

Committee	PLANNING COMMITTEE A	
Report Title	9 STAPLEHURST ROAD SE13 5ND	
Ward	Lee Green	
Contributors	Helen Milner	
Class	PART 1	04 DECEMBER 2014

Reg. Nos. DC/14/87501

Application dated 12.05.2014

Applicant CgMs

Proposal The additional use of Unit A (Use Class A3) and Unit B (Use Class B1) to also include retail use (Use Class A1) on the ground floor of 9 Staplehurst Road SE13, and change of use of the first floor level above Unit A to provide one, 2 bedroom self contained residential flat (Use Class C3).

Applicant's Plan Nos. Transport Statement, CIL form, Planning Statement, Report on BREEAM Domestic Refurbishment Pre-Assessment, Summary of Marketing Information (CF Commercial), F9D13.061 A(00)11 rev B, F9D13.061 A(00)12 rev B, F9D13.061 A(00)13 rev B, F9D13.061 A(00)14 rev B, F9D13.061 A(00)31 rev C, F9D13.061 A(00)30, F9D13.061 A(00)33, EL01, Lifetime Homes - received 28 July 2014.
Technical Note - received 17 September 2014.

Background Papers

- (1) Case File LE/766/9/TP
- (2) Adopted Unitary Development Plan (2004)
- (3) Development Management Local Plan (for adoption November 2014)
- (4) Adopted Core Strategy (2011)
- (5) Local Development Framework Documents
- (6) The London Plan

Designation [Core Strategy or Adopted UDP] – Vacant B1/A3 floorspace.

1.0 Background

1.1 This application was considered by Members at the meeting of Planning Committee A held on 23 October 2014. Members resolved to defer determination of the application to the following meeting of Planning Committee A in order for further information to be provided on the marketing of the units and also in relation to the proposed servicing strategy for the proposed unit.

1.2 Members are referred to the report considered at that meeting which is included as an appendix to this report, and which contains a full description of the site and its planning history, the details of the application, an explanation of the planning policy background and an assessment of the main planning issues raised by the application.

2.0 Additional Information Submitted

- 2.1 Following the committee meeting the agent has submitted a marketing report, which outlines the extent of marketing that has taken place for the units in their approved form and interest that has been shown in the units. The agent has also supplied a letter from their transport consultant providing further details regarding the possible servicing solution for the units.

3.0 Planning Considerations

- 3.1 The main planning considerations raised by the application are assessed in the appendix.

Marketing

- 3.2 The application was deferred by Committee A on 23 October on the basis that there should be further evidence provided of the marketing that has taken place of the existing Units A and B. A Marketing Report has been submitted providing further information in support of the application. The report has been prepared by CF Commercial, a London based commercial agency who were instructed to market Units A and B in July 2013. The submitted marketing report provides a summary of the marketing of both units. The content of the report includes details of the techniques employed to attract potential tenants, the interest received, details of viewings and feedback received as well as details of offers received.
- 3.3 Within the report the rental cost of the units is given, with Unit A (198sqm) £37,500 per annum and Unit B (281sqm) at £35,000 per annum. However the agent has confirmed that they were prepared to offer flexibility on the quoted rental. No sale price is provided within the report, although a figure of £700,000 was put forward by a potential buyer for use of the units for A1.
- 3.4 With regards to the different marketing methods employed the report details that as well as a 'To Let/For Sale' sign on the property the details of the unit were added to their website and sent out on CF's internal mailing list of registered office applicants. The details were also sent to 500 central London commercial agents and some local agents, however this only generated 5 enquiries.
- 3.5 The agent also states how they targeted office and restaurant tenants, however explains that the response was very poor given the size and location of the units. The A3 unit was considered by national restaurant chains to be too small scale, as they require a minimum of 2500sq foot. The agent then targeted other potential occupiers including gyms and artist studio clients without success.
- 3.6 Whilst the marketing agent received minimal negative feedback the main concerns of potential tenants was that the units were not considered to be suited for restaurant or office use. A range of other occupiers did view the property including Ladbrokes (bookmakers) and a childcare nursery, however neither thought the unit appropriate due to the unit size and in relation to the nursery lack of outside space.
- 3.7 Whilst the agent offered incentives such as rent free periods and short term leases no interest has been forthcoming. The report also provides a summary of why the proposed A1 use would benefit the units, stating that Unit A for retail would make unit B more attractive for a potential office lease.

