

Committee	PLANNING COMMITTEE C	
Report Title	72 TRANQUIL VALE SE3 0BN	
Ward	Blackheath	
Contributors	Russell Penn	
Class	PART 1	06 MAY 2014

<u>Reg. Nos.</u>	DC/13/86005
<u>Application dated</u>	20.12.2013 [revised 06.03.2014]
<u>Applicant</u>	Buro Boro Architects on behalf of Mr Tessier
<u>Proposal</u>	The change of use of the basement, ground and first floors of 72 Tranquil Vale SE3, from restaurant to wine bar, together with the installation of a shopfront. (Amended application: Omission of first floor bar area and revised shop front)
<u>Applicant's Plan Nos.</u>	TV.01; TV.02; TV.05; Design and Access Statement, Parking Statement, Heritage Statement, Photograph, Site Location received 23/12/2013. TV.07 Rev E; TV.08 Rev D and TV.11 Rev B received 6/3/2014.
<u>Background Papers</u>	(1) Case File LE/413/72/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	[Core Strategy or Adopted UDP] - Existing Use

1.0 Property/Site Description

- 1.1 The subject property is a four storey building located on the north east side of Tranquil Vale within the Core (primary) shopping frontage area of Blackheath District Centre and within the Blackheath Conservation Area. The premises are currently vacant with the most recent use as an Indian restaurant (Use Class A3). The unit comprises the basement, ground and first floor occupancy, to the boundaries of the building. The existing premises consists of restaurant seating at the front of the ground and first floors, a ground floor kitchen with a yard at the rear giving access to Brigade Street, a basement storage area and first floor male and female WCs.
- 1.2 There are two upper floors within the building converted to residential flats. To the rear of the site a single storey section of the building projects to adjoin the boundary with Brigade Street. To the north of the site is a book shop (Use Class A1). To the south is another A1 retail use. Further south between Nos. 58 to 64 are two restaurant chains, Pizza Express and Giraffe (Use Class A3). The building is not listed.

2.0 Planning History

- 2.1 An Advertisement Consent (Ref DC/96/0492) granted consent for display of a spotlight hanging sign in March 1996. There is no other recent relevant history relating to this site.

3.0 Current Planning Applications

The Proposals

- 3.1 Planning permission is sought for the change of use of the basement, ground and first floors of 72 Tranquil Vale SE3, from restaurant to wine bar together with the installation of a shopfront.
- 3.2 The plans and documents have been amended during the application process. The following description relates to the final plans now under consideration.
- 3.3 The proposals involve a change of use from restaurant use (Use Class A3) to wine bar (Use Class A4). This change was approved by the Lewisham Licensing Authority on 13 August 2013. The opening hours of the wine bar are indicated to be 12 noon to 12 midnight. It is proposed that the ground floor bar area will include a bar for dispensing drinks, with storage racks for wine bottles and a refrigerator for cold drinks. The seating will consist of bar stools, tables and chairs. The first floor is proposed to be used only to provide a storage area in the front part of the building and male and female toilets in the rear part, with no customer seating at first floor level.
- 3.4 To the front of the property the existing shop front will be replaced. The proposed ground floor elevation will consist of four double glazed hardwood windows on top of a low stall riser with hardwood timber cladding with fanlights consisting of smaller panes of glass above. The door will have the same proportions as the windows with a single fanlight over and be located centrally within the shop front with a small recess to the entrance.
- 3.5 Internally, the main design changes relate to the fitting out of the wine bar. Access from the rear will remain.

Supporting Documents

Design and Access Statement and Heritage Statement

- 3.6 The statement sets out the wider context in which the site lies, the relationship of the proposals surrounding property and the way in which the site context has informed the design.

Parking Statement

- 3.7 The statement advises that no parking changes are being made to the parking arrangements.

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 were also consulted. The Amenities Societies Panel and Blackheath Society were also notified, their comments are provided below.
- 4.3 Amenities Societies Panel: Panel objected to the new shopfront. The symmetry provided by the central door is a valuable element which should be retained. The present set back facade with the pillars in front are also an interesting feature, through probably not an early one.
- 4.4 Blackheath Society: In summary the Society does not object to the refurbishment of the shop front, but it objects strongly to the removal of the recessed central door and having the entrance door on the right hand side. This is a classic Blackheath Village feature and it should be retained at all cost.

