

Committee	PLANNING COMMITTEE C	
Report Title	Bird In Hand, 35 Dartmouth Road, SE23 3HN	
Ward	Forest Hill	
Contributors	Ann McCormick	
Q21	PART 1	16 March 2017

<u>Reg. Nos.</u>	DC/16/097997
<u>Application dated</u>	18/08/2016
<u>Applicant</u>	Stonegate Pub Company
<u>Proposal</u>	Construction of a case iron/aluminium and glass shelter over the side patio at Bird In Hand, 35 Dartmouth Road, SE23.
<u>Applicant's Plan Nos.</u>	Site Location Plan; Block Plan; MC666-110; MC666-210; MC666-211; Existing Site Photographs; Design and Access Statement; Heritage Statement
<u>Background Papers</u>	(1) Case File LE/458/G/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	Forest Hill Conservation Area Major District Centre Shopping non-core area PTAL 4
<u>Screening</u>	N/A.

1.0 Property/Site Description

- 1.1 The application relates to a side patio situated on Bird in Hand Passage near its junction with Dartmouth Road. The application property is a two storey plus basement, 19th century end-terrace building. The ground floor accommodates a public house with a residential unit on the first floor. The basement is used for ancillary storage.
- 1.2 Bird in Hand Passage slopes down from Dartmouth Road. The adjoining section of the property, labelled No. 35a on the site plan, steps down from the main building. From Council Tax records, it is acknowledged that No. 35a is no longer a separate unit.
- 1.3 The property is constructed from brickwork with black textured paint finish to the original ground floor tiling and painted on the first floor. A 4.6m long awning is attached to the side of the property, situated above the external drinking area. There is facing brickwork on the adjoining rear flat roof section of the property.
- 1.4 Access into the unit is directly off the highway to the front, with secondary access through a single door from the patio to the side.

- 1.5 The patio has a 900mm high metal fence along Bird-In-Hand Passage, with tables and chairs on a tarmac surface.
- 1.6 The application site is located within the Forest Hill Conservation Area and falls within Character Area 1 of the character appraisal which relates to the commercial core and the railway station. The Forest Hill Article 4 Direction does not apply to this property.
- 1.7 The building is not listed nor is it adjacent to a listed building. It is located in a District Centre and has a PTAI rating of 4.

2.0 Planning History

- 2.1 1960 – Planning permission granted for the formation of a car park at the rear of the 'Bird-In-Hand' public house, No 35 Dartmouth Road, Lewisham.
- 2.2 DC/15/094390: Construction of a timber pergola and metal fence to the side elevation at Bird in hand, Dartmouth Road, SE23. Refused on 12/02/2016 for the following reasons:
 - The proposed pergola would fail to respect the character and setting and surrounding conservation area by virtue of use of incompatible facing materials
 - The application failed to demonstrate the stability of the lightweight structure and how it would not compromise pedestrian and vehicular safety.

3.0 Current Planning Application

- 3.1 The application is for the construction of a cast iron/aluminium and glass shelter over the side patio at the side elevation at Bird in Hand, 35 Dartmouth Road SE23.
- 3.2 The existing side awning would be removed.
- 3.3 The shelter would cover the 20.3sqm external patio area and would be in the form of a colonnade, open on three sides. It would be set in 500mm from the front elevation of the building. It would be constructed of four cast iron columns to be set onto concrete pad foundations, with cast aluminium spandrels. It would have a pitched roof with a maximum height of 3.2m and an eaves height of 2.75m, sitting just below the existing timber fascia to the building. The roof would comprise of toughened safety glass to provide a covered area for the 2.55m wide patio.
- 3.4 The existing metal railings to the patio would be retained, but extended and a gated added to the rear of the area to remove a trip hazard. The materials and decoration would match the existing railings.

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, a Press Notice was advertised on 14 September 2016 and letters were sent to 31 neighbouring properties and the relevant Ward

Councillors. The Council's Highways Officer was notified, together with the Forest Hill Society.

4.3 Objections were received from the Forest Hill Society and two neighbouring residents.

4.4 The following concerns were raised:

- Concerns raised that the proposal would result in further noise and nuisance as it would encourage patrons to sit outdoors;
- Potential for antisocial behaviour due to access to shelter area directly from Dartmouth Road which may attract antisocial behaviour during daytime and night time hours. No details have been provided regarding how this will be managed;
- Adverse impact on amenity of local residents. If the application is granted, restrictions on hours of use are suggested to be imposed;
- Potential impact on the Conservation Area. The Heritage Statement is not deemed to provide adequate information on the issue;
- Unsafe design of the proposed gate that opens outwards over the steps;
- Query whether it would affect existing pedestrian access on the highway.

4.5 The Forest Hill Society notes that their objection is not in relation to the principle of the development but instead relates to design, management measures regarding the hours of use and the provision of a suitable heritage assessment.

4.6 Comment was sought from Lewisham's Highways Officer. The Highways Officer confirmed that the site does not form part of the public highway and is private property. As such highways have raised no objections.

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 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. 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 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.

Other National Guidance

On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents.

London Plan 2015 (amended 2016)

5.5 The London Plan policies relevant to this application are:

Policy 4.7 Retail and town centre development

Policy 7.4 Local character

Policy 7.8 Heritage Assets and Archaeology

Core Strategy

5.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London 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:

Core Strategy Policy 15 High quality design for Lewisham

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

Development Management Local Plan

5.7 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

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

DM Policy 30 Urban design and local character

DM Policy 31 Alterations/extensions to existing buildings

DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their settings: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens.

