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| Committee | PLANNING COMMITTEE C | |
| Report Title | COMMERCIAL UNITS A & B, BESSON HOUSE, THE COURTYARD, 3 BESSON STREET, SE14 5AE | |
| Ward | Telegraph Hill | |
| Contributors | David Knight | |
| Class | PART 1 | 31 January 2013 |

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| <u>Reg. Nos.</u> | DC/12/81380 |
| <u>Application dated</u> | 11.09.2012, as revised 17.01.2013 |
| <u>Applicant</u> | Mr M Gold |
| <u>Proposal</u> | The change of use, alteration and conversion of Commercial Units A & B, The Courtyard, 3 Besson Street SE14 to provide 1 one bedroom self-contained flat and two bedroom self-contained flat, together with alterations to the front and side elevations. |
| <u>Applicant's Plan Nos.</u> | PL-01, PL-03, PL-04, PL-06, and PL-02 rev D PL-5 rev B, Design and Access Statement including appendices A, B and C, and Letter dated 02/11/2012 |
| <u>Background Papers</u> | (1) Case File DE/414/162A/TP (2) National Planning Policy Framework (3) Adopted Unitary Development Plan (July 2004) (4) Local Development Framework Documents (5) The London Plan |
| <u>Designation</u> | Major District Centre Hatcham Conservation Area Article 4(2) Direction Area of Archaeological Priority |
| <u>Screening</u> | N/A |

1.0 Property/Site Description

- 1.1 Units A & B The Courtyard, Besson Street are two vacant commercial units in a part 3 storey / part 4 building constructed in 2006. The building is in residential use, aside from the two vacant commercial units. 9 Flats in total are located on the ground, first, second and third floors.
- 1.2 The commercial units front onto Besson Street, and are set back between 210mm and 575mm from the back edge of the pavement.
- 1.3 The building is showing some signs of neglect. The residential balconies are rusting and rendered elevations are poorly maintained.

- 1.4 The commercial units have been vacant since construction was completed. They have not been fitted out. Large hoardings have been placed for security purposes in the empty openings that would be the shop windows.
- 1.5 The northeast part of the building is situated in the Hatcham Conversation Area, which is subject to an article 4 direction. The vehicle carriageway part of the road in front of the remainder of the property is also located in the Hatcham Conservation Area, however the pedestrian pavement is outside the conservation area.
- 1.6 The site straddles the boundary of New Cross District Centre. The site is located 18m from New Cross Road.

2.0 Planning History

- 2.1 03/07/2003 (DC/02/50538): Permission granted for the construction of a part single / part three / part four storey building on the site of 162A New Cross Road and land adjoining, to provide 2, shop/office units on the ground floor, 3, one bedroom and 6, two bedroom, self-contained flats, together with associated landscaping.

3.0 Current Application

The Proposals

- 3.1 The applicant proposes to convert the two existing commercial units into two self-contained flats.
- 3.2 Unit 1, the eastern unit, would be converted to a one bedroom flat with a floorspace of 61.3m². The bedroom would measure 17.3m², and the living / kitchen / dining area would measure 31.4m².
- 3.3 Unit 2, the western unit, would be converted into a two bedroom flat with a floorspace of 62.4m². Bedroom 1 would measure 15.5m², bedroom 2 would measure 9.7m², and the dining / living room area would measure 22.8m².
- 3.4 The applicant also proposes alterations to the front elevation. The shop window openings would be replaced by smaller windows set in brick walls. The windows would have a cill height of 1.2m. The windows are to be metal framed to match the windows on the upper floors. The brick infill panels are specified as red brick. New entrance doors to the flats would be solid timber.
- 3.5 A new balustrade is to be placed at ground floor level outside the entrance to unit 2 on the front elevation. A low brick wall with metal balustrade above is to be constructed in front of the side window to unit 2 on the west elevation.
- 3.6 A 150mm high brick border is to be placed in the area between the back of the pavement and the front of the flats in order to provide a buffer area.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors. No responses were received from any consultees.

