenity of adjoining occupiers and surrounding area;
 - Design quality;
 - Transport and highways;
 - Environmental impacts;
 - Other matters;
 - Community impact and equalities assessment;
 - Human rights, and;
 - Positive and proactive statement.
10. These matters are discussed in detail in the 'Assessment' section of this report.

Legal context

11. 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 2016, the Core Strategy 2011, and the Saved Southwark Plan 2007.

12. 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 (the Framework)

13. The revised National Planning Policy Framework ('NPPF') was published in February 2019 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.

London Plan 2016

14. The relevant policies from the London Plan 2016 are:
 - Policy 3.3 (Increasing housing supply)
 - Policy 3.4 (Optimising housing potential)
 - Policy 3.5 (Quality and design of housing developments)
 - Policy 5.3 (Sustainable design and construction)
 - Policy 6.9 (Cycling)
 - Policy 6.13 (Parking)
 - Policy 7.5 (Local character)
 - Policy 7.6 (Architecture)

Core Strategy 2011

15. The Core Strategy was adopted in 2011 providing the spatial planning strategy for the borough. The strategic policies in the Core Strategy are relevant alongside the saved Southwark Plan (2007) policies. The relevant policies of the Core Strategy 2011 are:
 - Strategic Policy 1 (Sustainable development)
 - Strategic Policy 2 (Sustainable transport)
 - Strategic Policy 5 (Providing new homes)
 - Strategic Policy 12 (Design and conservation)
 - Strategic Policy 13 (High environmental standards)

Southwark Plan 2007 - saved policies

16. In 2013, the council resolved to 'save' all of the policies in the Southwark Plan 2007 unless they had been updated by the Core Strategy with the exception of

Policy 1.8 (location of retail outside town centres). Paragraph 213 of the NPPF states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The relevant policies of the Southwark Plan 2007 are:

- Policy 3.2 (Protection of amenity)
- Policy 3.8 (Waste management)
- Policy 3.11 (Efficient use of land)
- Policy 3.12 (Quality in design)
- Policy 3.13 (Urban design)
- Policy 4.2 (Quality of residential accommodation)
- Policy 5.2 (Transport impacts)
- Policy 5.3 (Walking and cycling)
- Policy 5.6 (Car parking)

Relevant Supplementary Planning Documents (SPDs)

17. Of relevance in the consideration of this application are:

- 2015 Technical Update to the Residential Design Standards SPD 2011
- Dulwich SPD 2013

Emerging planning policy

Draft New London Plan

18. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2nd March 2018. Following an Examination in Public, the Mayor then issued the Intend to Publish London Plan.
19. The Secretary of State responded to the Mayor in March 2020 where he expressed concerns about the Plan and has used his powers to direct changes to the London Plan. The London Plan cannot be adopted until these changes have been made.
20. Until the London Plan reaches formal adoption it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

New Southwark Plan

21. For the last five years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. The New Southwark

Plan Proposed Submission Version: Amended Policies January 2019 consultation closed in May 2019. These two documents comprise the Proposed Submission Version of the New Southwark Plan.

22. These documents and the New Southwark Plan Submission Version (Proposed Modifications for Examination) were submitted to the Secretary of State in January 2020 for Local Plan Examination. The New Southwark Plan Submission Version (Proposed Modifications for Examination) is the Council's current expression of the New Southwark Plan and responds to consultation on the NSP Proposed Submission Version. This version will be considered at the Examination in Public (EiP).
23. It is anticipated that the plan will be adopted in late 2020 following an EiP. As the NSP is not yet adopted policy, it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

Summary of public consultation responses

24. 80 consultation responses have been received from members of the public. Summarised below are the material planning considerations raised by members of the public.
25. Principle of development and proposed land uses:
 - Change of use to Use Class C3 residential dwellings.
 - The loss of employment premises.
 - The loss of a gym.
26. Design quality and site layout:
 - Proposed materials would be out of character with the area.
 - Scale of development.
 - Amenity space.
27. Neighbour amenity impacts:
 - Overlooking.
 - Security uses.
 - Construction impacts.
 - Daylight and sunlight impacts.
 - Sense of enclosure.
28. Transport, parking, highways, deliveries and servicing matters:
 - Access.

Officer comment

29. Other matters:

- Loss of the art mural on Unit 8.
- Impact on local ecology.

These matters are addressed comprehensively in the relevant preceding parts of this report.

