

DEVELOPMENT CONTROL COMMITTEE - Date: 11/08/2010

Report of the Executive Head of Planning and Transportation.

Ref: D2010/62760/FUL	WARD: D15 / WALLINGTON NTH	Time Taken: 11 weeks, 2 days
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Site: 114 MANOR ROAD Wallington Surrey SM6 0DS

Proposal: Use of premises for purposes falling within class A3 of the Town and Country Planning (use classes) Order 2005 (as amended) and installation of an extract duct at rear.

Applicant: Mrs Angela Brandwijk

Agent:

Recommendation:

GRANT PLANNING PERMISSION

Reason for Report to Committee: 22 Objections to the development.

Summary of why application proposals are acceptable:

- The application proposal would not lead to an overconcentration of similar uses and the vitality and viability of the Wallington District Centre would not be adversely affected. Therefore the proposed development is considered to maintain and support the function of this Centre, causing no significant harm to local residents amenity, whilst retaining a visually acceptable form of development, and as such the application is recommended for approval, subject to conditions.

1.0 BACKGROUND

1.1 Site & Surroundings:

1.2 The application site comprises the ground floor unit of a three storey building located on the western side of Manor Road with residential accommodation at first and second floor level which is occupied by occupants not connected with the ground floor use. The ground floor unit itself is currently unoccupied but the previous tenant was a shop named 'Lets Flog It'.

1.3 The application site is in an area of mixed character with a range of commercial units at ground floor with residential accommodation on the upper floors. Immediately across Manor Road to the east is a three storey building occupied by an 'O'Neill's' Drinking Establishment and 'Blacks' Restaurant. Immediately to the south is a Grocery Shop, and to the north is a Hot Food Takeaway with residential accommodation in the upper floor. Immediately to the

south and on the opposite side of Railway Approach is a large five storey retail/office block building.

1.4 Also located in close vicinity and to the south is the Wallington Rail Station. Further to the south is the primary shopping centre for Wallington.

1.5 **Site specific UDP designation:**

1.6 The site falls within the Wallington District Centre and within the Secondary Shopping Frontage – Policy TCS5 and is also located within the Limits of Sustainable Residential Development.

1.7 **Relevant Planning History:**

- **67/2195.** Rebuilding of store and fitting room at motor cycle showrooms. Granted - 27/01/1967.
- **80/20396.** Erection of a single-storey rear extension for storage purposes. Granted - 30.04.1980.

2.0 **APPLICATION PROPOSALS**

2.1 **Details of Proposal:**

2.2 Planning permission is sought for the use of the ground floor premises for purposes falling within Class A3 (restaurants and cafes) of the Town and Country Planning (Use Classes) Order 2005 (as amended) and installation of an extractor duct at the rear. The proposed hours of opening would be 0700 to 1900 Monday to Friday, 0700 to 1600 Saturdays and 0900 to 1600 on Sundays and Bank Holidays.

2.3 The ground floor unit has a ground floor area of 77m² and will contain a seated restaurant area (34.5m²), kitchen (12.4m²), staff toilet (4.5m²), washing/storage room (19.9m²) and storage area (10.5m).

2.4 A new extractor duct is to be installed at the rear of the property alongside an existing soil vent pipe that will service the proposed use and terminate 1.5m above the eaves.

2.5 The first and second floor residential accommodation above will not be internally altered by the proposed development.

2.6 Signage associated with the proposed use will be subject to a separate application under the Town and Country Planning (Control of Advertisements) Regulations 2007.

2.7 **Significant amendments to application since submitted:**

- None.

3.0 PUBLICITY**3.1 Adjoining Occupiers Notified****3.2 Method of Notification:**

- This application was advertised by way of 33 letters sent to the owners/occupiers in Manor Road, Grosvenor Road, Belmont Road and Railway Approach, and a site notice posted on site on 4 June 2010.

3.3 Number of Letters Received:

3.4 21 Objections to the development in total have been received.

3.5 Addresses of letters:

- 2, 9 Clarence Road
- 24 Brabrook Court, Maldon Road
- 24 Maldon Road
- 9, 18, 22, 31 Grosvenor Road
- 4 Oxford Road
- 112, 112A, 120-124, 123 & 124, 77C Manor Road
- 3 Denmore Court, Springfield Road
- 36 Fairlawnes, Maldon Road
- 4 Spring Gardens
- Flat 5, 17-19 Melbourne Road
- Freshachino, Rail Approach
- 1 Standon Park, London
- 2 Clarence Road

3.6 Summary of material responses:

- i) Proliferation of A3/A4/A5 uses
- ii) Impact on retail viability
- iii) Lack of parking
- iv) Impact on highway safety
- v) Odours
- vi) Litter
- vii) Noise/Disturbance

