

Committee	PLANNING COMMITTEE (C)	
Report Title	24 Randlesdown Road, SE6 3BT	
Ward	Bellingham	
Contributors	Geoff Whittington	
Class	PART 1	6 June 2013

<u>Reg. Nos.</u>	DC/12/81403
<u>Application dated</u>	12 September 2012, amended 26 March 2013
<u>Applicant</u>	Mr P Plitnik
<u>Proposal</u>	The change of use of the ground floor at 24 Randlesdown Road SE6 to (Use Class A3) Restaurant and Café's, together with the installation of an extract flue system to the rear elevation.
<u>Applicant's Plan Nos.</u>	1263 01 (amended 26 March 2013), OS Map, Design and Access Statement (amended 5 February 2012).
<u>Background Papers</u>	(1) Case File LE/225/24/TP (2) National Planning Policy Framework (NPPF) (3) Adopted Unitary Development Plan (July 2004) (4) Local Development Framework Documents (5) The London Plan (2011)
<u>Designation</u>	Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 The subject building is a two-storey property with commercial use on the ground floor and residential above. The property is located within a shopping parade on the western side of Randlesdown Road that comprises a range of commercial activity.
- 1.2 A survey undertaken by officers in late 2012 showed that 50% of the 24 commercial units were in A1 use, whilst A3 Cafes/ restaurants accounted for 16%.
- 1.3 To the rear of the property is a 15 metre deep yard for the commercial unit.
- 1.4 Short term parking is available along Randlesdown Road.
- 1.5 The property is not within a conservation area, nor within the vicinity of any listed buildings.

## **2.0 Planning History**

2.1 In 2008, permission was granted for the installation of uPVC double glazed replacement windows and doors in the front and rear elevations of the first floor flat at 24 Randlesdown Road.

## **3.0 Current Planning Applications**

3.1 It is proposed that the existing ground floor retail unit be changed to (A3) café/restaurant use, specialising in Mediterranean foods. Seating would be provided for up to 20 customers.

3.2 The use would operate Mondays to Saturdays between 7am - 5pm, employing 3 full-time members of staff.

3.3 A ventilation flue is proposed to be erected on the rear elevation of the building.

## **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 43 letters were sent to local residents and commercial properties and subsequently, 3 objections were received from Cllr Ami Ibitson, Cllr Jacq Paschoud and Bellingham Community Project Ltd, raising the following issues:-

- 1) High number of fast food outlets in the parade. I have seen no evidence to persuade me that this application will not add to this concern.
- 2) There are already a number of food retailers of varying kinds on this parade (Morley's Fried Chicken, Fish and Chip/Kebab shop, Café, Chinese and Indian restaurant/takeaway) and there is no need for another, of any kind particularly. There is also the large Turkish Food Centre in Bromley Road, which I believe also has a restaurant facility. (there are also several kebab/hot food outlets on the same stretch of Bromley Road).
- 3) The applicant has now stated that rather than the 'speciality pies' specifically mentioned several times in his previous design and access statement, he now wishes to run a Mediterranean restaurant. This seems rather a significant change in intention. Again, there is not enough information to be able to make an informed judgement on what is likely to be sold. We are concerned that once permission for change of use has been granted, by the time it becomes apparent what will actually be sold on the premises, it will be too late for further objections. It is difficult to see how this would not end up becoming yet another takeaway of some kind eventually and we feel preventative action is needed at this stage.

- 4) The overriding concern in the local community has been against another retailer selling unhealthy food opposite the healthy living centre, as this defeats the object, especially in a locality with significant health inequality. The new design and access statement makes assurances that no 'unhealthy' foods will be sold and then goes on to mention 'sweets'. Most 'sweets' would not be considered 'healthy' and the term 'savoury cakes' is also open to interpretation/confusion.
- 5) There is a certain amount of history of complaints from neighbours in Broadmead (which backs onto the service road behind the shops) regarding noise, parking issues and disturbance from the retail units, particularly when premises open very early in the morning. Another food outlet/restaurant would further damage the amenity of those neighbours. It may also cause further exacerbation of parking disputes in the Broadmead/ Knapmill Road area and in the vicinity of Bellingham rail station, where parking is already a concern for residents.

(Letters are available to Members)

#### Highways and Transportation

- 4.4 No objections received.

#### Environmental Services

- 4.5 Environmental Services raise no objections, subject to suitable conditions.

### **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.
- 5.5 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.
- 5.6 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)'.
- 5.7 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 and 215 of the NPPF.