6.0 Planning Considerations

6.1 The main considerations for this application are the impact of the proposed development on the character of the subject property, streetscene and Forest Hill Conservation Area, Residential Amenity and Highways Safety.

Design and Impact on Conservation Area

6.2 In respect of determining planning applications relating to heritage assets, NPPF paragraph 131 advises that:

“local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.”

6.3 London Plan and Core Strategy design policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design, whilst the Development Management Local Plan, most specifically DM Policy 30 and 31, seek to apply these principles.

6.4 Policy 7.8 of the London Plan maintains that development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

6.5 The Core Strategy refers to heritage assets and states that the complex historical development of the borough has left a legacy of distinctive neighbourhoods which

needs to be understood and used to inform future development, in order to ensure that positive contributions of the historic and local character are appropriately protected and enhanced. In line with this, Core Strategy Policy 16 seeks to ensure that the value and significance of the borough's heritage assets and their settings are enhanced and conserved according to the requirements of government planning policy guidance, the London Plan policies and local policy.

- 6.6 DM Policy 36 sets out the general principles for development proposals that affect heritage assets and in relation to Conservation Areas states that the Council will not grant planning permission where:
- a. New development or alterations and extensions to existing buildings are incompatible with the special characteristics of the area, its buildings, spaces, settings and plot coverage, scale, form and materials;*
 - b. Development, which in isolation would lead to less than substantial harm to the building area, but cumulatively would adversely affect the character and appearance of the conservation area.*
- 6.7 It should also be noted that the Council will encourage the reinstatement or require the retention of architectural features important to an area's character or appearance. This policy also notes that development which in isolation would lead to less than substantial harm but which would cumulatively affect the character and appearance of the conservation area will not be approved.
- 6.8 The applicant seeks planning permission for the construction of a cast iron, aluminium and glass shelter to the side elevation of the existing public house at 35 Dartmouth Road. The proposal is described in further detail in Section 3 of this report above.
- 6.9 The proposed design, including the aluminium and glass roof is considered to be a suitable and complementary design solution to the host building, and would not negatively impact upon the Forest Hill Conservation Area.
- 6.10 The proposed materials are suitable in the context of the host building and indeed in response to the Conservation Area. As a result, the Council's Conservation Officer held no objections to the proposed design.
- 6.11 It is considered that the shelter would not detrimentally impact upon the character and appearance of the Forest Hill Conservation Area. As such, the proposed development complies with Core Strategy Policy 15 'High Quality Design for Lewisham' and Core Strategy Policy 16 'Conservation areas, heritage assets and the historic environment' (2011) and DM Policy 36 'New development, changes of use and alterations affecting designated heritage assets and their settings: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens' of the Development Management Local Plan (2014).

Residential Amenity

- 6.12 It is stated in DM Policy 31 that non-residential extensions adjacent to dwellings should result in no significant loss of privacy and amenity to adjoining houses.

- 6.13 The proposed shelter would occupy the existing external drinking area. The introduction of a permanent cover may increase the use of the space, however it is an existing use and its operating hours would continue to be regulated through the licensing process.
- 6.14 The applicant has provided a copy of the property's license, which states that 'There will be no use of the outside premises after 11.00pm'. It has been agreed with the agent that the same time restriction will be placed as a planning condition for this application in order to restrict the use of the outdoor area to control the impact on neighbouring amenity.

Highway Safety

- 6.15 Policy 6.3 of the London Plan states that development proposals should ensure that impacts on the transport network, at both corridor level and local level, are fully assessed. Furthermore, development should not adversely affect the safety of the transport network. The Core Strategy, including Policy 14 'Sustainable movement and transport' supports the London Plan policies.
- 6.16 Core Strategy 14 'Sustainable Movement and Transport' states that 'the access and safety of pedestrians and cyclists through the borough will be protected'.
- 6.17 The proposed structure would be set back 500mm from the front elevation of the property. Concerns have been raised in consultation responses in regards to the impact on the existing use of the footway and the safety of the design of the proposed gate that opens outwards over the steps to the rear. The Council's Highways Officer has confirmed that the proposed area currently used for external drinking does not form part of the public highway and as such, Highways have raised no objection to the proposal.
- 6.18 To retain transport visibility on this corner, Highways support a scheme that maintains the sightline and are satisfied with the proposed set back of the structure.
- 6.19 The proposed materiality is considered robust and could withstand windy conditions, resolving a concern which was raised in the previous application (DC/15/094390) in relation to the timber structure then proposed. As such, the proposed materials are considered to be acceptable.

7.0 Conclusion

- 7.1 For the reasons set out in this report, the proposal is considered to provide an appropriate addition to the side elevation of the host property to serve the existing external drinking area.
- 7.2 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 7.3 The proposed alterations to the building would not adversely impact upon the Conservation Area or amenity of existing neighbours. As a result, it is recommended that planning permission is granted.

8.0 RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

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; Block Plan; MC666-110; MC666-210; MC666-211

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. No development shall commence on site until a detailed schedule and specification/samples of all external materials and finishes/roof coverings/railings to be used on the structure have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the building(s) and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

4. The outdoor drinking area shall not be used between the hours of 11.00pm and 8am on any day of the week and any door providing access from the public house to the outdoor drinking area shall remain closed between these times.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, DM Policy 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014).