In addition the report confirms that the site characteristics and unit layout make it more suited to A1 use stating that in Unit A the low ceiling height and lack of natural light would not restrict the retail use of the unit but is not appealing for a restaurant. The report also states that the size of the unit would provide a more workable space for a retail use, with the size of Unit A being one of the main restriction for potential restaurant rental,

- 3.8 The Council consider that the agent has demonstrated that adequate marketing of the existing units has been undertaken without success. Furthermore it should be noted that the consent applied for seeks to widen the use classes permitted on site. Therefore the units could still be occupied for A3 and B1 purpose should a tenant show interest, however by allowing the widening of the use classes available on site this could limit the time of continued vacancy on site.

Highways - Servicing

- 3.9 The application was also deferred as the committee had concerns regarding the impact of the proposal on the highway network, in particular the servicing strategy for the unit. The key concerns of the committee were;

- The servicing of the unit from Fernbrook Road, which has double yellow lines;
- The impact on the operation of the bus stops and;
- Any conflict with the servicing of the adjacent Costcutter.

- 3.10 The letter from the transport consultant responded to all three points. The response stated that with regard to servicing from double yellow lines, this is permitted, unless the double yellow lined area is also subject to a separate restriction on loading. Double yellow lines on their own simply mean 'no parking at any time'.

- 3.11 In relation to the impact on the bus stops the agent confirmed their view that these will not be affected by servicing activity and have submitted two plans illustrating how vehicles could park on the road without obstructing the bus stops. The additional information also confirmed that servicing of the unit could also occur without causing conflict with the servicing of the adjacent Costcutter.

- 3.12 Whilst the details submitted do not provide a full serving strategy the Council consider that servicing can be controlled and agreed via condition and it is not considered it would be reasonable to refuse the application for this reason. Once a tenant is secured for the unit a discharge of condition application should be submitted with a fully detailed strategy.

4.0 Local Finance Considerations

- 4.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

- 4.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 4.3 The Mayor of London's CIL is therefore a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

5.0 Equalities Considerations

- 5.1 Section 149 of the Equality Act 2010 ("the Act") imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 5.3 The duty is a "have regard duty" and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 5.4 In this matter there is no impact on equality.

6.0 Conclusion

- 6.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 6.2 It is considered that the additional use of Unit A (Use Class A3) and Unit B (Use Class B1) to also include retail use (Use class A1) to the ground floor of 9 Staplehurst Road SE13, and change of use at first floor level above Unit A to provide one, 2 bedroom self contained residential flat (Use Class C3) is acceptable. The inclusion of A1 and loss of the B1 floorspace is considered acceptable and has been demonstrated through marketing information and there are no policies which seek to protect A3 uses. Given the period of time for which these units have been vacant it is considered that their re-use would be beneficial to the local area.
- 6.3 The impact of delivery vehicles upon local bus services and passing vehicles has been demonstrated as being acceptable by a series of swept path analysis. These show that servicing of the unit could take place without obstruction to the highway.
- 6.4 Officers acknowledge the concerns of objectors regarding a larger A1 retail unit in this location, and regarding the impact that a national chain would have upon the area, however, there are no policy objections to retail use in principle and the impacts of servicing and deliveries and opening hours can be mitigated by way of conditions.
- 6.5 The provision of a single two bedroom flat at first floor level is considered acceptable and would provide a good standard of accommodation. A car free approach for the residential unit raises no objections in this location.