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.

5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

5.3 The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The National Planning Policy Framework does not change the legal status of the development plan.

National Planning Policy Framework (NPPF)

5.4 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14a '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. In summary, this states, that for a period of 12 months from publication of the NPPF decision makers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.

5.5 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

5.6 The Statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

- 5.7 The statement further sets out that local authorities should reconsider, at the developers' request, existing Section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed, provided this continues to ensure that the development remains acceptable in planning terms.

Other National Guidance

- 5.8 The other relevant national guidance is:

By Design: Urban Design in the Planning System - Towards Better Practice (CABE/DETR 2000)

Planning and Access for Disabled People: A Good Practice Guide (ODPM, March 2003)

Safer Places: The Planning System and Crime Prevention (ODPM, April 2004)

Code for Sustainable Homes Technical Guide (DCLG/BRE, November 2010)

London Plan (July 2011)

- 5.9 The London Plan policies relevant to this application are:

Policy 2.15 Town centres

Policy 4.2 Offices

Policy 4.7 Retail and town centre development

Policy 6.3 Assessing effects of development on transport capacity

Policy 6.13 Parking

Policy 6.9 Cycling

Policy 7.4 Local character

Policy 7.6 Architecture

Policy 7.8 Heritage assets and archaeology

London Plan Supplementary Planning Guidance (SPG)

- 5.10 The London Plan SPG's relevant to this application are:

London Housing SPG (November 2012)

Core Strategy (June 2011)

- 5.11 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development 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

Objective 4 Economic activity and local businesses

Objective 9 Transport and accessibility

Objective 10 Protect and enhance Lewisham's character

Policy 1 Housing provision, mix and affordability

Policy 5 Other employment locations

Policy 14 Sustainable movement and transport

Policy 15 High quality design for Lewisham

Policy 16 Conservation areas, heritage assets and the historic environment

Unitary Development Plan (July 2004)

5.12 The saved policies of the UDP relevant to this application are:

URB 3 Urban Design
URB 6 Alterations and Extensions
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas
HSG 4 Residential Amenity
STC 6 Major and District Centres – Other Shopping Areas

Residential Standards Supplementary Planning Document (August 2006)

5.13 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

Planning Obligations Supplementary Planning Document (January 2011)

5.14 This document sets out guidance and standards relating to the provision of affordable housing within the Borough and provides detailed guidance on the likely type and quantum of financial obligations necessary to mitigate the impacts of different types of development.

Hatcham Conservation Area Supplementary Planning Document (2006)

5.15 This document advises on the content of planning applications, and gives advice on external alterations to properties within the Hatcham Conservation Area. The document provides advice on repairs and maintenance and specifically advises on windows, satellite dishes, chimneystacks, doors, porches, canopies, walls, front gardens, development in rear gardens, shop fronts and architectural and other details.

6.0 Planning Considerations

6.1 The main issues to be considered in respect of this application are:

- a) Principle of the change of use
- b) Quality of residential accommodation
- c) Highways and refuse issues
- d) External design
- e) Impact on the conservation area

Principle of the change of use

6.2 The application would result in the loss of employment space and a loss of retail space, due to the existing units having permission to be used for either purpose. Therefore the loss of employment and retail space must be acceptable for permission to be granted.

