

Committee	PLANNING COMMITTEE C	
Report Title	40 Deptford High Street	
Ward	New Cross	
Contributors	Alfie Williams	
Class	PART 1	30 September 2021

<u>Reg. Nos.</u>	DC/21/121020
<u>Application dated</u>	25.03.2021
<u>Applicant</u>	Cashino Gaming Ltd
<u>Proposal</u>	Installation of new shopfront at 40 Deptford High Street SE8, together with the creation of fire exit to rear with platform and guard rail.
<u>Background Papers</u>	(1) Submission drawings (2) Submission technical reports and documents (3) Internal consultee responses
<u>Designation</u>	Air Quality Management Area Area of Archaeological Priority Deptford District Centre Deptford High Street and St Paul's Conservation Area Deptford Neighbourhood Forum Flood Risk Zone 2 Local Open Space Deficiency Primary Shopping Frontage PTAL 6a

1 SUMMARY

- 1 This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to an objection from the Deptford Society.

2 SITE AND CONTEXT

Site description and current use

- 2 40 Deptford High Street is located on the eastern side of the street within the Deptford High Street and St Pauls Conservation Area. The property, along with No.38, previously consisted of a single commercial unit occupied by the bookmaker William Hill, it has subsequently been divided into two unoccupied commercial units. This application relates to No.40 only.
- 3 The property is two storeys in height with a pitched roof. The front elevation of the building has been boarded-up. At the rear, the property has a double storey extension fronting Reginald Square, which is set back 2.5m from the street and has a depth of 11.7m.

Figure 1: Site location plan with 40 Deptford High Street edged in red.



Character of area

- 4 The surrounding area is predominantly commercial in character owing to its designation as a Major District Centre, with residential accommodation confined to the upper floors of the buildings. The high street south of the train station (including the application site) is designated as Primary Shopping Frontage, with the area to the north designated as Secondary Shopping Frontage. As a result the high street features a relatively high concentration of retail uses. The High Street also features a street market on Wednesday, Friday and Saturdays and has a vibrant night-time economy, mainly concentrated on Resolution Way and the Market Yard, with many restaurants, bars, pubs, nightclubs and music venues bringing activity in the evening.

Figure 2: extract from Local Plan policies map showing Major District Centre and primary shopping frontage designation.



Heritage/archaeology

- 5 The property forms part of a terrace of seven (nos 32-44) two storey plus attic and basement cottages fronting onto the east side of Deptford High Street known as the 'Seven Sisters'. No. 40 is on a narrow plot, and has a steeply pitched roof with a single flat headed small dormer to the front. All seven cottages appear to have been re-fronted incorporating a brick parapet giving a degree of uniformity of appearance and a consistent eaves level across the group. The group is thought to originate from the later 18th century and as such are of high architectural and historic significance as rare examples of early, small Georgian houses.
- 6 The site is located within Deptford High Street CA in the High Street Character Area. However, the buildings is not statutory or locally listed.

Transport

- 7 The property is located within a highly accessible location (PTAL 6a) with Deptford Station and Deptford Bridge DLR Station within short walking distance. The area is also served by 24 hour public transport including several night-bus routes on New Cross Road and a tube service from New Cross Gate Station, approximately 1.1km away.

3 RELEVANT PLANNING HISTORY

- 8 DC/99/004995: The display of an internally-illuminated fascia and projecting sign on the front elevation of 38/40 Deptford High Street SE8 – granted.
- 9 DC/99/045790: The installation of a new shop front at 38-40 Deptford High Street SE8, together with the installation of air conditioning condensers in the rear yard – granted.

10

DC/18/106431: Construction of a first floor rear extension and external stair to form a self-contained studio flat to the rear of 38 Deptford High Street (fronting Reginald Square), SE8 – refused on 1 June 2018 for the following reasons:

1. By virtue of the poorly detailed design of the proposal together with the inclusion of an external stair at the Reginald Square frontage and a lack of passive/natural surveillance towards public areas, the proposal would appear incongruous and of an inadequate design quality and would fail to create a positive relationship with the streetscene. The proposal is therefore contrary to Policies 15 (High Quality Design for Lewisham) and 16 (Conservation areas, heritage assets and the historic environment for Lewisham) of the adopted Core Strategy (2011) and DM Policy 30 (Urban Design and Local Character) and 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) of the Development Management Local Plan (2014).
2. By virtue of establishing accommodation with poor outlook and a lack of amenity space of a good size and utility, the proposal would not provide a satisfactory standard of residential accommodation, and is therefore contrary to the provisions of Policy 3.5 of the London Plan (2016), Policy 15 (High quality design for Lewisham) of the Lewisham Core Strategy (June 2011) and DM Policy 32 (Housing design, layout and space standards) of the Lewisham Development Management Local Plan (November 2014).
3. By virtue of the proposals excessive depth and height in relation to the surrounding built form, the proposal would appear as an overbearing form of development that would impact detrimentally upon the adjoining occupiers to the south at 34a Reginald Square by way of increased sense of enclosure and reduced outlook from adjacent room windows, contrary to Policy 15 (High quality design for Lewisham) of the adopted Core Strategy (June 2011) and DM Policies 31 (Alterations/extensions to existing buildings) and 32 (Housing design, layout and space standards) of the adopted Development Management Local Plan (November 2014).

