

Committee	PLANNING COMMITTEE	
Report Title	UNIT 2 RESOLUTION WAY, LONDON, SE8 4NT	
Ward	DEPTHFORD	
Contributors	JOSHUA OGUNLEYE	
Class	PART 1	20 JULY 2017

<u>Reg. Nos.</u>	DC/17/100644
<u>Application dated</u>	13.03.2017
<u>Applicant</u>	Mr Steve Wheeler
<u>Proposal</u>	The change of use from B1 (office) to A4 (drinking establishment) at Unit 2 Resolution Way SE8.
<u>Applicant's Plan Nos.</u>	Site Location Plan (Received 13 March 2017) 001 Rev A01; 002 Rev A01; 003 Rev A01; 004 Rev A01; Heritage Statement; Elevation Photos (Received 29 March 2017) Conditions for Gin and Beer Company; Licensing Application; Noise Reduction; Operational Overview (Received 20 June 2017) Notes from builders (revised) (Received 21 June 2017)
<u>Background Papers</u>	(1) Case File LE/801/112/TP (2) Development Management Local Plan (November 2014) (3) London Plan (March 2015)
<u>Designation</u>	Deptford High Street Conservation Area Area of Archaeological Priority Major District Centre PTAL 4/5
<u>Screening</u>	N/A

1.0 Property/Site Description

- 1.1 The application site is Unit 2 (the arches) on Resolution Way, which is located off Deptford High Street close to the entrance to Deptford Railway Station and comprises 116m² of floor space.
- 1.2 Unit 2 sits below the railway line within a row of 30 arches arranged along Resolution Way from Deptford High Street in the west to Deptford Church Street in the east. Vehicular and pedestrian access to Unit 2 is from the southern frontage to

Resolution Way. A row of car parking spaces is located on the opposite side of the road.

- 1.3 Unit 2 sits within policy zone SA3 (Mixed Use Employment Land) and fronts the side of 126 Deptford High street a mixed-use property (A3 ground floor, and C3 on the first floor and roof extension). The application site also fronts 'enclave' a 6 storey residential block, that forms part of the Griffin Street redevelopment.
- 1.4 Unit 2 is currently vacant and was been so for approximately 3 years; its previous use was as the base for an office/ Storage Unit. The majority of arches along Resolution Way are used for B class uses with the exception of units 3 and 4, which are currently used as A3/A4 premises.
- 1.5 The row of arches form part of a long viaduct running east to west from London Bridge Station through southeast London, through North Kent Junction, Deptford Station and all the way to Greenwich. The viaduct is a Grade II listed structure with the following listing description:
"Railway viaduct for the London and Greenwich Railway. Construction was authorised by Act of Parliament in 1833 and the railway opened to Greenwich in 1838. Grey brick; eighteen arches, each 20 feet wide from centre to centre and 22 feet high. Parapets enclose the 28 ft. rail bed roughly four and a half feet high. The viaduct extends westwards to Deptford Creek (cf RAILWAY VIADUCT - L.B. Lewisham). This viaduct carried the first passenger railway in London and is one of the first major achievements of railway engineering in Britain".
- 1.6 The application site is also located in the Deptford High Street Conservation Area and the Upper Deptford Archaeological Priority Area.

2.0 **Relevant Planning History**

- 2.1 **DC/00/046440/FT** Listed Building Consent for the refurbishment of the 30 Railway Arches, Mechanics Path SE8 including the demolition of existing extensions and the building of single storey extensions to the premises, new brick arch infills incorporating roller shutter doors, resurfacing of the access road and internal works. **Granted**
- 2.2 **DC/00/046441/X** The refurbishment of the 30 railway arches, Mechanics Path SE8, including the demolition of existing extensions and the building of single storey extensions to the premises, new brick arch infills incorporating roller shutter doors, resurfacing of the access road and internal works. **Granted**
- 2.3 **DC/02/051348/X** The display of signage to the front elevations, entrance and gates of Railway Arches, Resolution Way SE8 (formerly known as Mechanic's Path), together with signage to the entrance of Resolution Way. **Granted**
- 2.4 **DC/17/100644/X** Listed Building Consent for the change of use from B1 (office) premises to A4 (drinking establishment) at Unit 2 Resolution Way SE8 together with internal alterations and the installation of a shop sign. **Pending**

3.0 **Current Planning Application**

- 3.1 This application relates to the change of use from B1/B8 (Office/Storage) premises to a bar (Class A4) Unit 2 Resolution Way, Deptford, SE8 4NT

3.2 The proposed premises would employ up to 13 people

3.3 The proposed opening hours for the premises are:
4 pm – 12 midnight Monday to Friday;
1 pm – 12 midnight Saturday; and
1pm – 11pm Sunday and Bank Holidays.