- 6.3 Core Strategy Policy 5: Other employment locations, sets out that the Council will protect 'other' employment locations which have the potential to contribute to a Major or District centre, and that employment land within town centres should be recommended for retention in employment use. The policy states that other uses for employment locations will only be supported if it can be demonstrated that site-specific conditions including site accessibility, restrictions from adjacent land uses, building age, and business viability show that the site should no longer be retained in employment use.
- 6.4 The applicant has provided evidence to show that the commercial units have been vacant since construction was completed in 2006, and have been actively marketed at a reasonable advertised rent since 2007. The owners have been unable to find tenants in this time. The applicant has provided evidence of potential tenants who have enquired about the property but who have subsequently decided not to take the property.
- 6.5 The applicant has also put forward an argument that Besson Street has changed in character since the construction of the building. The street was previously a busy traffic route with bus routes, however the street has recently been blocked to through traffic and buses, and therefore is now much quieter. The applicant has argued that this distinguishes the immediate vicinity from the busier commercial area on New Cross Road 18m away.
- 6.6 It is accepted that the unit has been vacant for a period of six years, and that the site has been actively marketed in this time without success. The period of time elapsed without finding tenants is considered substantial, and therefore it is accepted that the applicant has demonstrated that the premises lack viability as commercial units. Furthermore it is also accepted that the character of the immediate locality has changed in the intervening period of time, and that the premises are not suited for any commercial purposes that rely on passing trade. Therefore the loss of employment space in this instance is considered acceptable subject to a financial contribution in lieu of the lost employment opportunities.
- 6.7 The financial contribution to be paid has been agreed at a figure of £500 per employee space lost. The Planning Obligations SPD stipulates floorspace / employee figure of 19m² per office employee and 20m² per retail employee. The lost floorspace is 123m², therefore, based on either figure, the contribution due is £3000, rounded to the nearest employee. A S106 agreement should be entered into requiring payment upon completion of the agreement before permission is granted.
- 6.8 The loss of retail space must also be considered. The two units are located within New Cross District Centre, but are not located in either a core or non-core shopping area. Therefore policy STC 6 Major and District Centres – Other Shopping Areas applies in this instance. The policy states that a loss of A1 units will be acceptable if the change of use does not harm the amenity of adjoining properties, does not harm the viability of the centre as a whole, and if the existing shopping frontage is not unreasonably disrupted. The application is considered to adhere to the requirements of this policy, as the units are surrounded by residential uses and do not occupy a principle location within the district centre. Therefore the loss of retail space is considered acceptable.

Quality of residential accommodation

- 6.9 Residential accommodation in this location is considered acceptable in principle, subject to it being of satisfactory quality. The remainder of the building is in residential use and the main issue in terms of the quality of accommodation is the relationship of the windows to the adjacent footway, given the original design included shop windows on the Besson Street frontage.
- 6.10 Negotiations have taken place between the planning officer and the applicant surrounding the details of unit 1. The applicant initially proposed that this unit be a two bedroom flat, however this was resisted due to the lack of natural daylight available for the second bedroom.
- 6.11 In light of the negotiations, it is now considered that the quality of residential accommodation provided adheres with the requirements of the development plan.
- 6.12 Unit 1 has a floorspace of 61.3m², which is significantly above the London Plan requirement of 50m² for one-bed units. The living / dining area and the bedroom also have floorspaces significantly above the London Housing SPG.
- 6.13 Unit 2 has a floorspace of 62.4m², which is above the London Plan requirement of 61m² for a two-bedroom three-person unit. Both bedrooms have floorspaces in excess of the London Housing SPG. The living / dining room area measures 22.8m², which is 2.2m² less than the guidance found in the SPG, however this is considered acceptable in light of the otherwise good quality of living accommodation provided and in light of the good bedroom sizes.
- 6.14 Both flats have rational layouts which allow for a realistic placement of furniture, and both flats possess dedicated storage areas.
- 6.15 The applicant has provided an assessment demonstrating Lifetime Homes compliance. The applicant has also provided details of sustainability features, including low water consumption taps, dual flush WCs and energy efficient light fittings. The proposals therefore meet the criteria of Core Strategy Policy 1.
- 6.16 It is considered that the both flats will be provided with a sufficient amount of natural daylight, and will have an acceptable outlook.
- 6.17 The cill heights of the windows have been increased to 1.1m in order to increase the level of privacy for future residents of the properties. A 'buffer' area of between 210mm and 575mm will be created between the windows and the pavement outside through the provision at ground level of 150mm high raised brickwork directly outside the windows. On balance the level of privacy afforded to future residents is considered acceptable.
- 6.18 The proposal does not provide any amenity space for the future occupants of the premises, however this is considered acceptable in this instance due to the constraints of the site, due to the fact that the units will surpass the London Plan space standards, and due to the fact the units will only be 1 and 2 bed flats.