3.7 Non-Material Responses:

- i) Increased competition

3.8 Official Consultation**3.9 Internal:**

3.10 Senior Engineer: No objections to the proposal.
The site location is within Wallington District Centre with a good Public Transport Accessibility Level (PTAL) index of 4 and

accessibility to all other services. According to UDP standards the provision of up to maximum 7 car parking spaces are required to cater the proposed 35 sqm/30 seats dining restaurant. However, the constraints within the site do not make this feasible. It would be unreasonable to impose the condition which could not be implemented and would not be defensible if applicant appeals against it. Most of the area surrounding the site has parking, waiting and loading restrictions and any vehicles accessing the site (used by customers, employees or service deliveries) would need to abide these and share the existing facilities available in the area. It is also considered that most of the customer demand during normal working hours would be pedestrians using the district centre retail/commercial facilities and some commuters using Wallington railway station in morning and evening peak hours.

3.11 Environmental Health Officer: No objections in principle to the application, subject to a condition being imposed with respects to the full details of the proposed ducting system. The Environmental Health Officer has confirmed that amenities of nearby residents would not be adversely affected by virtue of noise, litter or fumes emanated from the air extractor system.

3.12 **External:**

3.13 Thames Water: Thames Water recommends the installation of a properly maintained fat trap for all catering establishments and that the use be in line with the best practice for the disposal of Fats, Oils and Grease, and that waste oil be collected by a contractor, particularly to recycle for the production of bio diesel.

3.14 **Councillor Representation:** None

4.0 **MATERIAL PLANNING POLICIES**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:

(1A) The London Plan (originally adopted 2004, amended version, consolidated with alterations, adopted February 2008).

(1B) The London Plan: Consultation draft replacement plan, October 2009.

This document, which will eventually replace the existing consolidated version of the London Plan, was published for public consultation in January 2010. A public Examination is likely to be held in Summer/Autumn 2010. Although the draft replacement plan

will not supersede the existing London Plan until after it has been formally adopted, the draft plan will be a material consideration that should be taken into account in deciding planning applications and will gather increasing weight the further into the replacement process.

In the event that there are discrepancies between the adopted CPS, SDP and Replacement London Plan, legal guidance indicates that the latest adopted document prevails.

(2) The Sutton Unitary Development Plan (UDP) (adopted April 2003). Some of the UDP Policies have now been replaced by the Core Planning Strategy Policies.

(3) The Local Development Framework (LDF) which is to replace the UDP in due course as the official Development Plan for the Borough. At present it comprises two main documents (additional ones for specific areas such as Sutton Town Centre will be produced):

-(a) The Core Planning Strategy (CPS) which sets out the Council's long term vision, spatial strategy and core policies for shaping the future development in the Borough and managing change over the next 15 years in line with the principles of sustainable development. Following public consultation and a formal public examination by Government Inspectors the final version of the CPS was adopted by the Full Council on 7.12.09. The adopted CPS replaced a number of the UDP policies and is a material consideration in the determination of planning applications.

-(b) The Site Development Policies Development Plan Document (SDP) which identifies sites for future development (outside Sutton Town Centre) and sets out detailed development management policies to be used to help decide planning applications. The SDP has been through two stages of public consultation and was approved by the Full Council on 7.12.09 for submission to the Secretary of State. A further public consultation was carried out in January - March 2010. The SDP is likely to be the subject of a formal public examination by Government Inspectors next year. The SPD is now accorded substantial weight by the Council in determining planning applications (and is a material planning consideration.)

4.2 Also a material consideration in determining planning applications are:

(a) National Planning Guidance in the form of Planning Policy Statements and Planning Policy Guidance documents.

(b) Adopted London Borough of Sutton Supplementary Planning Guidance documents.

4.3 National Planning Guidance

- i) Planning Policy Statement:1: Sustainable Development and Climate Change
- ii) Planning Policy Statement 23: Planning and Pollution Control
- iii) Planning Policy Guidance 24: Planning and Noise

4.2 The London Plan (February 2008)

- i) 4B.7 Respecting local context and communities

4.4 Sutton Unitary Development Plan

- i) BE21 Shopfronts
- ii) TCS5 Secondary Shopping Frontages
- iii) TCS7 Food and Drink Uses
- iv) TR12 Parking provision for new development
- v) TR13 New development and on-street parking

4.5 Core Planning Strategy Policies

- i) BP12 Good Urban Design and Heritage
- ii) PMP8 Other District Centres

4.6 Site Development Policies – Proposed Submission

- i) DM2 Protecting Amenity
- ii) DM3 Enhancing the Street Scene and Public Realm
- iii) DM22 Parking
- iv) DM37 Shopping Frontages in Town Centres