No external changes are proposed. The physical structure and appearance of the building would remain unchanged.

Although not part of this application, the applicant's use of the premises includes the installation of a non-illuminated projecting sign affixed to the side of the front elevation measuring. This development is assessed as benefiting from Deemed Consent under the advertisement regulations (adverts that can be erected without formal consent), although it would need Listed Building Consent to consider its impact on the Listed Arches. Similarly, the erection of stud partitioning and the construction of the bar are internal works which do not require planning permission. These works however are being considered separately under the listed building application. Initial comments from the Listed Building and Conservation officer is that these works do not raise any objections subject to details of fitting to the fabric of the arches.

4.0 **Consultation**

4.1 Nine Local neighbours – 6 Objections were received

4.2 All objectors referred to the following points in their objection.

- 'The proposed hours of operation, particularly 2am on Saturdays. There is no outside space so people will congregate outside the main entrance to smoke. Groups of people leave Buster Mantis and then convene on the high street beneath my flat and make a lot of noise! Talking, shouting, laughing, waiting for taxi's etc.'
- 'This noise will carry to neighbouring residential properties. I already occasionally hear noise at from people visiting Buster Mantis, which is the bar next door at night time, which is disruptive, so this will just exacerbate the noise levels.'
- 'I strongly oppose to the requested licence till 2 am. I still don't understand how the neighbour Buster Mantis managed to obtain a 2am licence, but has meant guaranteed sleep disruption every single weekend, not to mention other disruptions that are dramatically increased in the summer months.'
- 'There have been significant noise problems which we are currently trying to mitigate. I think that and change of use to the next door premises needs to be considered carefully in such circumstances, and be brought to the relevant committee before it can be confirmed.'

Officers note much of the objections related to the application are based on the neighbour's experience with Busta Mantis, which is currently occupying units 3 & 4 Resolution Way. Officers note there currently an enforcement action on this property as it is operating in breach of its planning permission.

4.3 Deptford Ward Councillors– Submitted no comment

4.4 Historic England - Submitted no comment

- 4.5 Conservation Officer – Raise no objection, requested for installation details for proposed stud partition walls
- 4.6 Environmental health officer – There is currently no objection regarding noise output to the premises during hours of use. It would be possible to attach conditions for the business demonstrate management of sound from the premises to ensure there is no detriment to the amenities of the area.
- 4.7 The Deptford Society – Object to the proposed works:
The Deptford Society has considered the above application and objects for the following reasons;

Whilst no changes to the exterior of the building are proposed, we understand that as a grade 2 structure, all alterations to the host building, internal and external, require consent.

We do not consider that the information submitted is sufficiently detailed and object on these grounds.

Regarding the change of use to a late-night bar, we have discussed the benefits and also potential pitfalls of such a venue at this location.

With Busta Mantis next door to this proposed bar, and a range of new businesses within Deptford Market Yard and also along the High Street, this additional venue will help create an increasingly vibrant evening and night time economy in the area which is to be supported.

We do not think it's a contradiction to welcome new businesses whilst also outlining potential problems which may occur from this particular location.

Within the last few years the row of arches on Resolution Way have been populated with an increased number of louder businesses with extended opening hours into the evenings and weekends. The enclosed space in which they are situated – underneath the station platform and with the tall residential building opposite, which were built before these new businesses moved in – amplifies any noise, and may impact negatively on residents living across from the arches.

5.0 **Policy Context**

5.1 **Introduction**

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.

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), the Development Management Local Plan (adopted November 2014) and policies in the London Plan (March 2015). The NPPF does not change the legal status of the development plan.

5.2 National Planning Policy Framework

The NPPF was published on 27th 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. 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)'.

5.3 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.

5.4 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.

5.5 The London Plan 2016

On 10 April 2017, the London Plan (consolidated with alterations since 2011) was adopted. The policies relevant to this application are:

Policy 4.7 Retail and town centre development

Policy 7.4 Local character

Policy 7.6 Architecture

Policy 7.8 Heritage assets and archaeology

5.6 Core Strategy

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 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

Spatial Policy 2 Regeneration and Growth Areas

Spatial Policy 3 District Hubs
Core Strategy Policy 6 Retail hierarchy and location of retail development
Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

5.7 Development Management Local Plan

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:

The following policies are considered relevant to this application:

DM Policy 9 Mixed Use employment Location
DM Policy 11 Other employment locations
DM Policy 17 Restaurants and cafés (A3 uses) and drinking establishments (A4 uses)
DM Policy 20 Public House
DM Policy 26 Noise and vibration
DM Policy 29 Car parking
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 setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

6.0 Lewisham Local Plan - Site allocation Local Plan June 2013

The Council adopted the Lewisham Town Centre Site Allocation Local Plan on June 2013. The LLP, together with the Core Strategy, the Site Allocations Local Plan, the Development Management Local Plan and the London Plan is the borough's statutory development plan. The following policies are considered to be relevant to this application:-

Site Reference: SA3 GIFFIN STREET REDEVELOPMENT AREA DEPTFORD, SE8

The Giffin Street redevelopment area is bounded to the north by Resolution Way beyond which is the railway viaduct severing the site from the St. Paul's Conservation Area.