Written Responses received from Local Residents and Organisations

- 4.5 Neighbour notification letters were sent to 12 properties. 3 objections were received and are summarised below:
- Concerns regarding noise and disturbance from a wine bar use next door.
 - Concerns regarding the fire escape for a first floor bar area.
 - There are already too many bars concentrated in Blackheath.
 - Additional bars will add to negative effect to local neighbours and residents

(Letters are available to Members).

- 4.6 Following the initial consultation the application was renotified by letter to all objectors and the Blackheath Society following the receipt of amended plans omitting the first floor customer area and altering the shop front to show a central recessed entrance door.
- 4.7 No further responses have been received following the reconsultation.

5.0 Policy Context

Introduction

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

- 5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise. 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 NPPF does not change the legal status of the development plan.

National Planning Policy Framework

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

Ministerial Statement: Planning for Growth (23 March 2011)

- 5.5 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.
- 5.6 The statement further sets out that local authorities should reconsider at developer's 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. [Delete if not relevant]

London Plan (July 2011)

- 5.7 The London Plan policies relevant to this application are:
- Policy 2.15 Town centres
 - Policy 4.7 Retail and town centre development
 - Policy 4.8 Supporting a successful and diverse retail sector
 - Policy 4.9 Small shops
 - Policy 6.13 Parking
 - Policy 7.4 Local character
 - Policy 7.6 Architecture

Policy 7.8 Heritage assets and archaeology
Policy 8.3 Community infrastructure levy

London Plan Supplementary Planning Guidance (SPG)

- 5.8 The London Plan SPG's relevant to this application are:
Sustainable Design and Construction (2006)

Core Strategy

- 5.9 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, 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

Spatial Policy 3 District Hubs

Core Strategy Policy 6 Retail hierarchy and location of retail development

Core Strategy Policy 7 Climate change and adapting to the effects

Core Strategy Policy 8 Sustainable design and construction and energy efficiency

Core Strategy Policy 15 High quality design for Lewisham

Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Unitary Development Plan (2004)

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

URB 3 Urban Design

URB 6 Alterations and Extensions

URB 8 Shopfronts

URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas

HSG 4 Residential Amenity

STC 4 Major and District Centres – Core Shopping Areas

ENV.PRO 9 Potentially Polluting Uses

ENV.PRO 11 Noise Generating Development

Shopfront Design Guide Supplementary Planning Document (March 2006)

- 5.11 This document seeks to promote good design in order to enhance the character and appearance of the borough as a whole. The guide advises on the use of sensitive design and careful attention to detail and that whilst shopfront design encompasses a wide variety of styles and details there are certain basic rules that apply everywhere.

Blackheath Conservation Area Appraisal and Supplementary Planning Document (2007)

- 5.12 This document advises on the content of planning applications, and gives advice on external alterations to properties within Blackheath Conservation Area.

Town and District Centres Retail Report 2013 (published Feb 2014)

- 5.13 This is a survey undertaken by the Council to identify the type and location of retail premises within the town and district centres and presents an analysis of the data.

Emerging Plans

- 5.14 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).

- 5.15 The following emerging plans are relevant to this application.

Development Management Plan

- 5.16 The Council submitted the Development Management Local Plan (DMLP) for examination in November 2013. The Examination in Public is expected to conclude in Summer 2014, with adoption of the Local Plan expected to take place in Autumn 2014.

- 5.17 As set out in paragraph 216 of the National Planning Policy Framework, emerging plans gain weight as they move through the plan making process. The DMLP has undergone all stages of public consultation and plan preparation aside from examination, and therefore holds significant weight at this stage.

- 5.18 However, there are also a number of policies contained within the plan that hold less weight as the Council has received representations from consultees or questions from the Inspector regarding the soundness of these policies. These policies cannot carry full weight until the Inspector has found the plan legally compliant and sound.