11

DC/20/116861: Retrospective planning permission for the installation of a new shop front at 38-40 Deptford High Street SE8 – refused on 28 September 2020 for the following reason:

1. The proposed shop front, by reason of its materiality and design, would be an incongruous addition causing an unacceptable impact upon the character and appearance of the host building and would fail to preserve or enhance the Deptford High Street and St Pauls Conservation Area contrary to Section 16 'Conserving and Enhancing the Historic environment' of the National Planning Policy Framework (February 2019) Policies 15 'High quality design for Lewisham' and 16 'Conservation areas, heritage assets and the historic environment' of the Lewisham Core Strategy (June 2011); Policies 19 'Shopfronts, signs and hoardings', 30 'Urban design and local character', 31 'Alterations and extensions to buildings including residential extensions', 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', 37 'Non designated heritage assets including locally listed buildings, areas of special local character and areas of archaeological interest' of the Lewisham Development Management Local Plan (November 2014); and the provisions of the Lewisham Shop front design guide SPD (September, 2006).

- 12 DC/21/121021: Installation of an externally illuminated fascia sign and projecting sign to the front elevation at 40 Deptford High Street SE8 – pending a decision.
- 13 DC/21/121022: Change of use of vacant betting shop (Sui Generis use) to adult gaming centre (Sui Generis use) at 40 Deptford High Street SE8 – pending a decision, with a recommendation for approval for consideration by Members at this Committee.

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

- 14 The proposed development would see the removal of the existing shopfront and replacement with a new timber shopfront. The shopfront would include new pilasters, transoms, transom lights, glazing and doors in softwood as well a new stall riser clad in plywood tiles. A new plywood fascia board would also be installed. The new shopfront would be painted black.
- 15 The development also includes the creation of a new entrance in the rear elevation featuring a steel security door. To the rear of the door a new platform would be constructed with a brick plinth to the match the existing brickwork. The platform would feature a black painted balustrade with handrail.
- 16 Officers note that the design of the shopfront has been amended following input from the Conservation Officer and subsequent discussions. The amendments principally concern the proportions of the shopfront including a reduction to the height of the fascia. In addition the material for the new pilasters was amended to softwood rather than treated plywood as initially proposed.

5 CONSULTATION

5.1 APPLICATION PUBLICITY

- 17 Site notices were displayed on 26 May 2021 and a press notice was published on 21 April 2021.
- 18 Letters were sent to residents and business in the surrounding area as well as to the relevant Ward Councillors and the Deptford Society on 16 April 2021.
- 19 The Deptford Society raised objections to the application due to the height of the proposed fascia and the proposal to use softwood and plywood for the new shopfront. The amends to the design negotiated by Officers were not sufficient to overcome the objection due to concerns with the materials.

5.2 INTERNAL CONSULTATION

- 20 The following internal consultees were notified on 7 May.
- 21 Conservation: Initially objected to the proposal due to concerns with the scale of the fascia and impact on the diminutive proportions of the property and cill of the obscured first floor window. Also objected to the proposal to incorporate plywood within the new pilasters. The objection was withdrawn following the submission of the revisions described above.

22 Highways: Did not submit comments for the application.

23 Environmental Protection: No objections.

6 POLICY CONTEXT

6.1 LEGISLATION

24 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

25 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

6.2 MATERIAL CONSIDERATIONS

26 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

27 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

28 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to aforementioned directions and the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

6.4 DEVELOPMENT PLAN

29 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

30 Lewisham SPD:

- Shopfront Design Guide SPD (March 2006)
- Deptford & St Paul's Church Conservation Area Character Appraisal (November 2019)

7 PLANNING CONSIDERATIONS

31 The main issues are:

- Principle of Development
- Urban Design & Heritage Impact

7.1 PRINCIPLE OF DEVELOPMENT

General policy

32 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

33 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

Discussions

34 The Development Plan is generally supportive of improvements and alterations to commercial units given the potential benefits to the viability and vitality of the town centre.