To the east are Creekside and the Crossfield Estate which are severed by the wide road on Deptford Church Street.

7.0 Planning Considerations

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

- the proposed change of use is acceptable in the context of the Council's policies, in particular whether the use of the premises as a cocktail bar

would be consistent with the local character and function of the Deptford Town Centre;

- the impact of the proposal on the historic and architectural interest of the Listed building and the Deptford High Street Conservation Area; and
- the impact of the proposal on the amenities of neighbouring properties.

The proposed change of use

- 7.1 The proposed change of use would be considered in relation to policy DM 11. This policy implements Core Strategy Policy 5 'other employment locations' and Core Strategy Spatial Policies 2, 3 and 4. It is consistent with the London Plan SPG 'Land for Industry and Transport' 2012 and the NPPF (National Planning Policy Framework 2012 which states that Planning Policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose land allocation should be reviewed regularly. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.
- 7.2 There are currently 30 units on resolution way. The majority of these units are either in B1 use or currently vacant. Unit 2 would become the third unit in the row of premises to become an A4 use. In considering this application DM policy 11 paragraph 3 states suitable marketing evidence would be required to support the change of use from a B class use to an alternative use if there is no job creation or retention. In this instance, the proposed use would create up to 13 new jobs, therefore would comply with conditions outlined in the policy as well as supporting local services and the vitality and viability of the local economy.
- 7.3 The site, being within the District centre, is considered suitably located for this type of use, in line with DM 11, which states the location to the highway network and public transport is an important site characteristic. The proposed use within a District centre would be complimentary to other District centre uses and be active in supporting the night-time economy. The proposal would also not conflict with policy DM 14 (District Centres Shopping Frontages) in that there would be no harm to the predominant retail character of the shopping frontage. The location of the site is such that there would be no impact on the primary shopping frontage. In line with DM Policy 14, the proposal has the potential to generate a significant number of pedestrian visits, further adding to the vitality and activity of the area.
- 7.4 Given that the nature of the proposed use would attract a high level of customers, officers consider the proposed change of use to be consistent with DM Policy 9 and 11, as the premises is suitably located within a high transport area. The development would be a positive addition into the mixed-use area as outlined in Lewisham Local Plan SA3. Officer's note the proposed change of use would be characteristic of business categorised as being within the growth sector. Therefore, the proposed A4 use would have a positive impact on bringing vitality into Resolution Way in line with DM Policy 17.

External and internal Changes

- 7.5 The arches are currently in a generally tidy condition with black powder coated roller shutters with flush shutter housing installed within the openings. The roller shutters would be retained along with existing black powder coated aluminium shop front. These works were carried out by Network Rail under planning permission as set out at Section 2.0 above.
- 7.6 Although not part of this application (but to be considered under the Listed Building Application) the proposed projecting sign would be of a similar design and scale to those on neighbouring properties. It is officer's view that size and proportions of the advertisements would not appear as an intrusive feature on the property's elevation.
- 7.7 Again, as stated above under the history section at 2.0, substantial works of refurbishment was carried out to the arches following permissions granted in 2000 and 2002. These also included internal works of making good and decorating the internal fabric. Apart from a kitchenette area with sink and WC, the internal fabric retains its original space and character. The further internal works proposed under the listed building consent, that being some stud partitioning, are considered to be non-intrusive and would not detract from the space and character of the arch. In line with DM policy 36, the works would be easily reversible.
- 7.8 Given the above, it is considered that the proposed works would not have an adverse impact on the heritage value of the listed building or the Deptford High Street Conservation Area. Therefore, would be acceptable.

