

Committee	PLANNING COMMITTEE	
Report Title	ST CYPRIANS HALL, BROCKLEY ROAD, LONDON, SE4 2RA	
Ward	BROCKLEY	
Contributors	Russell Brown	
Class	PART 1	6th October 2016

<u>Reg. Nos.</u>	DC/16/096995
<u>Application dated</u>	08.06.2016
<u>Applicant</u>	The Co-operative Food Group Limited
<u>Proposal</u>	The proposed change of use of part of the ground floor of St Cyprians Hall, Brockley Road, SE4 from office (Use Class A2) and restaurant (Use Class A3) to retail (Use Class A1), together with alterations to the shopfront and the installation of a plant on the north elevation fronting onto Braxfield Road.
<u>Applicant's Plan Nos.</u>	AP02A; AP06A; AP09A; AP16A; AP19A; Environmental Noise Impact Assessment Report; Planning & Retail Statement; Transport Statement  AP32; AP33; AP34 Received 30th June 2016  Marketing Letter 20.07.2016; Hindwoods Marketing Brochure Received 20th July 2016
<u>Background Papers</u>	(1) Case File DE/10/C/TP (2) Core Strategy (June 2011) (3) Development Management Local Plan (November 2014) (4) London Plan (March 2016)
<u>Designation</u>	None
<u>Screening</u>	N/A

## **1.0 Property/Site Description**

- 1.1 The application site comprises a brick built church hall building with a gabled frontage to Brockley Road. This features three doorways with pointed arches, the largest of which is in the centre of the building. Above the blocked opening are three slender lancet windows. The building has been much extended to the rear at later periods. Most recently, planning permission was granted for the erection of an additional storey at third floor level behind the parapet of the existing building, which is currently nearing completion. .
- 1.2 The building is flanked by two three storey Victorian buildings; 294 Brockley Road at the corner of Brockley Road and Braxfield Road is in use as an undertakers

and. No. 296 is an office with residential accommodation above. The latter has planning permission for an additional storey in a contemporary style. To the south of no. 296, the parade appears to have been largely rebuilt in the post war period as shops with residential accommodation above.

- 1.3 The application site also includes the rear extension and yard of 294 Brockley Road. The former club has a fire escape onto the service road to the rear of 296-308 Brockley Road, which is accessed from Comerford Road. Comerford Road and Braxfield Road comprise two storey Victorian terraced houses with rear gardens of between ten to twelve metres in depth, a number of which border the application site.
- 1.4 The application site is opposite Brockley Cemetery that is located within the Brockley Conservation Area. The facade of the church hall and the adjoining Victorian shops are regarded, by virtue of their contribution to the street scene, as non-designated heritage assets.

## **2.0 Relevant Planning History**

- 2.1 DC/10/74907/X: The demolition of the existing church hall and ancillary buildings, with retention of the facade at St Cyprians Hall, Brockley Road SE4 and the construction of a single to four storey building to provide a restaurant (Use Class A3) and office (Use Class A2) on the ground floor, together with 3 one bedroom and 5 two bedroom self-contained flats and 1 two bedroom self-contained maisonette. **Granted and in the process of being implemented.**
- 2.2 DC/15/92982: An application under section 73 of the Town and Country planning Act 1990 for a minor material amendments to the planning permission (DC/10/74907) granted on 28th July 2011 for the demolition of the existing church hall and ancillary buildings, with retention of the facade at St Cyprian's Hall, Brockley Road SE4 and the construction of a single to four storey building to provide a restaurant (Use Class A3) and office (Use Class A2) on the ground floor, together with 3 one bedroom and 5 two bedroom self-contained flats and 1 two bedroom self-contained maisonette. This comprises the amendment of the previous approved plans to include new plans and elevations incorporating alterations comprising the provision of a transom to most of the proposed casement windows, changes to the proposed internal layout, changes to the proposed roof garden layout including the provision of a living roof buffer to the area of flat roof adjoining the gardens of neighbouring properties in Comerford Road, details of the proposed bollard lights for the roof garden together with additional information on materials, fencing and mesh balustrades. **Granted.**

## **3.0 Current Planning Application**

- 3.1 Planning permission is sought for the proposed change of use of part of the ground floor of the property from office (Use Class A2) and restaurant (Use Class A3) to retail (Use Class A1). Alterations to the front and side (north) elevations are also proposed. It should be noted that although the lawful use of the ground floor is as office and restaurant floorspace, they have never been occupied as such.
- 3.2 The separate retail unit fronting Braxfield Road would remain, as would the entrance to flats 1-8 on the upper floors and the separate residential unit labelled as 'House' on the drawings. There would be a reduction in the office and refuse

space to facilitate the provision of a plant room. This would necessitate minor changes to the fenestration.