Assessment

Principle of the proposed development in terms of land use

30. The proposal seeks the demolition of the existing light industrial units on the application site and the construction of two residential dwellings (Use Class C3). The lawful use of the units is considered be for storage (Use Class B8), however it is acknowledged that Unit 8 appears to currently be actively, though not within Use Class B8.
31. In relation to Unit 8, planning application 17/AP/4140 for a certificate of lawful development for the existing use as a gym (Use Class D2) was refused on 10/01/2019, with a response from the applicant to a planning contravention notice describing the use as for professional development, with no specific reference to fitness. It was concluded that it was not possible to establish a continual Use Class D2 use. The current business rates of the premises are for Mission Bubble Studios, which is a photography studio. It is also noted that objections raised by members of the public predominantly refer to the premises as being used as personal training studio which is not the lawful use of the premises. It should be noted that the recent change in use classes to introduce Class E does not affect the established use of the premises as the B8 class was not subsumed into the new Use Class E.
32. There have been various enforcement cases on the application site in relation to Unit 8, with no subsequent planning consents. It is therefore deemed that the current use of Unit 8 is not lawful as there has been no consistent use over the last 10 years. The premises are not protected in policy terms and as such, the demolition and replacement with residential dwellings (Use Class C3) is considered acceptable.
33. The provision of residential dwellings at this location acceptable in principle, with the immediate surrounding area comprising a mix of residential and commercial land uses. The proposal would make an efficient use of a backland site and contribute to housing in the borough.

Quality of accommodation

Unit 8

34. Unit 8, on the east of the application site, is a proposed part single storey and part two storey dwelling of 2 bedrooms. This is the larger of the two dwellings proposed with a total GIA of 154 sq. m. This far exceeds the 79 sq. m.

requirement for a 2 bedroom 4 person dwelling across 2 storeys and would therefore provide a high quality of accommodation in terms of space standards. In line with this, all individual rooms would also far exceed the minimum requirements as set out in the 2015 Technical Update to the Residential Design Standards SPD 2011.

35. The design of the building, in order to protect neighbouring amenity, includes openings to the south and west elevations. These openings would provide sufficient levels of daylight and sunlight to all habitable rooms within the dwelling. Two skylights are also proposed at first floor level to provide additional daylight and sunlight to the building. Outlook would be predominantly over the proposed central garden courtyard which would ensure a degree of privacy and is considered acceptable.
36. The proposed garden courtyard would be 32.9 sq. m. in total area and a balcony is proposed at first floor level of 8.7 sq. m. This amount of private external amenity space is considered appropriate for the proposed 2 bedroom dwelling in the context of the constrained backland site and would provide future occupiers with a good quality of external accommodation, in line with the 2015 Technical Update to the Residential Design Standards SPD 2011.

Unit 7

37. Unit 7, to the west of the application site, is also a proposed part single storey and part two storey dwelling comprising 2 bedrooms at ground floor. The total GIA of the dwelling is 75 sq. m. which slightly falls short of the 79 sq. m. requirement for a 2 bedroom 4 person dwelling. Notwithstanding this, the open plan kitchen / dining / living room area at 32.5 sq. m. and the two bedrooms at 13 sq. m. and 12 sq. m. all meet or exceed the minimum individual room standards as set out in the 2015 Technical Update to the Residential Design Standards SPD 2011. Internal storage space is also provided and sufficient circulation space is proposed at ground floor. On balance, it is considered that the shortfall in the total GIA is acceptable as all individual rooms are sufficiently sized and the building has been appropriately designed to minimise impacts on the amenity of the surrounding occupiers.
38. The dwelling would be dual aspect, with openings to the east and west to ensure there would be no overlooking from surrounding residential properties. All habitable rooms would benefit from vertical windows or doors providing sufficient levels of daylight and sunlight to future occupiers.
39. The dwelling would benefit from a rear garden of 17.2 sq. m. and a small balcony at first floor of 3 sq. m. This amount of private external amenity space is considered acceptable for the 2 bedroom dwelling and is appropriate given the backland nature of the application site. It is also acknowledged that a generous front garden and porch area is proposed.
40. The proposal also includes provision for an external lift, allowing the dwelling to be adapted to become fully wheelchair accessible.

Impact of proposed development on amenity of adjoining occupiers and surrounding area

41. The application site is bound by the rear of residential properties on Bassano Street to the north and the rear of residential properties on Blackwater Street to the south. These properties range from two to three storeys. The proposal has been designed to follow the footprints of the existing light industrial units on site.

