

Committee	PLANNING COMMITTEE (C)	
Report Title	133 Sydenham Road	
Ward	Sydenham	
Contributors	Stephanie Gardiner	
Class	PART 1	Date: 6 June 2013

Reg. Nos. (A) DC/12/81994

Application dated 22 November 2012, amended 30 March 2013

Applicant Ms Sonia Simpson

Proposal The change of use of 133 Sydenham Road SE26 from a launderette to a restaurant (Use Class A3), together with the installation of an extraction unit, duct and air vent on the rear elevation.

Applicant's Plan Nos. Site Location Plan, Back Garden Plan –DR/2T (Received 26/11/12), Ventilation and Extraction Unit Statement, Photos (Received 14/1/13), Proposed Section of Ventilation, Proposed Front and Rear Elevation, Design and Access Statement (Received 10/2/13) and Proposed Floor Plan (Received 30/3/13).

Background Papers

- (1) This is Background Papers List
- (2) Case File LE/180/133/TP
- (3) Adopted Unitary Development Plan (July 2004)
- (4) Local Development Framework Documents
- (5) The London Plan

Designation Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 No 133 is a mid-terrace single storey commercial property located on north side of Sydenham Road with the nearest cross streets being Mayow road and Berrymans Lane. The building comprises of a single storey commercial unit.
- 1.2 Sydenham road is characterised by a mixture of commercial ground floor uses and upper residential units, with the surrounding area off Sydenham Road being primarily residential.
- 1.3 The application property forms part of a commercial parade which consists of 5 units which include the following uses:
  - No. 129 – A5
  - No. 131 – A1

- No. 133 – Vacant
- No. 135 – A3/A5
- No 137 – A5

There are also a mixture of A1 and A2 uses directly opposite and within the immediate vicinity.

- 1.4 The subject site is located within a major district centre boundary but is not considered to be a primary or secondary frontage and is identified as a possible development site.
- 1.5 The site is not within a Conservation Area, however it is within a zone of archaeological priority, but is not within the immediate vicinity of a listed building.
- 1.6 Sydenham Road is classified as a B Road and the site has a PTAL of 4.

## **2.0 Planning History**

- 2.1 10 December 1982 – Permission granted for the change of use of 133 Sydenham Road as a Launderette.
- 2.2 15 September 2005 – Permission granted for the change of use of 133 Sydenham Road SE26, from a launderette to a hair and beauty retail shop, together with the installation of electric security grilles to the shopfront.
- 2.3 12 January 2011 – Permission refused for the construction of first, second and third floors at 133 Sydenham Road SE26, to provide 1 one bedroom and 2 two bedroom self-contained flats.

## **3.0 Current Planning Applications**

### **3.1 The Proposals**

- 3.2 The proposal is for a change of use of 133 Sydenham Road SE26 from a launderette (Sui Generis) to a restaurant (Use Class A3), together with the installation of an extraction unit, duct and air vent on the rear elevation.
- 3.3 The premises would operate between 12:00 – 22:00 Monday to Friday, 12:00 – 00:00 Saturdays and 13:00 – 21:00 Sundays and Bank Holidays.
- 3.4 The use would have three full time employees.
- 3.5 No signage or shop front details have been proposed.
- 3.6 The proposal has been revised since submission, the internal layout has been amended to show the proposed seating 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.

#### Written Responses received from Local Residents and Organisations

- 4.3 Four letters of objection were received from residents of 135 & 137 Sydenham Road, the freehold owner of 139 - 151 Sydenham Road and The Sydenham Society. The following valid objections were raised:

- Too many catering businesses, a variety of shops are needed.
- Premises seems too small to operate as a viable restaurant business, this would likely evolve into a takeaway type operation.
- Already a concentration of takeaway uses.
- The extraction unit, duct and air vent will impact neighbours to north and east, who are affected by the existing cluster of such equipment.

Concerns were also raised about the impact on adjoining businesses. However, increased competition is not considered to be a valid planning consideration.

Due to the concerns raised within the objections an informal meeting was held on site between the applicant, Sydenham Society and Cllr Best.

#### Written Responses received from Statutory Agencies

##### Highways and Transportation

- 4.4 No comments received.