7.0 **RECOMMENDATION** **GRANT PERMISSION** subject to the following conditions

1. Time Limit

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

2. Accordance with Plans

The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Transport Statement CIL, Planning Statement, Report on BREEAM Domestic Refurbishment Pre-Assessment, Summary of Marketing Information (CF Commercial), F9D13.061 A(00)11 rev B, F9D13.061 A(00)12 rev B, F9D13.061 A(00)13 rev B, F9D13.061 A(00)14 rev B, F9D13.061 A(00)31 rev C F9D13.061 A(00)30, F9D13.061 A(00)33, EL01, Lifetime Homes - received 28 July 2014.

Technical Note - received 17 September 2014.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

3. BREEAM

- (a) The buildings hereby approved shall achieve a minimum BREEAM Rating of 'Excellent'.
- (b) No development shall commence until a Design Stage Certificate for each building (prepared by a Building Research Establishment qualified Assessor) has been submitted to and approved in writing by the local planning authority to demonstrate compliance with part (a).
- (c) Within 3 months of occupation of any of the buildings, evidence shall be submitted in the form of a Post Construction Certificate (prepared by a Building Research Establishment qualified Assessor) to demonstrate full compliance with part (a) for that specific building.

Reason: To comply with Policies 5.1 Climate change and mitigation, 5.2 Minimising carbon dioxide emissions, 5.3 Sustainable design and construction, 5.7 Renewable energy, 5.15 Water use and supplies in the London Plan (2011) and Core Strategy Policy 7 Climate change and adapting to the effects, Core Strategy Policy 8 Sustainable design and construction and energy efficiency (2011).

4. Delivery and Servicing Plan

- (a) The development shall not be occupied for Use Class A1 until a Delivery and Servicing Plan has been submitted to and approved in writing by the local planning authority.
- (b) The plan shall demonstrate the expected number and time of delivery and servicing trips to the site, with the aim of reducing the impact of servicing activity.
- (c) The approved Delivery and Servicing Plan shall be implemented in full accordance with the approved details from the first occupation of the development and shall be adhered to in perpetuity.

Reason: In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

5. Construction Hours and Deliveries.

No deliveries in connection with construction works shall be taken at or despatched from the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

No work shall take place on the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Saved Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

6. Operational Delivery Hours

No deliveries shall be taken at or despatched from the site other than between the hours of 7 am and 8 pm on Mondays to Fridays, 8 am and 1 pm on Saturdays, and no deliveries shall take place at any time on Sundays or Public Holidays.

Reason: In order to safeguard the amenities of adjoining residents and to comply with Saved Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

7. Opening Hours

The premises shall only be open for customer business between the hours of 8:00 and 23:00 on any day of the week.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Saved Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

8. **Refuse Storage**

- (a) No development shall commence on site until details of proposals for the storage of refuse and recycling facilities for each residential/commercial unit hereby approved, have been submitted to and approved in writing by the local planning authority.
- (b) The facilities as approved under part (a) shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.
- (c) In respect of the commercial unit, no storage of refuse shall take place outside the building.
- (d) In respect of the residential unit, no storage of refuse shall take place outside the building, other than on refuse collection day.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Saved Policies URB 3 Urban Design and HSG 4 Residential Amenity in the Unitary Development Plan (July 2004) and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

INFORMATIVE

- (1) The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted including a Technical Note to support the Transport Statement and an amendment to the residential layout to reconfigure the first floor to provide 1 larger two bedroom flat.