3.3 The proposed alterations to the shopfront consist of the central double door entrance being replaced by double glazed automatic sliding doors and the doors to either side being replaced by shopfront glazing in grey aluminium frames.

3.4 The opening times of the retail unit are proposed to be 06:00-23:00 Monday-Sunday.

#### **4.0 Consultation**

4.1 No pre-application advice was sought.

4.2 The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

4.3 A site was displayed and letters were sent to 19 adjoining residents, Brockley Ward Councillors, the Council's Highways and Environmental Health Officers.

#### Written Responses received from Local Residents

4.4 32 objections were receiving from local residents raising the following concerns:

- The location is one of the few that is suitable for a large restaurant and there is a surfeit of small supermarkets in the area, including two Co-ops.
- The Crofton Park Co-op is poorly run.
- The building has not been finished before the change of use has been applied for.
- This could discourage local entrepreneurs from this location.
- The opening of another convenience store would make the high street unattractive.
- The proposed use would not support the night time economy of the area.
- Parking and traffic issues as the site has no parking spaces, which is further constrained by the bus stop opposite and on the other side of Braxfield Road, and drivers will illegally park on the junction or on nearby residential streets.
- The Co-op will put several of the smaller convenience stores out of business, leaving derelict and unsightly spaces in the high street.

4.5 The Council's Highways Officer had concerns over the following:

- There are no facilities for customer parking
- No servicing would be able to be provided at the front of the store so the only viable location is via Braxfield Street, which is a residential street and therefore very noise sensitive, as well as being heavily parked. Whilst it would be possible, there are therefore concerns about the delivery truck or lorry using that street.
- There is no dedicated service bay on this street so whilst one could be applied for, there are concerns over it taking away up to three valuable parking spaces, and in the meantime, there is no guarantee that there would be a space available for unloading goods at the time of the deliveries.
- The space outside the 'refuse corridor', which appears to be shown as decking on the proposed ground floor plan, is not within the red line on the site location plan. Therefore, it appears as though this is not owned by the applicant / developer. However, the store will need the use of this for colleagues to push and pull cages

from the store to the delivery truck / lorry. The applicant will need to confirm whether they own this space or have right of access from its owner.

The Highways Officer suggested a number of conditions as follows:

- The swept path analysis within the Transport Statement showed that a 8.1m rigid vehicle is the largest vehicle that could be routed along Braxfield Road and Arabin Road to service the A1 unit. If permission was granted a condition would be required restricting the size of vehicles that can service the A1 unit.
- The submission of an updated Delivery & Servicing Plan (DSP), the plan should include details of measures to rationalise the number and time of delivery and servicing trips to the commercial element of the development, with the aim of reducing the impact of servicing activity. The plan should also include the additional information that has been submitted via email in relation to storage of cages. The A1 use should operate in accordance with the approved DSP.
- No deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 19:00 on any day. The movement of any roll cages or the waiting of lorries on or near the site should be restricted outside of the recommended delivery times.
- The applicant will be required to enter into a S278 agreement with the Highway Authority to secure the provision of a loading bay and the associated Traffic Regulation Order.

Cycle parking would also be secured via condition.

4.6 The Council's Environmental Health Officer supported the findings of the noise report, subject to the plant being situated inside a plant room rather than externally and required confirmation that the Refrigeration Condenser and the air conditioning would be switched off at night (23:00-07:00) as well as whether the plant condenser night time 'set back' is pre-installed within the equipment or whether it requires a manual intervention to be turned off. They also asked that the report specifically details the plant louvre attenuation.

4.7 Officers consider that the EHO's concerns have now been alleviated following the confirmation from the applicant that all noise requirements will be met in the design of the plant equipment and louvres, and that the submitted report was based on the AC units not being operational at night, whilst the refrigeration equipment would be.

## **5.0 Policy Context**

### Introduction

5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

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).

5.2 Section 38(6) of the Planning Compulsory Purchase Act 2004 makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), DMLP (adopted in November 2014) and policies in the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

#### National Planning Policy Framework

5.3 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary this states that (paragraph 211) policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

5.4 Officers have reviewed the Core Strategy for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, and 215 of the NPPF.

