



Planning Committee A

324 Brockley Road, London, SE4 2BT

Date: 8 June 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Crofton Park

Contributors: Alfie Williams

Outline and recommendations

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 the submission of five objections from local residents.

Application details

Application reference number:	DC/21/121564
Application Date:	28 April 2021
Applicant:	Mr Hoveizi
Proposal:	Part retrospective planning permission for the installation of an external ventilation flue to the rear of 324 Brockley Road SE4
Background Papers:	(1) Submission drawings (2) Submission technical reports and supporting documents (3) Internal consultee responses
Designation:	Air Quality Management Area Hopcroft Neighbourhood Forum Local Open Space Deficiency PTAL 3
Screening:	N/A

1 INTRODUCTION

- 1 The report has been brought before members, as the application was deferred at a previous meeting of Planning Committee A held on 26 October 2021, prompted by submission at Committee by an objector of photos showing the as-built situation that required further assessment. The original committee report is attached at Appendix A. It was resolved that the decision be deferred due to concerns with the accuracy of the drawings and the impact of the extraction equipment to the outlook of the first floor windows serving the flat above the restaurant.
- 2 In response the applicant has submitted revised drawings proposing an alternative position for the extraction equipment. The applicant has also agreed to paint the equipment matt black due to concerns with the prominence of the equipment from public viewpoint to the rear of the property.

2 POLICY CONTEXT

2.1 LEGISLATION

- 3 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).

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2.2 MATERIAL CONSIDERATIONS

- 4 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.
- 5 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.
- 6 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.

2.3 NATIONAL POLICY & GUIDANCE

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

2.4 DEVELOPMENT PLAN

- 7 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)

2.5 OTHER GUIDANCE

- Evening and night-time offer: A vision for Lewisham

3 PLANNING CONSIDERATIONS

- 8 The main issues are:
- Urban Design
 - Impact on Adjoining Properties

3.1 URBAN DESIGN

General Policy

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- 9 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

- 10 LPP D3 and CSP 15 set out a clear rationale for high quality urban design. Further to this, DMP 30 requires planning applications to demonstrate a site specific response which creates a positive relationship with the existing townscape.

Discussion

- 11 During the committee meeting members expressed concern with the visual impact of the extraction equipment due to its scale and visibility from public viewpoints on Beecroft Road. This concern mainly related to the flue attached to the rear elevation, although the equipment on the flat roof is partially visible. The revision to the position of the equipment attached to the flat roof would reduce the height above the flat roof partially reducing visual clutter when viewed from Beecroft Road. Due to the type of restaurant, which involves cooking over coals, it would not be possible to reduce the size of the flue attached to the rear elevation. However, the applicant has proposed to paint the flue matt black to reduce reflectivity and with it the prominence within the streetscene. Officers are satisfied that the revisions would overcome members concerns taking into account that extraction equipment is a typical feature of shopping parades.

3.1.1 Urban design conclusion

- 12 Following the submission of revisions Officers are satisfied that the equipment would be appropriately located and the scale and appearance would prevent any harmful visual impacts to the character of the surrounding area. As such, the development is considered to be compliant with the CSP 15 and DMP 30.

3.2 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 13 The NPPF at para 130 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users.

Policy

- 14 Paragraph 185 of the NPPF states that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life
- 15 The National Planning Policy Guidance for Noise (July 2019) advises on how planning can manage potential noise impacts in new development. It states that local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider whether or not:
- a significant adverse effect is occurring or likely to occur;
 - an adverse effect is occurring or likely to occur; and
 - a good standard of amenity can be achieved.