##### Environmental Health

- 4.5 The officer has stated that the applicant needs to consider having a fan inside. The position of the shop away from residential dwellings means that the extracting unit at first floor on the flat roof should be adequate, providing that carbon filter and noise reducing measures are incorporated and details shown as part of the ventilation condition.

## **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) (adopted in 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 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. 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.

#### London Plan (July 2011)

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

Policy 6.9 Cycling  
Policy 6.13 Parking  
Policy 7.2 An inclusive environment  
Policy 7.4 Local character

#### Core Strategy

- 5.8 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:

Objective 4: Economic Activity and Local Businesses  
Objective 10: Protect and Enhance Lewisham's Character  
Spatial Policy 3 District Hubs

Core Strategy Policy 6 Retail hierarchy and locations of retail development  
Core Strategy Policy 7 Climate change and adapting to the effects  
Core Strategy Policy 15 High quality design for Lewisham

#### Unitary Development Plan (2004)

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

URB 3 Urban Design  
URB 6 Alterations and Extensions  
URB 8 Shopfronts  
ENV.PRO 9 Potentially Polluting Uses  
ENV.PRO 11 Noise Generating Development  
HSG 4 Residential Amenity  
STC 1 The Shopping Hierarchy  
STC 6 Major and District Centres – Other Shopping Areas  
STC 9 Restaurants A3 Uses and Take Away Hot Food Shops

#### Emerging Plans

5.10 According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

5.11 The following emerging plans are relevant to this application.

#### Development Management Plan

5.12 The Development Management Local Plan – Further Options Report, is a material planning consideration but is at an early stage of preparation. Public consultation took place during December and January 2013. Therefore, in accordance with the NPPF, the weight decision makers should accord the Further Options Report should reflect the advice in the NPPF paragraph 216.

5.13 The following policies are considered to be relevant to this application:

16. Restaurants and cafes

### **6.0 Planning Considerations**

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

- a) Principle of Development
- b) Design
- d) Highways and Traffic Issues

## g) Impact on Adjoining Properties

### Principle of Development

- 6.2 The premises currently appears vacant, the applicant states that the existing Launderette Use (Sui Generis) has not operated since December 2011. The application seeks consent to change this use to a restaurant (Use Class A3). The premises are located within a Major and District Centre. Saved policy STC 6 states that applications which involve the loss of an A1 unit will be acceptable provided that the proposed development would not harm neighbouring amenity, harm the character, attractiveness, vitality and viability of the centre as a whole. These issues are discussed below.

### Design

- 6.3 No changes would be made to the existing shop front, however changes would likely be made to the existing signage. As no signage information has been provided, an informative should be included on the decision were the application considered acceptable, informing the applicant that planning permission may be required for these details. A ventilation system would be installed to the roof of the shop, however the applicant states that this would project 60cm about roof level. Ducting equipment is evident on a number of other units with close proximity and officers consider that the visual impact of proposed ducting would be minimal and would not harm the character of the property, parade or wider streetscene.

### Impact on Adjoining Properties and neighbouring amenity.

- 6.4 The proposal would be located within a single storey commercial parade, with the closest residential occupiers located to the east of the site approximately 11m away. Directly behind the site is a large open area that is currently used for parking by a local van hire company. The commercial parade fronts a busy B road. Due to passing traffic and commercial nature of the surrounding locality the site already experiences a low background ambient noise level. The parade itself consists of a number of A3 and A5 Take Away uses within close proximity. Concerns have been raised by local residents about the proposed use operating as a A5 Takeaway and impact on neighbouring amenity. Due to these concerns an informal meeting was held on site between officers, the applicant and Sydenham Society. The applicant clarified that the proposal is not for take away use but solely for a restaurant. Due to the concerns raised by residents and the number of A5 uses within close proximity, a condition restricting the property from operating a take away facility has been included in the recommendation. The Applicant has provided some information in respect of the ventilation equipment and includes a rear facing galvanised steel extract duct. The Environmental Health officer has not objected but has confirmed that further ventilation details are required via a condition. A condition is therefore recommended requiring the necessary technical details to be submitted and approved.
- 6.5 The applicant states the existing use has not been in operation since December 2011 and that the landlords have found leasing the property difficult. No supporting evidence has been provided to support this, however officers consider that the proposed A3 Use would likely result in passing trade, which would not harm the vitality or viability of the parade or area overall.