## London Plan (July 2011)

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

Policy 1.1 Delivering the strategic vision and objectives for London  
Policy 2.9 Inner London  
Policy 3.2 Improving health and addressing health inequalities  
Policy 4.9 Small shops  
Policy 4.10 New and emerging economic sectors  
Policy 4.11 Encouraging a connected economy  
Policy 4.12 Improving opportunities for all  
Policy 6.3 Assessing effects of development on transport capacity  
Policy 6.9 Cycling  
Policy 6.10 Walking  
Policy 6.11 Smoothing traffic flow and tackling congestion  
Policy 6.12 Road network capacity  
Policy 6.13 Parking  
Policy 7.2 An inclusive environment

## Core Strategy (June 2011)

- 5.9 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 3 District Hubs;  
Policy 6 Retail hierarchy and location of retail development;  
Policy 14 Sustainable movement and transport.

## Unitary Development Plan (July 2004)

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

ENV.PRO 11 Noise Generating Development  
STC 8 Local Shopping Parades and Corner Shops  
STC 9 Restaurants A3 Uses and Take Away Hot Food Shops

### Emerging Plans

5.11 According to paragraph 216 of the NPPF decision makers 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).

5.12 The following emerging plans are relevant to this application.

### Development Management Plan

5.13 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 in January 2013. In accordance with the NPPF therefore, the weight decision makers should accord the Further Options Report should reflect the advice in the NPPF paragraph 216.

5.14 The following policy options are considered to be relevant to this application:

15. Local shopping parades and corner shops
16. Restaurants and cafes (A3 uses) and drinking establishments (A4 uses)
17. Hot food take-away
25. Noise and vibration
28. Car parking

## **6.0 Planning Considerations**

6.1 The main issues to be considered in respect of this application include the principle of changing the use of the existing premises, the impact of the proposed use upon the character of the shopping parade and the amenities of neighbouring occupiers, obesity concerns, noise, highways and refuse matters.

### Principle of Development

6.2 Policy STC8 Local Shopping Parades and Corner Shops of the UDP states that the Council will grant planning permission involving the loss of a Class A1 shop from a Local Shopping Parade, provided the new use would contribute towards preserving or enhancing the local character, vitality and viability of the parade. The policy goes on to state that the following factors will be taken into account:

- (a) the availability of alternative shopping facilities within a comfortable walking distance (approximately 400 metres);
- (b) the number and type of units within the parade, the vacancy rate and the length of time a unit has been vacant;
- (c) any harm to the amenity of adjoining properties.

6.3 The unit is not located within a protected shopping parade and its loss as a class A1 retail unit would be considered acceptable provided the new use contributes positively to the parade.

6.4 Despite marketing procedures being undertaken, the unit has been vacant for two years. Of the 24 units in the parade, 12 are in retail use, therefore as retail would remain the dominant use in Randlesdown Road, officers consider the principle of a change of use from A1 to be acceptable, whilst the subsequent loss would not significantly harm the retail character of the area.

#### Proposed Use

6.5 The proposed use is for a restaurant / cafe that specialises in freshly baked Mediterranean foods including savoury cakes, sweets, dips and stuffed vine leaves. There had been some initial confusion about the nature of foods to be sold on the premises as this was not explained in the original Design and Access Statement, whilst an amended version advised that 'specialist pies' would be sold, which raised further local concerns.

6.6 The applicant later advised that the agent was incorrect to state 'specialist pies', and that he would be selling a range of Mediterranean foods. He confirmed that for some years he has produced such foods for functions on a small scale from his home, but now wished to expand into making and selling goods from a restaurant premises.

6.7 That said, the nature of food to be sold is not a material planning consideration. Should the applicant serve a different range of foods other than that listed as part of the application, no further permission would be required. The main officer focus in respect of this application is upon the actual use and subsequent impact.

6.8 Obesity and healthy eating concerns have been raised by local ward Councillors in respect of the proposed use. Bellingham has been identified as being an area of having high levels of poor health by Well London, which is a programme that works with local communities to transform their health. Phase 1 of Well London projects operated in 20 separate areas, including South Bellingham, working with between 1500 and 2000 people.

6.9 As a consequence, local ward Councilors and members of the community wish to promote healthy eating in Bellingham, and so consider that any planning applications for changes of use to cafes, restaurants or takeaways should be resisted where there are sufficient existing eateries nearby, or schools within close proximity.