Highways and refuse issues

- 6.19 The site has a PTAL rating of 6a, which is the second highest possible rating. The development plan policies do not require car parking spaces, and none are provided in this proposal.
- 6.20 2 cycle parking spaces will be provided adjacent to the existing cycle parking spaces within the courtyard of the building. This adheres to the London Plan Policy 6.9 requirement of 1 space per 1 or 2 bed unit.
- 6.21 Refuse is to be stored in the existing refuse area shared with the existing residents of the building. This arrangement is considered acceptable.

External design

- 6.22 The most significant external alterations are the provision of red brick infill panels and metal framed windows in place of the existing boarded up shop window openings.
- 6.23 The smaller proportions of the proposed windows compared to the existing openings are considered to visually reflect the nature of the proposed residential ground floor use, which requires more privacy than a ground floor commercial use. The windows are considered to successfully relate to the scale of the building. The proposed windows are larger than the existing upper floor windows of the property, however it is considered appropriate to visually differentiate the ground floor of the property from the upper floors. The metal frames of the windows are considered acceptable – the current window frames are metal.
- 6.24 The proposed brickwork is generally considered acceptable, subject to it matching the existing red brickwork. A condition should be placed on any permission granted stipulating that a brick sample should be provided before works are started on site.
- 6.25 The proposed balustrade is considered acceptable, as is the low brick wall on the west elevation. The balustrade and brick wall will match the existing features found on the property. The timber doors are also considered to respect the characteristics of the existing building.
- 6.26 Overall, given that the shop windows have been boarded up for several years, the scheme is considered to improve upon the existing appearance of the building, and is considered to be a high quality design in line London Plan Policy 7.6 Architecture, Core Strategy Policy 15 High quality design for Lewisham, and retained UDP Policy URB Urban Design.

Impact on the conservation area

- 6.27 The Courtyard building straddles the boundary of Hatcham Conversation Area. The existing boarded up vacant units are considered to detract from the character of the area at street level, therefore the replacement of temporary hoardings with brick walls and windows is considered to enhance the character of the local area. The change of use from commercial to residential will have no impact on the character of the conservation area. Therefore the proposal is considered to preserve the character of the conservation area in line with London Plan Policy 7.8 Heritage assets and archaeology, Core Strategy Policy 16 Conservation

areas, heritage assets and the historic environment, and saved UDP Policy URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas.

Planning Obligations

- 6.28 The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:
- (a) Necessary to make the development acceptable
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development
- 6.29 Paragraph 122 of the Community Infrastructure Levy Regulations (April 2010) puts the above three tests on a statutory basis, making it illegal to secure a planning obligation unless it meets the three tests.
- 6.30 The applicant has provided a statement in their Design and Access Statement outlining that they will pay £500 per employee space lost through the change of use of the property. The applicant has stated that this equates to a total of £3000.
- 6.31 The figures provided by the applicant have been checked and confirmed. The Council's Planning Obligations SPD stipulates floorspace / employee figure of 19m² per office employee and 20m² per retail employee. The lost floorspace is 123m², therefore, based on the either figure, the contribution due is £3000, rounded to the nearest employee.
- 6.32 The money is to be used for the Lewisham Local Labour and Business Scheme.
- 6.33 A payment of £500 per employee space lost is considered acceptable in this instance due to the specific circumstances of the site. The existing employment space has been vacant for over six years, and the continued boarding up of the property is considered to be detrimental to the character of the local area. The Council is in the process of reviewing financial contributions for the loss of employment space, and future applications are likely to be charged at a different rate.
- 6.34 The applicant is also required to cover the Council's legal costs in arranging the agreement and the Council's monitoring costs.
- 6.35 Officers consider that the obligations outlined above are appropriate and necessary in order to mitigate the impacts of the development and make the development acceptable in planning terms in this instance.