- 6.6 The applicant has requested that the hours of operation be between 12:00-22:00pm Monday to Friday, 12:00 to Midnight on Saturdays and 13:00-21:00pm on Sundays. Given the location property, which is on a busy B Road and also within a Major and District centre, these hours are considered acceptable and would unlikely result in a detrimental impact on neighbouring amenity in relation to noise and general disturbance.
- 6.7 Subject to the conditions listed in Section 9 of this report that will control the opening hours, the use and ventilation details to be submitted and approved by the Council, it is considered that the proposal will have an acceptable impact on residential amenity in accordance with policies HSG 4 and STC 9 of the UDP.

#### Highways and Traffic Issues

- 6.8 The premises have a PTAL level of 4. A number of bus routes pass directly in front of the site and there is ample off-street parking within a number of roads within close proximity. The highways officer has not raised any objections to the proposal. Officers therefore consider that the proposal would not result in significant parking problems or traffic generation within the area.

#### Other Matters

- 6.9 There is a small courtyard to the rear of the site where refuse and recycling will be kept until collection day.

### **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 On balance, Officers consider that the proposed restaurant (Use Class A3) would be acceptable in this location and there would be no detrimental impact on neighbouring amenity the scheme is therefore considered acceptable.

### **8.0 Summary of Reasons for Grant of Planning Permission**

- 8.1 On balance, it is considered that the proposal satisfies the Council's Land Use and environmental criteria and is acceptable in principle, being in accordance with Objective 4 Economic Activity and Local Businesses, Spatial Policy 3 District Hubs, Policy 6 Retail Hierarchy and location of retail development and Policy 15 High quality design for Lewisham in the adopted Core Strategy (June 2011), and saved policies URB 3 Urban Design, URB 6 Alterations and Extensions, ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, STC 1 The Shopping Hierarchy, STC 6 Major and District Centres – Other Shopping Areas and STC 9 Restaurants A3 Uses and Take Away Hot Food Shops in the adopted Unitary Development Plan (July 2004).
- 8.2 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Objective 4 Economic Activity and Local Businesses, Spatial Policy 3 District Hubs, Policy 6 Retail Hierarchy and locations of retail development and Policy 15 High quality design for Lewisham in the adopted Core

Strategy (June 2011), and saved policies URB 3 Urban Design, URB 6 Alterations and Extensions, ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, STC 1 The Shopping Hierarchy, STC 6 Major and District Centres – Other Shopping Areas and STC 9 Restaurants A3 Uses and Take Away Hot Food Shops in the adopted Unitary Development Plan (July 2004).

## 9.0 **RECOMMENDATION**

**GRANT 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:

Site Location Plan, Back Garden Plan –DR/2T (Received 26/11/12), Ventilation and Extraction Unit Statement, Photos (Received 14/1/13), Proposed Section of Ventilation, Proposed Front and Rear Elevation, Design and Access Statement (Received 10/2/13) and Proposed Floor Plan (Received 30/3/13).

**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) Detailed plans and a specification of the appearance of and the equipment comprising a ventilation system which shall include measures to alleviate noise, vibration, fumes and odours (and incorporating active carbon filters, silencer(s) and anti-vibration mountings where necessary) shall be submitted to and approved in writing by the local planning authority.
  - (b) The ventilation system shall be installed in accordance with the approved plans and specification before use of the development hereby permitted first commences and shall thereafter be permanently maintained in accordance with the approved specification.

**Reason:** To safeguard the amenities of the adjoining premises and the area generally 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).

- (4) The premises shall only be open for customer business between the hours of 12:00pm - 22:00pm Monday to Friday, 12:00pm -12 Midnight on Saturdays and 13:00pm - 21:00pm on Sundays and Bank 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).

- (5) Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), and the provisions of the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking and re-enacting that Order), the premises shall not be used for any purpose other than the sale of food or drink for consumption on the premises and no take-away or home delivery service shall be provided.

**Reason:** To ensure that the use does not result in parking and congestion in surrounding streets, to safeguard the amenities of adjacent premises and to comply with Saved Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity and STC 9 Restaurants, A3 Uses and Take Away Hot Food Shops in the Unitary Development Plan (July 2004).

### **INFORMATIVES**

- (A) **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.
- (B) You are advised that this permission relates only to the proposed change of use and that any alterations to, or the provision of a new shop front or new advertisements relating to the proposed use, would require separate permission.