

# MINUTES OF THE PLANNING COMMITTEE B

Tuesday, 9 July 2024 at 7.00 pm

PRESENT: Cllr Jack Lavery (Chair), Oana Olaru (Vice-Chair), Suzannah Clarke, Sophie Davis, John Muldoon, and Stephen Penfold.

MEMBERS PRESENT IN PERSON UNDER STANDING ORDER: Cllr Liam Curran.

OFFICERS PRESENT IN PERSON: Head of Legal Services, Development Management Team Leader for South Area, Senior Planning Officer, Planning Officer, Senior Committee Manager, Committee Officer.

Apologies for absence were received for Cllr James Rathbone and Hau Yu Tam.

## 1. **Declarations of Interests**

The Chair of the Committee, Councillor Jack Lavery, declared an interest in relation to Item 4, "81 Sydenham Road, London, SE26". He advised the meeting about his involvement in the planning application as a ward Member. Councillor Lavery left the room during consideration of the Item, and he did not take part in the vote on the recommendation. The meeting was chaired during consideration of the Item by the Vice Chair of the Committee, Councillor Oana Olaru.

Councillor John Muldoon declared an interest in relation to Item 5, "Mornington Centre, Stanley Street, London, SE8 4BL". He informed the meeting that following some advice from the Council's Monitoring Officer, he would not take part in the discussions. Councillor Muldoon left the room during consideration of the Item, and he did not take part in the vote on the recommendation.

## 2. **46 Newlands Park, London, SE26 5NE - DC/24/134944**

2.1. The Senior Planning Officer gave an illustrative presentation of the report, with a suggestion that the Committee should approve the recommendation and grant planning permission for the construction of a two-storey detached dwellinghouse, together with cycle and refuse store at the rear of 46 Newlands Park, SE26.

2.2. The Committee noted the report, the key planning considerations, together with the recent history about the proposed site, whereby planning application submitted consecutively by the applicant in 2021 and 2022 were considered and refused.

2.3. The meeting was addressed by the applicant and his architect who advised that he was also acting as an agent in relation to the application. They advised the Committee as follows:

- That the applicant engaged extensively with the Council's Planning Team during the pre-application process, and therefore was satisfied with the details in the report.
- That as part of the pre-application process, the applicant considered reasons why the two previous applications he submitted were refused, together with earlier objections about privacy, overlooking and overshadowing. Therefore, the applicant was satisfied that the relevant planning policy requirements were observed in the current submission, and that mitigating measures had been applied to address the impact of the proposed development on neighbouring residential amenities.

2.3.1 In response to a question, the applicant informed the Committee that at the time of him acquiring the property, there were no trees planted on the proposed site.

2.4. A resident who advised that he resided at 48 Newlands Park also addressed the meeting. The resident informed the Committee that he was not opposed to the planning application but was concerned that the proposed development would result in overlooking into a secluded space at the rear of his garden. In view of that, the resident requested that in reaching a decision on the proposal, the Committee should consider the following:

- That the applicant should take steps to prevent overlooking into the secluded area of his rear garden, and that as an assurance for the future, such a requirement should be applied in perpetuity.
- That the applicant should erect the proposed boundary wall before continuing with construction on the other elements of building works on the proposed site as a reassurance that the specified measure for the wall height would be achieved as proposed.

2.5 In deliberating on the report and submissions made at the meeting, the Committee considered responses by the Officer as follows:

- That the information in Design and Access Statement was clear at the outset that there was no planning policy requirement to subject the application to a daylight/sunlight assessment as there would be a sufficient separation distance from existing dwellings. Thus, it was unlikely that there would be loss of daylight or sunlight to the adjoining properties.
- That planning policy guidance required a minimum separation distance of 21 metres between directly facing habitable windows. However, that policy requirement was not appropriate in the circumstance because the rear facing elevation of the proposed development would not have upper-floor window openings.
- That Condition 21 required that the applicant should submit details of the proposed fence treatment and seek approval in writing from the local Planning Authority prior to construction of the above ground works.
- That during pre-application discussions, the applicant agreed to install glazed glass to the north-facing window, which would extend at first floor level to form part of the landing to obscure and prevent overlooking into

the rear garden of No. 48 Newlands Park, and that had been secured by Condition 19. However, it would be unrealistic to impose that the obscured glazed window should remain shut, as that would provide a very low level of residential quality.

- That it was unlikely that there would be overlooking on the ground floor level to neighbouring properties because the proposed boundary wall would be 1.8 metres high.
- That the proposed site was not in a conservation area. There was no Tree Preservation Order on the proposed site. However, to mitigate against the impact of trees which were fell prior to possession of the proposed site by the applicant, a soft landscaping condition had been imposed as part of the Tree Protection Plan for shrubs to be planted to enhance the greenery of the site.