6.36 Officers are satisfied the proposed obligations meet the three legal tests as set out in the Community Infrastructure Levy Regulations (April 2010).

7.0 Conclusion

7.1 This application has been considered in the light of policies set out in the development plan and other material considerations.

7.2 The loss of employment and retail space is considered acceptable subject to the £3000 financial contribution, therefore the change of use is acceptable in principle.

7.3 The proposal will provide good quality residential accommodation, and the external alterations are considered to enhance the appearance of the building. In addition, it is also considered that the proposal will preserve the character of the conservation area.

7.4 Officers consider that the scheme is therefore considered acceptable.

8.0 Summary of Reasons for Grant of Planning Permission

8.1 It is considered that the proposal is acceptable in principle, in line with policies Core Strategy Policy 1 Housing provision, mix and affordability in the adopted Core Strategy (June 2011), and saved policy STC 6 Major and District Centres – Other Shopping Areas in the adopted Unitary Development Plan (July 2004).

8.2 The proposal is considered to be of a high quality design, and is considered to provide good quality accommodation. The proposal meets the Council's sustainability criteria, and will not have a detrimental impact on neighbouring residential amenity. The proposal is therefore in line with policies 3.5 Quality and design of housing developments; 7.4 Local character; 7.6 Architecture; and 7.8 Heritage assets and archaeology in the London Plan (July 2011), policies 1 Housing provision, mix and affordability; 5 Other employment locations; 6 Retail hierarchy and location of retail development; 15 High quality design for Lewisham; and 16 Conservation areas, heritage assets and the historic environment, in the adopted Core Strategy (June 2011), and saved policies URB 3 Urban Design; HSG 4 Residential Amenity; HSG 5 Layout and Design of New Residential Development; and STC 6 Major and District Centres – Other Shopping Areas, in the adopted Unitary Development Plan (July 2004). The proposal is also in line with the Residential Standards SPD (August 2006) and the London Housing SPG (November 2012).

9.0 RECOMMENDATIONS

9.1 RECOMMENDATION (A)

To agree the proposals and authorise the Head of Law to complete a legal agreement under Section 106 of the 1990 Act (and other appropriate powers) to cover the following principal matter:

- A financial contribution of £3000 towards the Lewisham Local Labour and Business Scheme.

9.2 RECOMMENDATION (B)

Upon the completion of a satisfactory Section 106, by the 13 week time frame, in relation to the matters set out above, authorise the Head of Planning to Grant Permission subject to the following conditions:-

- (1) No new brickwork, including works of making good, shall be carried out other than in materials, bonding and pointing to match the existing facing work. No development shall commence on site until a sample of facing brickwork has been provided and approved in writing by the local planning authority.
- (2) No development shall commence on site until full details (including materials, specifications and depths of reveals) of all windows and doors to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reasons

- (1) To ensure that the proposed development is of a high quality design and complements existing building in accordance with Policies URB 3 Urban Design; URB 6 Alterations and Extensions; and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004).
- (2) To ensure that the proposed development is of a high quality design and complements existing building in accordance with Policies URB 3 Urban Design; URB 6 Alterations and Extensions; and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004).

Informatives

- (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 amendments to the application including the reduction of the number of bedrooms in Unit 1 from 2 to 1.
- (2) The applicant be advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites", or such codes as are applicable at the time the proposed works are carried out, available from the Environmental Health Office, Wearside Service Centre, Wearside Road, Lewisham, London SE13 7EZ Tel No. 020 8314 6789.