

Committee	PLANNING COMMITTEE C	
Report Title	23 SYDENHAM ROAD SE26 5EX	
Ward	Sydenham	
Contributors	S Isaacson	
Class	PART 1	Date: 06 MAY 2014

<u>Reg. Nos.</u>	DC/13/86035
<u>Application dated</u>	23.12.2013, revised 28.03.2014
<u>Applicant</u>	On The Hoof Limited
<u>Proposal</u>	The change of use from an opticians (Use Class A1) to a bistro restaurant (Use Class A3), together with the installation of an extraction duct on the side elevation at the rear.
<u>Applicant's Plan Nos.</u>	A-049, 050, 099, A-100-Rev 02, A-250-Rev 01, Site Location Plan, Block Plan, Photographs, Overview & Operating Schedule, Heritage Statement, & Letters Of Support
<u>Background Papers</u>	<ul style="list-style-type: none"> <li>(1) Case File LE/180/23/TP</li> <li>(2) National Planning Policy Framework (NPPF)</li> <li>(3) The London Plan</li> <li>(4) Adopted Unitary Development Plan (July 2004)</li> <li>(5) Local Development Framework Documents</li> </ul>
<u>Designation</u>	Adopted UDP - Existing Use Sydenham Thorpes Conservation Area

## **1.0 Property/Site Description**

- 1.1 23 Sydenham Road is a mid-terrace, three-storey property with a former opticians on the ground floor and residential above, located on north side of Sydenham Road, some 35 metres east of the junction with Silverdale, and 80 metres east of the junction with Sydenham Station Approach. The ground floor commercial element was previously occupied by Jays Opticians.
- 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 subject site is located within the Sydenham district centre boundary within a primary frontage. There are a mixture of A1, A2 and A3 uses within the immediate vicinity.
- 1.4 The site lies within the Sydenham Thorpes Conservation Area and within a zone of archaeological priority, but is not within the immediate vicinity of a listed building. Sydenham Road is a classified road and the site has a PTAL of 4 / 5.

## **2.0 Planning History**

2.1 No relevant planning history.

## **3.0 Current Planning Application**

3.1 The proposal is for a change of use of 23 Sydenham Road from an opticians (Class A1) to use as a bistro, falling within Class A3, together with the installation of an extract duct on the side elevation at the rear.

3.2 The premises would operate between 9 AM until mid-evening, probably until 9.30 PM Monday to Saturday, and 9 AM until 6 PM on Sundays.

3.3 The applicants have confirmed that they would not intend to offer a takeaway service, but wish to obtain a licence to serve wine and bottled beer with food.

3.4 The Supporting Information submitted with the application states that the applicants have 20 years experience in the executive sector of food and beverage services in London. In August 2001, they were awarded the licence from South Central to run the coffee kiosk at Forest Hill Station, and have been managing a successful business there over the last 10 or so years. They now have three coffee kiosks based around Sydenham and Forest Hill and one coffee shop at Sydenham Station.

3.5 The submitted information also includes a Heritage Statement, which confirms that there would be no changes to the existing shopfront or signage, other than the change of name, plus an analysis of existing businesses in this part of the High Street and letters of support from the Sydenham Society and SEE3.

## **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 Three letters of objection have been received from owners of 11 & 89 Sydenham Road, and 321A Kirkdale raising the following issues:-

- There are too many coffee shops in Sydenham. Many years ago, Sydenham used to have a variety of different businesses, but now has become a place for catering premises and estate agents. A shoe shop would be more beneficial to the area.
- There are too many take-aways in Sydenham.
- Need different businesses, such as clothing or electrical stores.

### Letters of Support

4.4 Two letters of support have been received in response to the consultation procedure. The occupier of 22 Princethorpe Road supports the application as it will help to improve the town centre by providing a quality new restaurant, where there is currently a lack of choice for local people. This will help to improve the vitality and vibrancy of the town centre and will also bring back into use a currently vacant unit.

4.5 The occupier of 58 Fairlawn Park considers Sydenham greatly needs businesses like this to improve the night-time economy and give greater choice for residents. This is a local business looking to expand, which is well liked and looking to offer something different from what is already available in Sydenham.