2.6 In response to a question, the applicant advised the Committee that he was willing to erect a boundary wall before commencing construction work on the other elements outlined in the proposal. However, because the proposed development should progress in sequence, he would first consult with a structural engineer for reassurance that such action would not hinder the main ground works to be undertaken on the application site.

2.7 The Committee was further asked to note by the Officer that the plan numbers which was omitted in error in the report under Condition 2 would be included in the application decision notice.

2.8 In reaching a decision on the application, the Committee requested that in addition to the treatment to be applied, an informative should be imposed that the proposed boundary wall should be erected before the construction of the new dwelling house on the application site as a reassurance that there would be no overlooking or loss of daylight and sunlight to adjoining properties at ground floor level.

2.8.1 Considering the proposed informative, Councillor Stephen Penfold moved the recommendation on the proposal, which was seconded by Councillor Oana Olaru and voted upon. The Committee

RESOLVED

Unanimously

To GRANT planning permission for the construction of a two-storey detached dwellinghouse, together with cycle and refuse store at the rear of 46 Newlands Park, SE26 subject to conditions and informatives in the report and to add a further informative to advise the applicant should erect the shared boundary wall with No. 48 Newlands Park before the construction of the new dwelling house.

### **3. Tunbridge Court, Sydenham Hill, London, SE26 6RR - DC/24/134979**

3.1. The Senior Planning Officer gave an illustrative presentation of the proposed application, with a suggestion that the Committee should grant planning

permission for the creation of two additional parking spaces at Tunbridge Court Sydenham Hill SE26.

3.2. The Committee noted the report, the key planning considerations and the context of the proposal as follows:

- The site benefited from 4 parking spaces and 12 garages.
- The 12 garages were of insufficient dimensions to accommodate a modern vehicle as per the standards set out in the London Borough of Lewisham Parking Policy (2023) which has resulted in informal parking across the site.

3.3. The Committee discussed the proposals and asked questions on aspects of the report regarding the following:

3.3.1. *Permeable materials*. Officers responded as follows:

- (a) That Condition 3 in the report required that prior to the commencement of grounds works, drawings showing hard landscaping of any part of the proposed development (including details of permeability of hard surfaces) would be submitted to and approved in writing by the local planning authority. However, it would not be possible to inspect every single development after construction to verify whether permeable materials had been used.
- (b) That enforcement actions could be taken if after implementation of the proposed development the applicant was found to be in breach of the set conditions.

3.3.2. *Accessible Car Parking*. Officers responded as follows:

- That the proposal was about existing dwellings and there were no requirements for accessible car parking. However, the applicant had suggested that one of the two proposed parking spaces could be used as an accessible parking bay because it would be located evenly on a level wider in size than the actual parking space requirement.

3.4. The Committee was addressed by the agent to the applicant who advised that he was also acting as a planning consultant in relation to the application. He advised the Committee as follows:

- That the applicant would take steps to address the existing informal parking issues in the services areas of the existing site. Thus, the new parking spaces, once completed, would provide better parking conditions for the residents.
- That the proposed parking spaces would be constructed of permeable materials in accordance with the conditions in the report.
- That the applicant agreed to install two electric vehicle charging points which would help reduce pollution emissions in the area.

3.5 In addressing some of the objectors' comments received by the Planning team during the consultation period, the agent to the applicant asked the Committee to note the following:

- That the concerns about refuse collection arrangements would not be affected because of the location of the proposed parking spaces.
- That in relation to concerns about the lease variation required to implement the proposal, although not a planning consideration, if the application was approved, the applicant had expressed a willingness to seek agreement with the lessees and vary leases as appropriate prior to implementing the proposal.

3.6 In reaching a decision on the application, the Committee made further enquiries and received confirmation by the applicant's agent that any parking related work would be undertaken in accordance with the approved Car Parking Management Plan (CPMP). However, although not part of the proposal, he would discuss the possibility about accessible parking provision with the applicant. Considering the response, Councillor Sophie Davis moved the recommendation on the proposal, which was seconded by Councillor Stephen Penfold and voted upon. The Committee

RESOLVED

Unanimously

To **GRANT** planning permission for the creation of two additional parking spaces at Tunbridge Court Sydenham Hill SE26, subject to the conditions and informatives in the report.