#### Other National Guidance

5.5 On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents.

#### London Plan (March 2016)

5.6 On 14 March 2016 the London Plan (consolidated with alterations since 2011) was adopted. The policies relevant to this application are:

Policy 7.4 Local character  
Policy 7.6 Architecture

#### Core Strategy

5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together the Development Management Local Plan and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Spatial Policy 1 Lewisham Spatial Strategy  
Spatial Policy 5 Areas of Stability and Managed Change  
Core Strategy Policy 15 High quality design for Lewisham

### Development Management Plan

- 5.8 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Core Strategy and the London Plan is the borough's statutory development plan. The following policies are relevant to this application:-

DM Policy 1 Presumption in favour of sustainable development

DM Policy 26 Noise and vibration

DM Policy 30 Urban design and local character

DM Policy 31 Alterations/extensions to existing buildings

### **6.0 Planning Considerations**

- 6.1 The relevant planning considerations are the principle of development, the impact of the proposal's design on the character and appearance of the existing building, the surrounds and on the amenities of neighbouring occupiers as well as noise and highways issues.

#### *Principle of development*

- 6.2 The Council have no planning policies to resist the loss of floor space in Use Classes A2 and A3. The proposal retains the ground floor of the property in the A Use Class, which is welcomed given that the property is located within a group of at least four contiguous shops that constitutes a local shopping parade, as defined by the Development Management Local Plan.
- 6.3 Marketing information in the form of a letter from Hinwoods Chartered Surveyors dated 20<sup>th</sup> July 2016 and marketing brochure have been provided by the applicant to demonstrate that the unit has been marketed since 2<sup>nd</sup> September 2015 for Use Classes A1, A2, A3 and B1 with other uses subject to planning to broaden the market to include D1, D2, A4 and A5. A rent was not quoted and the size of the property available was marketed from 355 sq. ft. – 7,736 sq. ft. Whilst marketing is not a policy requirement for this change of use, Officers are satisfied with this approach and note the only interest came from operators who would not have been suitable for the space.
- 6.4 The concerns of objectors who would have preferred to see a restaurant opening on the site are noted. However, given the position of the premises in a local shopping parade and the lack of interest from restaurant operators in the space, the proposed use would be very difficult resist in planning policy terms.
- 6.5 As such, the principle of development is acceptable.

#### *Design*

NPPF Section 7 Requiring good design states that the Government attaches great importance to the design of the built environment. Core Strategy Policy 15 states

that the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character. DM Policy 30 states that the Council will require all development proposals to attain a high standard of design, including alterations and extensions to existing buildings.

- 6.6 The proposed alterations to the front and side elevations use contemporary doors, glazing and materials that are appropriate for the contemporary nature of the building and the surrounding area and are therefore acceptable.
- 6.7 The louvres would face onto Braxfield Road, a largely residential street. The applicant has confirmed that they are of a size to allow sufficient fresh air in so that the air conditioning units and refrigeration condenser work effectively and to ensure that noise is kept to a minimum. They would be finished in grey to match the existing building and are considered acceptable.
- 6.8 The design and materials proposed for the alterations are considered to be of a high quality and appropriate for the building and its surrounding context. As such, the proposal complies with Core Strategy Policy 15 and DM Policies 30 and 31.

#### *Impact on the amenity of neighbouring occupiers*

- 6.9 There would be no impact from the proposal on the amenities of adjoining neighbouring properties or to the future occupiers of those flats above in terms of levels of sunlight, daylight, associated overshadowing, outlook or privacy.
- 6.10 DM Policy 26 Noise and vibration states that the Council will require a Noise and Vibration Assessment for noise generating equipment, where appropriate, to identify issues and attenuation measures, prepared by a qualified acoustician.
- 6.11 In compliance with this policy, the applicant has submitted an Environmental Noise Impact Assessment Report for the a/c units, refrigeration condenser and refrigeration pack that would be located within the proposed plant room.
- 6.12 The Council's Environmental Protection Officer has stated that the report is acceptable subject to a few items being confirmed by the applicant. They have confirmed that all noise requirements will be met in the design of the plant equipment / louvres and that the assessment is based on the a/c units not being operational at night, but the other plants will be. Officers consider that it essential for the refrigeration equipment to remain switched on for the food retail use and therefore raise no objection in this case. However, a condition will be added regarding plant room noise control.