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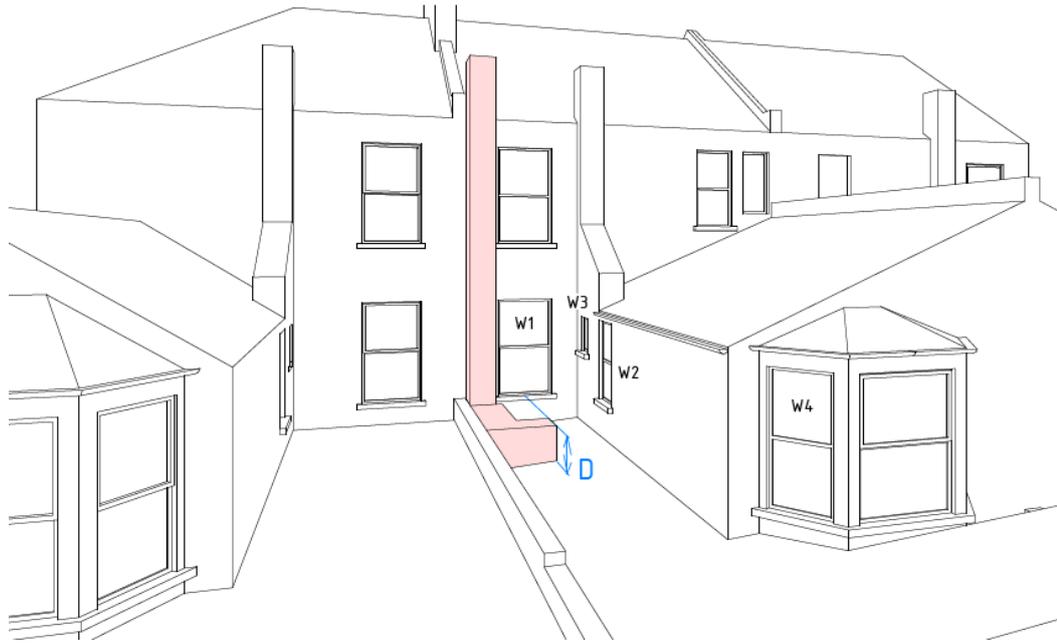
- 16 The NPPG establishes a noise exposure hierarchy with three levels:
- No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.
 - Lowest observed adverse effect level (LOAEL): this is the level of noise exposure above which adverse effects on health and quality of life can be detected.
 - Significant observed adverse effect level (SOAEL): This is the level of noise exposure above which significant adverse effects on health and quality of life occur.
- 17 The guidance does not provide values for the LOAEL or SOAEL. The Explanatory Note to the Noise Policy Statement for England (NPSE) states that “it is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times.”
- 18 PPG guidance for air quality is clear that odour can also be a planning concern due to the effect on local amenity.
- 19 LPP SI1 states new development amongst other requirements must endeavour to maintain the best ambient air quality (air quality neutral) and not cause new exceedances of legal air quality standards.
- 20 CSP 9 seeks to improve local air quality and minimise any negative air quality impacts.
- 21 DMP 17 states that restaurants should not result in any harmful impacts to the living conditions of nearby residents and in particular are expected to provide acceptable arrangements for the efficient and hygienic discharge of fumes and smells.
- 22 DMP 26 aims to reduce excessive noise or vibration which can be detrimental to human health and well-being.
- Discussion*
- 23 The noise impacts of the development were assessed in detail within the previous committee report (see Appendix A), so will not be repeated in full here. However, to summarise a Noise Impact Assessment (Gellieron Scott, May 2021) has been submitted in support of the application and has been reviewed by an Environmental Protection Officer. The Environmental Protection Officer has accepted the methodology and conclusions of the report and the applicant has confirmed that the mitigation measures would be installed following the completion of the works. The installation of the mitigation measures, including an attenuator, are secured by Condition 2.
- 24 The application was deferred following the submission of evidence by neighbours proving that the drawings initially submitted by the applicant did not accurately reflect the position of the ducting and flue and therefore did not give a true impression of the impact to neighbours. The position of the equipment as currently installed is considered to have an adverse impact to the outlook of the first floor windows, which serve a flat.
- 25 In response the applicant has submitted revised drawings proposing an alternative position relative to the first floor flat roof, see figure 1 below. The revisions show that the equipment would be installed flush with the roof, which would prevent the ducting from projecting above the cill level of the first floor windows. This would allow unobstructed views from the windows towards the west and north.

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Figure 1. Revised extraction equipment



26 It is recognised that the equipment would remain visible from the windows. However, the equipment is necessary to ventilate the restaurant efficiently and minimise odours emanating from the restaurant. Furthermore, alterations that would improve the viability of commercial units are supported within the development plan and extraction equipment is a typical feature of commercial parades. Therefore, Officers are satisfied that the extraction equipment would have an acceptable impact on the outlook of the first floor windows.

3.2.1 Impact on neighbours conclusion

27 The proposed repositioning of the extraction equipment would, on balance, reduce the impacts to the outlook of neighbours to acceptable levels. The noise and vibration impacts are considered acceptable subject to the installation of the recommended attenuation. The repositioning of the equipment and the noise and vibration attenuation would be secured by condition within an agreed timeframe.

4 CONCLUSION

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

29 The revisions to the positioning and appearance of the extraction equipment would prevent any materially harmful impacts to the neighbour properties and appearance of the surrounding area. Therefore, the application is recommended for approval subject to conditions.

5 RECOMMENDATION

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

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5.1 CONDITIONS

1) APPROVED PLANS

Within three months of the date of this planning permission, evidence shall be submitted to and approved in writing demonstrating that the development has been carried out in full accordance with the application drawings hereby approved and as detailed below:

PL-001; PL-002; received 29 April 2021

PL-007 00 received 25 February 2022

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.

2) NOISE ATTENUATION

(a) Within three months of the date of this permission, evidence shall be submitted to and approved in writing by the local planning authority demonstrating the equipment has been installed in accordance with the recommended mitigation measures, including details of an attenuator and anti-vibration mounts, as set out in Section 6.0 of the Noise Impact Assessment (Gellieron Scott, May 2021) hereby approved.

(b) The facilities as approved under part (a) shall be permanently retained and maintained thereafter.

Reason: In order that the local planning authority may be satisfied that the development would result in an acceptable impact to the amenity of the neighbouring properties and to comply with DM Policies 17 Restaurants and Cafes and 26 Noise and vibration of the Development Management Local Plan (November 2014).

3) VENTILATION

(a) Within three months of the date of this permission a Ventilation System Report detailing the measures undertaken to mitigate air pollution shall be submitted to and approved in writing by the local planning authority.

(b) The report shall include of the following information:

- I. Details of filtration system to remove airborne pollutants. The filtration system shall have a minimum efficiency of 75% in the

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removal of Nitrogen Oxides/Dioxides, and Particulate Matter (PM2.5, PM10) in accordance with BS EN ISO 10121-1:2014 and BS EN ISO 16890.

- II. The position of the ventilation intakes demonstrating a suitable distance away from flues, ventilation extracts, and roads.
- III. A post installation certificate of the ventilation strategy.

(c) The facilities as approved under part (a) shall be installed in full accordance with the approved details within one month of the date of the approval of the details and shall be permanently retained and maintained in accordance with manufacturers specifications thereafter.

Reason: In order that the local planning authority may be satisfied that the development is not going to result in significant health impacts to existing and future residents from a deterioration in local air quality and to comply with Policy SI 1 Improving air quality of the London Plan (March 2021) and DM Policy 23 Air quality of the Development Management Local Plan (November 2014).

5.2 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.
- 2) The applicant is advised that an application for planning permission is required for the change of use of the premises to a restaurant.

6 BACKGROUND PAPERS

- 1) Submission drawings
- 2) Submission technical reports and supporting documents
- 3) Internal consultee responses

7 REPORT AUTHOR AND CONTACT

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