#### 4. **81 Sydenham Road, London, SE26 - DC/24/134418**

The Chair of the Committee, Councillor Jack Lavery, declared an interest in this Item. He advised the meeting about his involvement in the planning application as a ward Member. Councillor Lavery left the room during consideration of the Item, and he did not take part in the vote on the recommendation. The meeting was chaired during consideration of the Item by the Vice Chair of the Committee, Councillor Oana Olaru.

4.1 The Planning Officer gave an illustrative presentation of report, highlighting proposal to instal 3 fridges condensing units to flat roof with wooden enclosure at the rear elevation at 81 Sydenham Road SE26. The Officer suggested that the Committee should approve the proposal subject to the conditions in the report.

4.2 The Committee noted the report, and that planning permission was approved in 2014 for one condenser unit to be installed at the rear of the host building. Thereafter, in 2023, additional condensing units were installed at the rear of the host building without planning permission and the Council issued an enforcement notice against the applicant who subsequently appealed to the Planning Inspector.

- 4.2.1 In commenting on the enforcement notice for non-compliance, the Committee noted that the applicant's appeal was upheld by the Planning Inspector. It was noted that in upholding the appeal, the Planning Inspector imposed a condition which required the submission of an attenuation scheme within 3 months of the appeal decision.
- 4.2.2 The Committee was advised that because the applicant did not comply with that imposed condition, Council officers removed the unauthorised units and advised that a new planning permission for consent would be required to replace them. Hence, the application under consideration, as 17 individual objections were received in relation to noise disturbance from the condensing units on neighbours who resided at the rear of the host property.
- 4.3 In considering objections relating to the noise disturbance, the Committee asked questions and noted responses from Officers as follows:
- That the Council's Environmental Health Protection Team had reviewed the Acoustics Report submitted by the applicant and raised no objections. Thus, there should be no issue in that regard, subject to the applicant adhering to the relevant compliance conditions. Notwithstanding that, any breach of a condition would be subjected to enforcement action.
  - That Planning Officers were satisfied that the adverse impacts relating to noise had satisfactorily been addressed by Condition (4) 'Mechanical Services – Noise Control' which stated as follows:
    - “a. The condensing units hereby permitted shall be installed in strict accordance with the details provided in the acoustic report submitted by DAA Group Re. Issue 01 dated 4th March 2024. The units shall thereafter be retained as approved. The units shall not be used unless the equipment is installed in compliance with these details.
    - b. A commissioning acoustic test report shall be undertaken within 2 (two) weeks of the mechanical services installation in order to demonstrate the limiting noise levels detailed in the above report, i.e., Table 5.3 - Proposed noise emissions criterion, have been achieved. The results of the tests shall be submitted to and approved in writing by the local planning authority”.
- 4.4 The Committee was addressed by the applicant and his agent who confirmed the following:
- That the applicant had been running commercial activities from 81 Sydenham Road for over 20 years.
  - That the applicant had been unable to fulfil the noise mitigation condition imposed by the Planning Inspector in 2023 due to family circumstances but he intended to comply. However, the units would not work effectively when installed indoors. Therefore, the planning application

under consideration, if approved, would give permission to install the units at the rear ground floor level of their business premises at 81 Sydenham Road because the conditions regarding acoustic would mitigate against noise disturbance to neighbouring properties.

- 4.5 The Committee also heard submissions by a representative of the Sydenham Society who spoke on behalf of some residents living in Earlsthorpe Road. The representative raised the following points:
- That the Society was aware that residents at Earlsthorpe Road had suffered from unacceptable level of noise emanating from the condensing units for many years, and welcomed the condition imposed by the Planning Inspector.
  - That the Society noted that Condition 4 in the report aimed to mitigate against excessive noise onto neighbouring properties. However, although residents were not against the proposal, the Society believed that there would a lengthy period of noise and disturbance as previously experienced should the applicant found to be in breach of Condition 4.
  - That the Society was suggesting that the wordings relating to the sound attenuation scheme requested as part of the Planning Inspector's ruling should form part of the Committee's decision in an effort to strengthen Condition 4.
- 4.6 Councillor Liam Curran addressed the meeting as a ward Member for Sydenham, and he echoed concerns expressed by representatives of the Sydenham Society who addressed the meeting earlier regarding residents' complaints about noise to neighbouring properties from condenser units installed on the proposed site.
- 4.6.1 Commenting on the submission made by the Sydenham Society representatives regarding the history of non-compliance by the applicant, Councillor Curran endorsed suggestions by the Sydenham Society for the Committee to ensure that Condition 4 should include wordings from the Planning Inspector's ruling about the sound attenuation scheme.
- 4.7 In deliberating on the report and submissions made at the meeting, the Committee asked questions and the Officer reiterated aspects of the earlier submission to clarify the following points:
- That the acoustic report provided by the applicant, contained the same attenuation measures as those recommended by the Planning Inspector.
  - That the acoustic report had been fact-checked by Lewisham Council's acoustic experts and deemed acceptable.
  - That the 3 condensing units would be contained within acoustic metal enclosures with a 23dB mitigation loss and then the top and sides of the enclosures would be covered by timber panelling to minimise noise disturbance to the neighbours.