Unit 8

42. Unit 8 would be predominantly single storey, with a smaller second storey of 45 sq. m. GIA directly abutting the flank wall of the rear of East Dulwich Picturehouse Cinema, which fronts Lordship Lane. The positioning of this second storey is away from surrounding residential properties and is modest in size, therefore it would not create a sense of enclosure to surrounding occupiers.
43. No windows are proposed on the northern or eastern elevations of the building to prevent overlooking to the rear of properties on Bassano Street and Lordship Lane. The proposed windows predominantly front onto the garden courtyard to the south of the site and towards the rear of a commercial building which fronts Blackwater Street, therefore not overlooking the rear of properties on Bassano Street. The proposed windows fronting the rear of the commercial building does not give rise to any significant overlooking. The garden courtyard is to be bound by perforated steel panels to further enhance privacy levels. At first floor, the bedroom window would again face north and would not front any existing residential windows surrounding the application site.
44. A balcony is proposed to the west of the first floor element of the proposal. This would be set back 11 m from the western boundary of the proposed building and 3.5 m from the northern boundary of the proposed building, resulting in a 9m gap from the rear of the properties on Bassano Street. A perforated steel privacy screen is proposed on the balcony to ensure privacy. This provision is recommended to be secured via condition.

Unit 7

45. Unit 7, to the west of the application site, has been designed with the first floor set back from the southern boundary to increase the separation distance of this storey to the rear of properties on Blackwater Street. This design approach appropriately ensures that the proposal would not be overbearing as the existing residential gardens are not as deep on this side and the proposal would retain the scale of the existing single storey building. The two storey element would however be built up to the northern boundary of the site, approximately 9 m from the rear of residential properties on Bassano Street. This area also benefits from extensive mature tree coverage which would further reduce any potential sense of enclosure caused by the proposal.
46. The proposal does not include any windows to the north or south and therefore

would not have any impacts on the privacy of the surrounding residential properties. Windows are proposed fronting Blackwater Court and to the west, towards Bassano Street. A balcony is proposed to the rear of the dwelling, which would sit above the proposed rear garden. Subject to the proposed perforated steel privacy screens, which are recommended to be secured via condition, it is considered that this would not give rise to any privacy issues.

Daylight, sunlight and overshadowing

47. A Daylight and Sunlight Assessment has been submitted which considers the impact of the proposed development on existing properties on Bassano Street and Blackwater Street. BRE guidance states that if the Vertical Sky Component (VSC) of a neighbouring window is both less than 27% and less than 0.8 times its former value then there would be an adverse impact on daylight levels. The assessment identifies that all surrounding residential properties would comply with this, with the exception of 2 Bassano Street, which is located to the north of the application site. The ratio of impact on the property is 0.77, which is only marginally below the BRE guidance of 0.8. On balance, it is considered that this slight impact on the daylight levels received by 2 Bassano Street would not be significant enough to be detrimental on the existing quality of accommodation within the property.
48. The assessment also calculates the Annual Probable Sunlight Hours (APSH) for windows facing within 90 degrees of due south. BRE guidance recommends that interiors where occupants expect sunlight should receive at least one quarter (25%) of APSH following development. It is identified that none of the surrounding residential properties would have percentages below 25 as a result of the proposed development.
49. An overshadowing study has also been submitted which confirms that none of the surrounding properties would experience any additional significant overshadowing as a result of the proposed development, with the rear of properties on Bassano Street already experiencing some level of overshadowing from the existing industrial units on the application site. The ratio of impact as a result of the proposed development would be above 0.8 for all surrounding private amenity spaces which is in line with BRE guidance.

Construction

50. Due to the backland nature of the application site, a condition has been recommended for a Construction Environmental Management Plan (CEMP) to be submitted to ensure that surrounding occupiers would not suffer a loss of amenity by reason of unnecessary pollution or nuisance.

Design quality

51. The siting of the proposed buildings occupies a similar footprint to the existing units, creating an interesting architectural typology that reflects the urban plot. The massing of the dwellings is considered to be proportionate to the existing

industrial units and therefore would not be out of character with the surrounding area. The proposed composition of the dwellings has carefully considered neighbouring properties.