4.6 In addition, two letters of support have been submitted by the applicant, as follows:-

Sydenham Society

4.7 The applicant has submitted a letter from the Sydenham Society in support of the application. The letter states:- *"As Sydenham is lacking in restaurants - and two well-equipped restaurant premises have recently converted to alternative uses - the Society wholeheartedly supports business owners who are working to remedy this situation. In the view of both the Society and SEE3 (the not-for-profit organisation that is delivering the Portas Pilot in Sydenham) the town centre is in need of an evening economy to assist in its regeneration. A lively restaurant scene has been proven to be one of the best methods of attracting footfall to an area, thereby encouraging residents to support the local economy."*

SEE3

4.8 The second letter in support submitted by the applicant is from SEE3, which is the company set up as part of the Portas Pilot project to support the regeneration of local high streets in Forest Hill, Kirkdale and Sydenham, believes that the opening of a bistro-type restaurant in this location would enhance the shopping centre and would not conflict with the policies of the local planning authority. Their letter continues:- *"The applicant has conducted a survey in the immediate vicinity to demonstrate that there would be little, if any impact on existing businesses, while the proposed closing time of 9:30 PM should have no negative impact on local residents."*

4.9 Additional notifications have been carried out in respect of the external ducting, which was not covered by the initial notification letters, and any additional responses received will be reported verbally.

(Letters are available to Members)

Written Responses received from Statutory Agencies

Highways and Transportation

4.10 No objections.

Environmental Health

4.11 No objections.

Amenity Societies Panel

4.12 No objection.

**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 takers 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 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  
Policy 6 Retail hierarchy and locations of retail development  
Policy 15 High quality design for Lewisham  
Policy 16: Conservation Areas, Heritage Assets and the Historic Environment

#### 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  
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas  
ENV.PRO 9 Potentially Polluting Uses  
ENV.PRO 11 Noise Generating Development  
HSG 4 Residential Amenity  
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 Council submitted the Development Management Local Plan (DMLP) for examination in November 2013. The Examination in Public took place in late February 2014.

5.13 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.

5.14 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.

5.15 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 15	Neighbourhood local centres
DM Policy 26	Noise and vibration
DM Policy 31	Alterations/extensions to existing buildings
DM Policy 41	Innovative community facility provision

5.16 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 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 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 the principal of change of use in this part of the town centre, in particular whether the proposal will have a negative impact on the viability and vitality of Sydenham shopping centre, and whether the proposed extract duct at the rear is acceptable in terms of its visual impact.

### Principle of Development

6.2 The premises has been vacant for a short time, but was previously occupied as an opticians shop, which falls within the A1 use class. The application seeks consent to change this use to a bistro 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.

6.3 Three objections have been received. Although they all mention the fact that Sydenham has too many coffee shops, it is notable that all three objections are in fact from existing Class A3 premises in the town centre.

6.4 There is general support for the provision of this additional high-quality bistro restaurant from SEE3 and the Sydenham Society, and there is still a high level of A1 retail uses in the town centre.

### Design & Extract Ducting

6.5 No changes would be made to the existing shop front, and the only change to the signage would be the change of name. A ventilation system would be required, including the construction of an external ducting on the side elevation at the rear up to roof level, but this would not be visible from the public domain. Officers consider that the visual impact of proposed ducting would be minimal and would

not harm the character of the property or wider streetscene, nor have a significant impact on adjoining owners.

- 6.6 The extract ducting should be painted black to match the other pipework on the rear of the building, and a condition is recommended in this regard.

Impact on Adjoining Properties, including Hours of Opening

- 6.7 The applicant has requested that the hours of operation be between 9AM and 9.30 PM. Given the location of the property on the busy Sydenham Road and also within the 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.

- 6.8 The opening hours that the Council would normally allow for such A3 premises are in fact longer, and it is considered that, given the town centre location, it would not be appropriate to impose an unnecessary restriction that would not be applied to other similar premises in the town centre.

- 6.9 Therefore the standard condition covering opening hours from 7AM - 11 PM Monday to Friday, 7 AM - Midnight on Saturdays, Sundays and Bank Holidays is recommended. This would give the applicants flexibility of operation and allow them to extend their opening hours either earlier in the day or later in the evening without the need for a further application to the Council.

**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 Officers consider that the proposed bistro restaurant would be acceptable in this location and that it would enhance the viability and vitality of the Sydenham shopping centre. There would be no detrimental impact on neighbouring amenity the scheme is therefore considered acceptable.

- 8.0 **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:-

A-049, 050, 099, A-100-Rev 02, A-250-Rev 01, Site Location Plan, Block Plan, Photographs, Overview & Operating Schedule, Heritage Statement, & Letters Of Support

**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) The premises shall not be open for customer business outside the hours of 7AM - 11 PM Monday to Friday, 7 AM - Midnight on Saturdays, 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).

- (4) The extract ducting shall be painted black to match the existing pipework on the rear elevation of the building.

**Reason:** .To ensure that the local planning authority may be satisfied as to the external appearance of the extract ducting and to comply with Policy 15 High Quality Design for Lewisham and Policy 16 Conservation Areas, Heritage Assets and the Historic Environment of the Core Strategy (June 2011) and saved policies 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).

## **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 discussions took place which resulted in further information being submitted.
- (2) 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.