- 5.19 The following policies hold significant weight as no representations have been received regarding soundness, and are considered to be relevant to this application:

DM Policy 26	Noise and vibration
DM Policy 31	Alterations/extensions to existing buildings

- 5.20 The following policies hold less weight as representations have been received or questions have been raised by the Inspector regarding soundness, and are considered to be relevant to this application:

DM Policy 1	Presumption in favour of sustainable development
DM Policy 14	District centres shopping frontages
DM Policy 17	Restaurants and cafés (A3 uses) and drinking establishments (A4 uses)

DM Policy 19	Shopfronts, signs and hoardings
DM Policy 22	Sustainable design and construction
DM Policy 30	Urban design and local character
DM Policy 36	New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

6.0 Planning Considerations

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

- a) Principle of Development
- b) Design
- c) Highways and Traffic Issues
- d) Impact on Adjoining Properties

Principle of Development

6.2 London Plan Policy 4.8 supports a successful, competitive and diverse retail sector, bringing forward capacity for additional comparison goods retailing, particularly in metropolitan and major centres

6.3 Core Strategy Policy 6 sets out the borough's town centre hierarchy and location of retail development. It expects major retail development, leisure and related town centre uses to be located within the major and district centres, with such uses outside these areas assessed against the sequential test. The Council will designate primary and secondary shopping frontages within major and district town centres to ensure essential services are maintained and contribute to their vitality and viability, and secondary frontages help provide uses appropriate to the night time economy. It seeks to protect local shopping facilities from change of use or redevelopment where there is economic demand for such services

6.4 Saved Policy STC 4 Major and District Centres - Core Shopping Areas states that Within the Core Shopping Areas all non retail development within Core Areas, including where relevant, changes of use should not harm the amenity of adjoining properties, including that created by noise and disturbance, smell, litter, and incompatible opening hours (all of which may be controlled by appropriate conditions), where appropriate, provide attractive display windows and entrances that are compatible with adjoining shop units and make adequate provision for access for people with disabilities

6.5 The main function of District Centres is to provide an adequate range of local shops to meet the day to day needs of the community. The site in question is not currently within an A1 Use Class and therefore consideration must be made between the differences of the current use as a A3 restaurant and the proposed A4 bar use

6.6 On this basis Officers have examined the range of uses within the boundary of Blackheath District Centre with reference to the Town and District Centres Retail Report 2013 (published Feb 2014).

6.7 From this analysis approximately 55% of 124 commercial units are A1, 19% are A2, 22% are A3, A4 and A5 uses, 2% are D1 and B1 and 2% are vacant. In terms of the A4 pub and bar use there are 4 properties in this category.

6.8 In this case the existing use is a restaurant use which has been so for many years. Therefore, the level of non retail use in the centre will remain unchanged and is acceptable in this regard. As such, it is considered that the change of use to an A4 Use is acceptable in principle at this location in a primary shopping frontage, subject to compliance with other planning policy as discussed below.

Design and Conservation

6.9 Core Strategy Policy 15 states that for all development the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character

6.10 Saved Policy URB 3 states that the Council will expect to achieve a high standard of design in extensions or alterations to existing buildings, while ensuring that schemes are compatible with, or complement the scale and character of existing development.

6.11 Policy URB 8 Shopfronts states that the Council will seek to establish and maintain shopfronts of a high design quality by retaining shop fronts of quality, requiring all new shopfronts, including signs, to relate well to the original framework and scale of the building within which they are placed, discouraging open shopfronts without a traditional glazed screen that break up the visual continuity of a shopping, in new shopfronts, alterations or extensions, providing wherever possible for separate access to any residential accommodation on other floors, and encourage the restoration of such access if already removed, provision of suitable access for people with disabilities in new shopfronts, provision of storage or refuse bins where feasible.

6.12 The application in relation to the shopfront has been discussed with the Council's Conservation Officer as detailed above. The Conservation Officer has commented that the existing shop front is characterised as 'modern' within the Blackheath Conservation Area appraisal. The units adjacent are characterised as 'historic' to the north and 'traditional' to the south. The appraisal states that the historic and traditional shopfronts make a very significant positive contribution to the character of the Village. For most visitors they are part of the memorable distinct village atmosphere and quality of experience.

6.13 The replacement frontage, now amended with a central recessed entrance is considered an enhancement to the parade reinstating the traditional and historic nature of the conservation area to the shop front. As such the replacement shop front is considered to be in keeping with the traditional town centre setting of the parade and enhances the character and appearance of the conservation area.

6.14 Following further advice during the assessment of this application amendments have been made to the plans to introduce a central recessed shop entrance in keeping with the traditional design of shop fronts generally within Blackheath. These changes are welcomed by the Conservation Officer. Therefore, the replacement shop front is considered to be in keeping with the traditional town centre setting of the parade and enhances the character and appearance of the conservation area.

- 6.15 Officers are aware that a new shop front was recently installed at the property with a side entrance without the benefit of planning permission. The applicant has advised that this will be removed and replaced with the central access as applied for.