52. The proposed development at Unit 7 follows a simple linear plan form with the provision of amenity space to the rear of the property. Similarly, Unit 8 would be a well-articulated building, constructed around a central courtyard providing improved natural light to the interior of the property.
53. The proposed backland development would be a high quality contemporary addition to the area, improving the outlook of surrounding properties in comparison to the existing industrial units. The proposal is of high architectural quality and echoes previous industrial connotations, with a material palette that uses a combination of brick, corten and zinc. A conditions for details of materials has been recommended to ensure a high quality finish is achieved.
54. Overall the proposed development is considered to be a sensitive contemporary addition to the surrounding area that represents clever architectural quality and responds to the constraints of the backland site.

Transport and highways

55. The proposed development would be car free. An Access and Traffic Report has been submitted which identifies that all vehicle movements currently associated with Units 7 and 8 would be removed and therefore the number of vehicles accessing the site would be significantly reduced. Future occupiers would be able to access the site by foot or cycle. This shift towards sustainable transport is supported.
56. The proposal includes the provision of cycle storage for 2 cycles each to the front of the dwellings. This quantum is in line with the requirements of the London Plan and the storage would be in an accessible location for future occupiers. A condition has been recommended to ensure the cycle storage is provided.
57. Refuse storage is proposed to the front of each residential dwelling, which would be easily accessible for future occupiers and for collection from Blackwater Street. This arrangement would be in line with the current arrangements for the industrial units.

Environmental impacts

58. The proposed development would not have any adverse impacts on trees as there are no existing trees on or immediately adjacent to the application site.
59. The application site currently has negligible ecological value and it is therefore considered that the site can provide biodiversity net gain. As such, conditions have been recommended for biodiversity roofs to be provided on the proposed flat roof areas and for 2 swift bricks to be provided for each dwelling.

Other matters

60. It is noted that an art mural is located on Unit 8 which would be lost as a result of the proposed development. The applicant has contacted the artist to discuss whether he would be interested in redoing the artwork, however the artist advised that he would not be interested in repainting an old artwork. It is therefore considered that the loss of the artwork should not be a barrier to the proposed development.

Consultation responses from internal and divisional consultees

61. Summarised below are the material planning considerations raised by internal and divisional consultees, along with the officer's response.

62. Environmental Protection Team:

- Advise conditions relating to noise, land contamination and construction.

Officer Comment: Conditions recommended.

63. Design and Conservation Team:

- The proposed development is considered acceptable within the application site in terms of scale and design.

Officer Comment: Noted. Conditions have been recommended to ensure a high quality of materials.

64. Ecology Officer:

- Advise conditions for biodiversity roofs and swift bricks to be provided.
- Confirm that no ecological surveys are required.

Officer Comment: Conditions recommended.

65. Tree Officer:

- Confirm that no Arboricultural Impact Assessment is required for the proposal as there are no existing trees located on the application site.

Officer Comment: Noted.

66. Highways Development Management:

- Advise that the applicant must enter into a S278 agreement for works to highways.

Officer Comment: Informatives attached.

Consultation responses from external consultees

67. No responses have been received from external consultees.

Community impact and equalities assessment

68. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.
69. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.
70. 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:
1. The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 2. 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
 - 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.
 3. 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.
71. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.

Human rights implications

72. This application has the legitimate aim of providing residential dwellings. 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.

Positive and proactive statement

73. The Council has published its development plan and Core Strategy 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.

74. 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.

Positive and proactive engagement: summary table

75. Was the pre-application service used for this application?	Yes
If the pre-application service was used for this application, was the advice given followed?	Yes
Was the application validated promptly?	Yes
If necessary/appropriate, did the case officer seek amendments to the scheme to improve its prospects of achieving approval?	Yes
To help secure a timely decision, did the case officer submit their recommendation in advance of the statutory determination date?	No

Conclusion

76. The proposed development seeks the demolition of the existing industrial buildings which are lawfully Use Class B8 storage units and the construction of 2 residential dwellings. The proposed dwellings would provide a high quality of accommodation for future occupiers. The proposed design is considered to be appropriate within the local context and the scale of massing is similar to that of the existing units. The design also ensures that the proposal would not result in any significant overlooking impacts to neighbouring occupiers or create a sense of enclosure.
77. It is therefore recommended that the application is granted, subject to conditions.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Local Development Framework and Development Plan Documents	Place and Wellbeing 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	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Relevant planning history
Appendix 4	Recommendation

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Abbie McGovern, Planning Officer	
Version	Final	
Dated	27 October 2020	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
Date final report sent to Constitutional Team		29 October 2020