8.0 Residential Amenity

- 8.1 Policy DM 17 (Restaurants and Cafes (A3 uses) and drinking establishments (A4 uses) states that proposals for A3 and A4 uses would be considered acceptable provided that, amongst a number of criteria, there is no harm to the living conditions of nearby residents, including that created by noise and disturbance from users and their vehicles, smell, litter and unneighbourly opening hours.
- 8.2 The London Plan (Policy 4.6) encourages boroughs to influence the night-time economy, particularly in relation to the use classes, time of operation, size of premises and proportion of retail frontage. The following measures have therefore been proposed by the applicant to mitigate the impact of the use. .
- There would be no live music or DJ related entertainment.
 - No cooking facilities including venting
 - The bar will be a table service operation which will manage the overall capacity of the use of the premises
 - customers will not be allowed to drink outside
 - CCTV will be installed both inside and outside of the premises to deter crime and antisocial behaviour

Noise and Hours of Operation

- 8.3 Officers note the application site is within an area with a growing night time economy, where similar types of business occupy nearby premises. However, a noise sensitive residential development occupies the upper floors of the corner site across Resolution Way, called the Enclave. The applicant is promoting the proposed business as a low intensity use to ensure that it is both appropriate in a commercial area with a growing night time economy, and would be a neighbourly operator having regard to the nearby residential properties. In addition to the measures outlined above no late night opening hours beyond 12 midnight is proposed nor is there any early morning opening. The original submission proposed closing of 02.00 on Saturday's but was amended following officer concerns.
- 8.4 The Councils environmental health officer is satisfied with the hours of use as amended and suggest that they be conditioned should the application be recommended for approval. In addition, conditions have been recommended to ensure that no amplified / live music is played on premises or outdoors and outdoor seating would be prohibited. These conditions would ensure the proposal complies with DM policy 26 and 31.
- 8.5 Members should also note that the operator of the A4 use would have to apply for hours of use operation under any licensing application to the Council as Licensing Authority. Whilst the licensing regime is separate to the planning regime, the respective authorities are encouraged to work together to ensure a consistency of approach towards matters such as hours of use, floor space use within the licensable premises etc. Officers would clarify however, that where hours are contained within a planning permission or a license, it is the planning hours of use that are the ultimate determinant of the operation of the business and to which planning enforcement action can be applied.
- 8.6 In light of the above, the proposed development is considered acceptable about neighbouring amenity.

Equalities Considerations

- 8.7 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.8 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - (b) advance equality of opportunity between people who share a protected characteristic and those who do not;
 - (c) Foster good relations between people who share a protected characteristic and persons who do not share it.
- 8.9 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and

proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

- 8.10 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 8.11 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty
- 8.12 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 8.13 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.

9.0 **Conclusion**

- 9.1 The proposal has been considered against relevant planning policy set out in the Development Management Local Plan (2014), the Core Strategy (2011) London Plan (March 2016) and the National Planning Policy Framework (2012).
- 9.2 The proposed change of use is considered to be acceptable in terms of the District Centre designation of the area, would have no impact on the Listed Building to which it is part, nor the conservation area, and would be appropriate in terms of its impact on the amenities of nearby residential occupiers..

10.0 **RECOMMENDATION: GRANT PLANNING PERMISSION subject to the following**

Conditions

- 1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- 2 The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Site Location Plan (Received 13 March 2017)

001 Rev A01; 002 Rev A01; 003 Rev A01; 004 Rev A01; Heritage Statement; Elevation Photos (Received 29 March 2017)

Conditions for Gin and Beer Company; Licensing Application; Noise Reduction; Operational Overview (Received 20 June 2017)

Notes from builders (revised) (Received 21 June 2017)

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) The rating level of the business operational noise (including any fixed plant) emitted from the site shall be 5dB below the existing background level at any time. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS4142:1997.
- (b) Development shall not commence until details of a scheme complying with paragraph (a) of this condition have been submitted to and approved in writing by the local planning authority.
- (c) The development shall not be occupied until the scheme approved pursuant to paragraph (b) of this condition has been implemented in its entirety. Thereafter the scheme shall be maintained in perpetuity.

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

- 4 Loading and unloading of goods, shall only be carried out within a designated car parking and loading space.

Reason: To avoid obstruction of neighbouring streets and to safeguard the amenities of adjacent premises in the interests of public safety and to comply with the Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

- 5 No deliveries shall be taken at or despatched from the site other than between the hours of 7 am and 8 pm on Mondays to Fridays, 8 am and 1 pm on Saturdays, or at any time on Sundays or Public Holidays.

Reason: In order to safeguard the amenities of adjoining residents and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration.

- 6 The premises shall only be open for customer business between the hours of 4 pm -

12 midnight (Monday to Friday), 1 pm – 12 midnight (Saturday) and 1 pm – 11 pm (Sunday and Bank Holidays).

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 and DM Policy 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014).

- 7 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 Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration.

- 8 There shall be no outdoor dining or drinking on Resolution Way without the prior written consent of the local planning authority.

Reason: To safeguard the amenities of the adjoining premises in accordance with DM Policy 17 - Restaurants and cafes (A3 uses) and drinking establishments (A4 uses) of the Development Management Local Plan (2014).

Informatives

- **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.