Residential Amenity and Impact on Adjoining Properties

- 6.16 The application site is located within the town centre, situated on a busy thoroughfare where commercial activity and a certain amount of noise generating development is to be anticipated. However, there are residential dwellings above the unit and adjacent in close proximity which should be afforded protection.
- 6.17 The type of use proposed at the site is not considered to be significantly different to the A3 restaurant use that has also held a license to sell alcohol. The bar use at the site as proposed is for a bar that sells wine and champagne only. Officers note the concerns of local residents regarding noise and disturbance and potential effects on the residential amenity of adjacent upper floor residential property. However, in this commercial location within a town centre where higher levels of noise and disturbance can be expected, this is not considered a sufficient reason to withhold planning permission. Suitable planning conditions are suggested in terms of containing the customer seating and bar areas to the ground floor only,
- 6.18 Conditions are also proposed in relation to operating hours, prevention of music audible outside the premises and soundproofing to be installed on walls and ceilings to prevent noise transference.
- 6.19 Taking account of the location and soundproofing measures to be implemented, it is considered that the proposed A4 use would not cause unacceptable harm to neighbouring amenity.

Highways and Traffic Issues

- 6.20 Parking is not available on site. The site is located in a highly accessible location (PTAL 4 - good) with Blackheath railway station in walking distance and frequent bus services near to the building. Parking off site in the vicinity is controlled within a CPZ with restrictions imposed 6 days a week. The Highways team have not objected to the proposal on the grounds of parking or congestion as this is strictly controlled and enforced.
- 6.21 Therefore with the readily available methods of transport near to the site, It is not considered that the proposal would have any effect on highway safety and the proposal would not generate a requirement for additional parking spaces or cause increased on street parking in accordance with CS Policy 14 and Policy 6.13 of the London Plan (2011).

7.0 Equalities Considerations

- 7.1 Section 149 of the Equality Act 2010 (“the Act”) imposes a duty that the Council must, in the exercise of its functions, have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 7.2 The protected characteristics under the Act are: Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 7.4 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

8.0 Conclusion

- 8.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 8.2 Officers consider that the proposal will have minimal effect on the retail character of the centre and the diversity of uses that contribute to the vitality and viability of the centre, the residential and workplace amenity in the locality, the character and appearance of the conservation area and parking and pedestrian/traffic safety situation in the locality. The scheme is therefore considered acceptable.

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:

TV.01; TV.02; TV.05; Design and Access Statement, Parking Statement, Heritage Statement, Photograph, Site Location received 23/12/2013. TV.07 Rev E; TV.08 Rev D and TV.11 Rev B received 6/3/2014.

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) Notwithstanding the details hereby approved, no development shall commence until detailed plans at a scale of 1:10 showing the stallriser, mouldings and fanlights of the proposed shop front have been submitted to and approved in writing by the local planning authority
- (b) The development shall be carried out in accordance with the approved details

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham, Policy 16 Conservation areas, heritage assets and the historic environment of the Core Strategy (June 2011) and Saved Policy URB 3 Urban Design, URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the Unitary Development Plan (July 2004).

- (5) The premises shall only be open for customer business between the hours of 12.00 noon and 24.00 midnight on any day of the week.

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).

- (6) No music, amplified sound system or other form of loud noise (such as singing or chanting) shall be used or generated which is audible outside the premises or within adjoining buildings

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).

- (7) Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), the first floor layout as detailed on Drawing TV.08 Rev D hereby approved shall be as set out in the application and no public use of the first floor store area shall be carried out.

Reason: In order to prevent any unacceptable noise and disturbance to adjoining properties and the area generally and to comply with Saved Policy HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

INFORMATIVES

- (1) 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 and proactive discussions took place with the applicant during the application assessment process which resulted in further information being submitted. As the resultant proposal was in accordance with these discussions and was in accordance with the Development Plan, permission could be granted.
- (2) The applicant is advised that any works associated with the implementation of this permission (including the demolition of any existing buildings or structures) will constitute commencement of development. Further, all pre commencement conditions attached to this permission must be discharged, by way of a written approval in the form of an application to the Planning Authority, before any such works of demolition take place
- (3) You are 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" available on the Lewisham web page
- (4) The Applicant is advised that the existing shop front installed without planning permission shall be removed within 3 months of the date of this Decision. Failure to comply will result in Enforcement Action by the Council.