7.1.1 Principle of development conclusions

35 The principle of development is supported subject to an assessment of the impact to the Deptford and St Paul's Conservation Area and the living conditions of the neighbouring properties.

7.2 URBAN DESIGN & HERITAGE IMPACT

General Policy

36 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Policy

37 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

38 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the part of LPA's when considering whether to grant planning permission for development which affects a conservation area to pay 'special attention' to the desirability of preserving or enhancing the character or appearance of that conservation area

- 39 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.
- 40 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.
- 41 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.
- 42 DMP 19 states that new shopfronts and the replacement of non-period shopfronts should use high quality materials and use a design that relates well to the proportion, scale and detailing of the entire host building and makes a positive contribution to the streetscape.
- 43 The Deptford High Street and St Pauls Conservation Area Character Appraisal identifies the 'Seven Sisters' No.32-44 Deptford High Street as opportunities for building restoration and rejuvenation.

Discussion

- 44 The proposal to install a new shopfront at 40 Deptford High Street offers the opportunity to rejuvenate the property. This is an opportunity identified within the Character Appraisal so is welcomed by Officers. At present the property, along with No.38, is boarded up thus obscuring the shopfront entirely. Prior to becoming vacant the shopfront for the joint commercial unit at Nos. 38-40 had a contemporary appearance that was a poor response to the historic architecture thus detracting from the character of the property and adjoining terrace. This is shown in the photographs below.

Photographs 1 and 2 showing the previous shopfront (left) and current condition (right)



- 45 DMP 19 is clear that replacement shopfront should reflect the proportions, scale and detailing of the host property. The proposed shopfront achieves this by reinstating some of the characteristic features of Georgian and Victorian shopfront such as pilasters, a stall riser and transom lights. Additionally, the fascia board is appropriately scaled to reflect the diminutive proportions of the Georgian terrace.

- 46 The proposed use of timber for all of the joinery is appropriate and is a considerable improvement on the previous aluminium shopfront. Officers acknowledge that some of the joinery uses more contemporary timber based products. However, the majority of the features would be soft wood including the projecting pilasters that are most vulnerable to weathering.
- 47 Overall, the replacement shopfront is considered to enhance the character and appearance of the Deptford High Street and St Paul's Church Conservation Area. In coming to this conclusion Officers have given significant weight to the beneficial impact of removing the contemporary shopfront and restoring an active frontage to a boarded-up unit.
- 48 Officers consider that there are further opportunities to rejuvenate the property at first floor level by removing the boarding and revealing the first floor brickwork and window. Discussions have taken place during the course of this application attempting to include these works within the proposals. Regrettably, this has not been possible as the first floor level of the frontage building falls outside the demise of the applicant. However, its removal remains a future priority for the Council in accordance with the recommendations of the Character Appraisal.
- 49 The works to the rear elevation are restricted to ground floor level within an area principally used for servicing and as such would not have a significant visual impact on the conservation area.
- 50 Therefore, Officers are satisfied that the current proposal would enhance the Conservation Area.

Summary

- 51 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would enhance the character and appearance of Deptford and St Pauls Conservation Area. No materials condition is required as Officers consider the materials specified on the plans to be sufficiently detailed and acceptable.

8 LOCAL FINANCE CONSIDERATIONS

- 52 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- 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
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

- 53 The weight to be attached to a local finance consideration remains a matter for the decision maker.

- 54 The CIL is therefore a material consideration and the applicant has completed the relevant form. In this case the proposed development would not be CIL liable as the change of use does not include the creation of additional floorspace.

9 EQUALITIES CONSIDERATIONS

- 55 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.
- 56 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not;
 - foster good relations between people who share a protected characteristic and persons who do not share it.
- 57 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.
- 58 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: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 59 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty
 - Equality objectives and the equality duty
 - Equality information and the equality duty
- 60 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: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 61 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.

10 HUMAN RIGHTS IMPLICATIONS

62 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

63 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

64 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

65 This application has the legitimate aim of making minor alteration to a commercial building. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

66 This application has been considered in the light of policies set out in the development plan and other material considerations.

67 The proposed development would restore a timber shopfront to the property that would respond positively to the proportions, scale and design of the historic architecture, thus enhancing the character and appearance of the Deptford High Street and St Paul's Church Conservation Area. Officers recommend that the application is granted subject to conditions.

12 RECOMMENDATION

68 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

12.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

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) **APPROVED PLANS**

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

DHS-DEP-01 Rev B; DHS-DEP-04 Rev A; DHS-DEP-06 Rev A: Site Location Plan received 25 March 2021;

DHS-DEP-08 Rev F received 14 July 2021;

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.

12.2 **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.