#### *Highways*

- 6.13 The highways issues have been outlined in the consultation section of this report. On balance it was considered that the use would be acceptable in highways terms subject to the imposition of suitable conditions regarding the type of delivery vehicle, times of deliveries, the submission of a revised servicing and delivery plan, to secure cycle parking and the provision of a servicing bay on the public highway to ensure that they will load where they said they would in the servicing and delivery plan.

- 6.14 Table 6.3 of London Plan Policy 6.9 states that one cycle space is required for a food retail use between 100m<sup>2</sup> and 750m<sup>2</sup>. The development is to be car-free and the applicant has stated that the catchment area for the proposed 'top-up' sized store would likely be limited to approximately 400m and that where people drive rather than walk, there is parking available on the opposite side of the street. This approach is considered acceptable since the site has a relatively high PTAL of 4.
- 6.15 Delivery to and the servicing of the proposed store would be via Braxfield Road, which is a residential street. A servicing bay is proposed in place of the 'keep clear' marking and part of the single yellow line and therefore no loss of parking would ensue. This would override the current 'no waiting at any time' restriction'.
- 6.16 The cages full of goods delivered to the store and the empty cages returned to depot would come and go through the refuse corridor, and it has been confirmed by the applicant that it would be wide enough for the cages with the 'back of house' area sufficiently sized for cage storage. Therefore, the only time that cages would be left outside is while cages are being unloaded from a delivery, which would not be for a long period of time. It has also been confirmed that the strip of land directly outside the door belongs to the landlord of the site.

### **Equalities Considerations**

- 6.17 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.18 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - (b) advance equality of opportunity between people who share a protected characteristic and those who do not;
  - (c) Foster good relations between people who share a protected characteristic and persons who do not share it.
- 6.19 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 6.20 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical



guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

- 6.21 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 6.22 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 6.23 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

### **Conclusion**

- 7.0 The Local Planning Authority has considered the particular circumstances of the application against relevant planning policy set out in the Development Management Local Plan (2014), the Core Strategy (2011), London Plan (March 2016) and the National Planning Policy Framework (2012).
- 8.0 It is considered that the principle of development is acceptable and the proposal would have no significant adverse impact on the building, surrounds and on neighbouring amenity through design, noise or highways issues.
- 8.0 RECOMMENDATION: GRANT PLANNING PERMISSION** subject to the following conditions:
- 1) 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) The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:  
  
AP02A; AP06A; AP09A; AP16A; AP19A; Environmental Noise Impact Assessment Report; Planning & Retail Statement; Transport Statement  
  
AP32; AP33; AP34 Received 30th June 2016

Marketing Letter 20.07.2016; Hindwoods Marketing Brochure Received 20th July 2016

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)

- a) In compliance with the Plant Noise Emission Criteria presented in Section 8.0 of the Environmental Noise Impact Assessment Report, the plant room louvres shall be attenuated such that noise emissions shall not exceed the following Cumulative Atmospheric Plant Noise Emission Limits when measured at 1 metre from the louvres with all appropriate plant operating simultaneously:  
Cumulative Atmospheric Plant Noise Emission Limits  
Sound Pressure Level (SPL dB re 2x10<sup>-5</sup> Pa)  
Daytime (07:00 – 23:00 hours) 50dBA @ 1m  
Night-time (23:00 – 07:00 hours) 37dBA @ 1m
- b) Development shall not commence until details of a scheme complying with paragraph (a) of this condition have been submitted to and approved in writing by the local planning authority.
- c) The development shall not be occupied until the scheme approved pursuant to paragraph (b) of this condition has been implemented in its entirety. Thereafter the scheme shall be maintained in perpetuity.

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

- 4) The proposed retail (A1) unit shall be serviced by rigid vehicles of no greater length than 8.1m.

Reason: To safeguard the amenities of the adjoining residential occupiers, especially along Braxfield Road and Arabin Road, and the area generally and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

- 5) A revised Delivery & Servicing Plan shall be submitted to include, but not limited to, details of measures to rationalise the number and time of delivery and servicing trips to the retail (A1) unit and the storage of cages. The scheme shall be carried out in full accordance with the Delivery & Servicing Plan, as approved.

Reason: To comply with Core Strategy Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

- 6) No deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 19:00 on any day and the movement of any roll cages or the waiting of lorries on or near the site shall only take place within those times.

Reason: To safeguard the amenities of the adjoining residential occupiers and the area generally and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

- 7) The development shall not be occupied until the Local Planning Authority has approved in writing a scheme of works to provide a loading bay on Braxfield Road.

Reason: To comply with Core Strategy Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

### **INFORMATIVES**

**Positive and Proactive Statement:** 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.