APPENDIX 1

LOCAL MEETING IN CONNECTION DC/14/87501 – 9 STAPLEHURST ROAD

10 SEPTEMBER 2014

Application for: The additional use of Unit A (Use Class A3) and Unit B (Use Class B1) to also include retail use (Use class A1) to the ground floor of 9 Staplehurst Road SE13, and change of use at first floor level above Unit A to provide 2 one bedroom self contained residential flats (Use Class C3). (Amended Description)

Matthew Roe (MR) - Planning Consultant CGMS

Bethan Hawkins (BH) - Planning Consultant CGMS

Unnamed man (UM) - Transport Consultant

Helen Milner (HM) - LBL Planning case officer

R - Residents

Cllr Simon Hooks (CSH) - Ward Cllr and meeting Chairperson

Minutes

- + Introduction by Cllr Hooks and HM
- + Introduction of scheme by MR, outlining the proposal is to widen the consent from A3/B1 to also include A1
- + Ann Lewis from Friends and Users of Staplehurst Shops (F.U.S.S) commented that F.U.S.S have been working for over a decade to improve the area to develop the independent character which with the one application will be lost and asked about end user.
- + MR commented this was not known.
- + R stated that CGMS often work for Tesco.
- + MR commented that CGMS worked for a lot of national retailers but on this application they were working with the property owner and as yet no brand had been secured.
- + R told when they bought flat in development that the premises would be a restaurant which they wanted and not a large shop
- + UM stated that the location was sustainable and meet government transport policy for location of shops given proximity of rail station
- + R stated that a shop of this size would cause parking problems and impact on local bus routes
- + R concerned that Tesco would buy unit and keep vacant to stop competitors buying it
- + Cllr Mallory did not understand the reason for the meeting as we had no details of the proposal and until we knew the end user how could this be fully understood
- + HM stated that the proposal was the widening of the use classes on the building and that the brand was not for consideration
- + R asked HM how to object and what the Council considers in determining the application
- + HM stated that the Council looked at planning policy and other material considerations, including highways, amenity, refuse management etc HM continued that they needed to say why they didn't agree with the scheme

- + Cost Cutter planning consultant Peter Stanway commented that the Council could not consider the viability of the restaurant verses a shop but said that people should comment on the scale of the proposal and how this will impact on local character and impact on grain of area as well as highways, refuse etc
- + Cost cutter told residents about council guidance on website outlining reasons for objection and told them to look on that.
- + R asked who can comment on application and how
- + HM told residents objections or support must be in writing and gave council email address
- + R asked about planning committee
- + HM said available on website and if email would sent links
- + HM explained delegated/committee process and that residents would only get 5 minutes at committee so needed to be coordinated
- + Cllr Mallory said he was not on committee so would give his voice to the objectors
- + Cllr Hook also said that although he was on Committee C if that was the committee for the application he would stand back so he could represent the residents
- + R voiced concerns about impact of scheme on light spill, noise, pollution and highways
- + HM confirmed they were valid concerns but must be in writing to be formally considered
- + R asked about impacts on highways and if no end user how could this be assessed
- + UM stated that they were producing a standard servicing management plan which includes highways restrictions
- + R reiterated concerns of others about impact on parking and that in the residential development behind the site parking was a big problem with many people parking without consent
- + R commented that another A1 unit was not needed and that a childcare facility was required and could it be used for that instead and who decides what the unit can be used for
- + HM commented that the Council only consider the proposal that is submitted and that the owner has the right to apply for whatever consent they wish, but this does not mean that they will gain consent. The Council determines applications on the basis of each proposal and its acceptance with planning policy.
- + R asked if unit could still be used for A3 and B1
- + MR confirmed that application was to widen use classes and that A3 and B1 could still be used
- + R asked if the building was still on market, several residents commented that owner was not taking viewing and was not trying to let as restaurant
- + R asked if community could buy it
- + MR said they must ask the sales agent
- + R stated that 'Tesco' was involved from the start and used the first application as a way in to the site
- + R stated that this was a disaster and that if this was approved it would be a PR nightmare and would be boycotted
- + R stated LBL had been deceitful and hidden details of application and not carried out sufficient consultation
- + Cost cutter commented that they had had an application refused so why was this one acceptable
- + R reiterated strong objection to national retailer and impact on local character
- + Many other comments as the same as above, all in strong objection to the proposal.

Meeting closed at 8.15pm