- That enforcement actions would be taken against the applicant if Condition (4) part (a) and (b) were not adhered to.
- 4.8 In reaching a decision on the application, the Committee expressed a view that in addition to the 2-week post-installation check proposed in the report, a 6-month timeframe was reasonable to adequately assess the appropriateness of the workings of the condensing units. Considering that, the Committee suggested that a 6-months post-installation check should be undertaken as well, and that the outcome of that should be submitted by the applicant to the Council for the relevant officers to determine the effectiveness of the acoustic measures.
- 4.8.1 With the understanding that the condensing units would be checked after 2 weeks and 6 months post-installation, Councillor Suzannah Clarke moved the recommendation on the proposal, which was seconded by Councillor Stephen Penfold and voted upon. The Committee

## RESOLVED

Unanimously

To GRANT planning permission for the installation of 3 fridges condensing units to flat roof with wooden enclosure on the rear elevation at 81 Sydenham Road SE26 subject to the conditions and informatives in the report, and a requirement to add a Part (c) to Condition 4 in the report, to undertake a 6 months' post installation acoustic report after installation, in addition to the 2-week report.

## 5. **Mornington Centre, Stanley Street, London, SE8 4BL - DC/24/135691**

Councillor John Muldoon declared an interest in relation to this Item. He informed the meeting that following some advice from the Council's Monitoring Officer, he would not take part in the discussions. Councillor Muldoon left the room during consideration of the Item, and he did not take part in the vote on the recommendation.

- 5.1 The Planning Officer gave an illustrative presentation of the report, highlighting proposals for temporary change of use from Class F1(a) (School) to Class E(g) (artist studios/workspace with ancillary gallery space and studio office) and the provision of cycle parking at the Mornington Centre, Stanley Street, SE8. The Officer suggested that the Committee should approve the recommendations in the report.
- 5.1.1 The Committee noted the report, and that the proposal would create a temporary change in the use of the rooms, which would require minor alterations. It was recognised that the host building was not listed, and material changes had not been proposed to take place on the exterior of the host building.



5.2 The meeting noted that Art Hub Studios were the applicants. Two Directors of Art Hub Studios who were present at the meeting made the following submissions on behalf of the applicant:

- That Art Hub Studios had operated for 25 years and was supporting 290 creative practitioners across Lewisham and Greenwich.
- That the proposal would enable Art Hub Studios to relocate temporarily from Creekside to Mornington Centre.
- That the temporary relocation would safeguard affordable workspace of 75 artists, the community gallery and prevent financial losses.
- That the recommendations aligned with Lewisham Council Business Development Strategy for creative arts given that Art Hub Studios would also rehouse Arts Network who would also be affected by the proposed change.
- That to ensure a smooth transition for Art Hub Studios to relocate, a longer move-out period had been agreed for the current occupiers of Mornington Centre's premises.

5.3 In deliberating on the report and submissions made at the meeting, the Committee considered responses by the Officer as follows:

- That the temporary change was required for proposed works at Cockpit Arts Centre in Deptford to take place, and once completed, Art Hub Studios would move back into the premises.
- That the temporary permission would mean that the site would revert to the existing F1 Use Class after five years, thereby not resulting in the loss of the site for educational uses.
- That once the applicant relocated to Mornington Centre, the gallery space would be opened to the public approximately twice per month, however the rest of the building (the studios), would not be, as it would be accessed by artists/employees from a different entrance than the gallery.
- That the proposals would not result in any change to the external appearance of the building, nor would it result in any physical interior works.

5.4 In reaching a decision on the application, the Committee suggested that an additional informative should be added as a reassurance that the wildlife within the site would be safeguarded during the temporary change of use of the site. With the additional informative, Councillor Suzannah Clarke moved the recommendation on the proposal, which was seconded by Councillor Oana Olaru and voted upon. The Committee

RESOLVED

Unanimously

To GRANT temporary planning permission for temporary change of use from Class F1(a) (School) to Class E(g) (artist studios/workspace with ancillary gallery space and studio office) and the provision of cycle parking

at the Mornington Centre, Stanley Street, SE8, subject to the conditions and informatives in the report, and an additional informative that the new occupiers should be mindful of the existing wildlife in the environment on the premises grounds.

The meeting ended at 20:47

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The Chair