- 6.10 Local authorities are required by the NPPF to promote the healthy communities. Policy option 17 of the emerging Development Management Local Plan (DMLP) document acknowledges the problems takeaway shops can cause in terms of obesity and unhealthy eating. It states that the Council will not grant permission for new hot food takeaways (A5) that fall within 400 metres of the boundary of a primary or secondary school. The number of takeaways in Local Parades of 20 or more units should not exceed two hot food takeaway shops.
- 6.11 The site is just under 400 metres away from the Athelney Primary School, and there are 5 hot food take away uses in the parade. As such, a hot food take away would be contrary to policy option 17 in the emerging DMLP.
- 6.12 However, the current proposal is for an A3 café – restaurant. Whilst officers acknowledge the concerns raised toward obesity in Bellingham in this particular case, when considering Restaurant/ Café use, emerging Policy 16, which is specific to A3 use, does not restrict to the same extent that Policy 17 does with A5 uses.
- 6.13 Policy option 16 in the DMLP deals with cafes and restaurants, and states that the Council will consider proposals for restaurants and cafes provided it does not affect the vitality of the shopping area, there is no harm to the living conditions of nearby residents, and does not result in parking and traffic generation that would endanger other road users or pedestrians. This is in a similar vein to saved Policy STC 9 Restaurants A3 Uses and Take Away Hot Food Shops of the Unitary Development Plan.
- 6.14 In light of the emerging policy, it would be difficult to refuse permission for a restaurant/ cafe use on grounds of obesity and healthy eating concerns. Whilst the applicant has confirmed sweet and savoury foods would be sold, which is not conducive to a healthy diet, this would be of a specialist nature unlikely to attract the custom of school children. As stated earlier, the type of foods that would be sold is not a material planning consideration. The use of the application premises for Use Class A3 purposes is therefore considered acceptable.
- 6.15 The Design and Access Statement says ‘it is not the owner’s intention to operate a takeaway business’, however what was meant is the use would not be in the form of an A5 Hot Food Take Away shop. It is likely there would be some takeaway custom, which officers consider to be ancillary and acceptable under the circumstances. Officers have therefore not included a condition that restricts such activity. However, should Members decide a condition would be appropriate, this is a matter that can be discussed during the committee meeting.

### **Ventilation**

- 6.16 The proposed ventilation flue would be located to the rear of the property, and so would not be visible from Randlesdown Road. Its siting and appearance is considered to be acceptable.
- 6.17 Environmental Health have requested additional operational information relating to the flue be formally assessed prior to first use of the premises.

## **Highways Issues**

- 6.18 Short term parking is available along this section of Randlesdown Road, together with cycle parking. The applicant considers that the majority of customers will live locally, and so are more likely to walk to the premises.
- 6.19 Highways officers have raised no objections to the proposal.
- 6.20 Refuse bins would be located within the rear yard of the property. A narrow highway lies to the rear of the Randlesdown properties, allow for refuse collection.

## **Impact on Neighbouring Properties**

- 6.21 Due to the nature of the use, it is unlikely to result in significant harmful noise and disturbance levels to residents. Such A3 use forms part of many shopping parades and can contribute positively to its vitality and vibrancy.
- 6.22 A condition is suggested requiring details of sound proofing between the commercial unit and the residential unit above, which would ensure that any disturbance from the ground floor premises would be of an acceptable level.
- 6.23 The hours of opening are proposed to be 7am to 5pm Monday to Saturdays, and no opening on Sundays or Bank Holidays, which is in line with saved Policy STC 9 Restaurants, A3 Uses and Take Away Hot Food Shops of the UDP. Furthermore its location on a well used road means that the opening hours are appropriate. Evening operation would also be considered acceptable by officers, therefore it is suggested a condition be included that allows customer use up to 11pm.
- 6.24 Officers are satisfied the location of the proposed ventilation equipment to the rear wall of the property would have no significant impact upon the visual amenities of the nearest residential occupiers. No objections have been received toward this aspect.

## **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 change of use and associated ventilation would not have a detrimental impact on the character and appearance of the area or on the amenities of neighbouring properties and the scheme is therefore considered acceptable.

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

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 Policies ENV.PRO 11 Noise Generating Development; STC 8 Local Shopping Parades and Corner Shops and STC 9 Restaurants A3 Uses and Take Away Hot Food Shops in the adopted Unitary Development Plan (July 2004) and Spatial Policy 3 District Hubs and Policy 14 Sustainable movement and transport in the adopted Core Strategy (July 2011) and emerging Policy option 16: Restaurants and cafes (A3 uses) and drinking establishments (A4 uses).



## **9.0 RECOMMENDATION**

### **9.1 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:

1263/01 (amended 26 March 2013).

**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) No development shall commence until full written details, including relevant drawings and specifications of the proposed works of sound insulation against airborne noise to meet D'nT,w + Ctr dB of not less than 55 for walls and/or ceilings where residential parties non domestic use shall be submitted to and approved in writing by the local planning authority.
- (b) The development shall only be occupied once the soundproofing works as agreed under part (a) have been implemented in accordance with the approved details.
- (c) The soundproofing shall be retained permanently in accordance with the approved details.

**Reason:**

In the interests of residential amenity 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)(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).

- 5) The premises shall only be open for customer business between the hours of 7.00am and 11.00pm on Mondays to Saturdays.

**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).

**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, no pre-application advice was sought, however 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 shopfront or new advertisements relating to the proposed use, would require separate permission.