4.7 Supplementary Planning Guidance/Documents

- i) SPD14 – Creating Locally Distinctive Places

5.0 **PLANNING CONSIDERATIONS**

5.1 The principal considerations (including whether any material planning objections have been reasonably addressed) in relation to this application are:

- **Use**
- **Design quality**
- **Impact on neighbours**
- **Hours**
- **Layout**
- **Traffic and Parking**
- **Other relevant planning considerations**
- **Considerations relating to other objections**

5.2 **Use:**

5.3 The lawful use of the application premises would appear to be for retail (A1) purposes. There are therefore two policies in the UDP and one policy in the Site Development Policies (SDP) – Proposed Submission that are relevant to the principle of the change of use of this unit from retail (class A1) to a café/ restaurant (class A3). These policies are TCS5 (UDP) and Policy DM37 (SDP) relating to

secondary shopping frontages, and TCS7 (UDP) which governs uses food and drink uses.

5.4 Policy TCS4 states that the Council will permit a diversity of uses within identified secondary shopping frontages in town centres (as shown on the proposals map). Proposals for non-retail uses will be acceptable provided that the proposed use:

- i) is compatible with the shopping frontage and provides a direct service to the general public;
- ii) would not lead to an over-concentration of such uses so as to create a significant break in the retail frontage;
- iii) would have no significant adverse impact on the retail vitality and viability of the centre;
- iv) retains an appearance which is compatible with adjoining shop units; and,
- v) would not adversely affect the residential amenity in, and adjacent to, a town centre.

5.5 Policy TSC5 further states that the Council will also resist applications which lead to a clustering of more than 3 non-A1 uses within the frontage where the change is proposed.

5.6 Policy TCS7 states that proposals for food and drink uses (Class A3) will be favourably considered, provided that the proposed development would not either individually or cumulatively:

- i) Lead to the over-concentration of such uses; or,
- ii) Adversely affect the amenity of nearby residents by virtue of noise, litter, fumes, traffic or parking arrangements.

5.7 Criteria ii) of policy TCS7 will be discussed further in subsequent sections of this report.

5.8 Similarly, Policy DM37 of the Site Development Policies – Proposed Submission, permits the diversity of uses within identified secondary shopping frontages, so long as the use is compatible with the shopping frontage and provides a direct service to the general public, would not create a significant break in the retail frontage, have no significant impact on the retail vitality and viability of the centre and retain an appearance which is compatible with adjoining shop units.

5.9 The table below notes the uses within the parade of shops of which the subject property is a part of:

Address	Business	Use Class
120-124 Manor Road	TFX International Food Centre	A1
118 Manor Road	John King Florist	A1
116 Manor Road	Wallington Grocery	A1
114 Manor Road	Café on the Manor	A3

112 Manor Road	Golden Grill	A5
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- 5.10 In relation to criteria i) of policies TCS5 and TCS7, the proposed A3 use would lie between an A5 use (Hot Food Takeaway) (Golden Grill) to the north and an A1 use (Shop) (Wallington Grocery) to the south and therefore there is no significant break in the retail frontage or over-concentration of similar uses, and in particular would not result in more than three non A1 uses in a row. The table above illustrates that 3 out of the 5 shops within the parade will remain in A1 use.

- 5.11 It is considered that although the proposal will result in the loss of an A1 use, the proposed A3 use will be compatible with the shopping frontage within this parade in terms of retaining an active shopping frontage and will supplement the existing uses in the vicinity.

- 5.12 In addition to the comments made above, the introduction of the proposed A3 use is considered to be appropriate to the functioning of the district centre, and is considered to support the retail vitality and viability of the area, by continuing to bring people into the centre and extending the variety of uses available for local residents and visitors. Whilst the proposed use is described as an A3, and within the proposed hours the busiest period for such a use is generally accepted to be during daytime, and therefore the use is anticipated to continue to attract people to the centre during the working day.

- 5.13 Overall, bearing in mind that it generally respects the criteria and objectives of Policies TCS5 and TCS7 of the UDP, and Policy DM37 of the Site Development Policies – Proposed Submission, the application is considered acceptable in principle, if it can be demonstrated that the proposal would not harm the amenity of nearby residents as discussed below.

- 5.14 **Design quality:**

- 5.15 The Supplementary Planning Document 14 – Sutton’s Urban Design Guide, and Policy BP12 of the emerging Core Planning Strategy seek to ensure that development is of a high standard in design and architecture and relates to the area and street scene.

- 5.16 The proposal does not comprise any external alterations to the front of the unit and the window displays are to be retained as existing and therefore this proposal would retain the character of the building within the shopping frontage of the shopping area.

- 5.17 The proposed 0.3m wide circular ducting at the rear, discharging at a height above that of the nearest residential window would affect the appearance of the building. However, bearing in mind there are other examples of extract duct systems at the rear of the properties the proposed ducting would not have a significant adverse impact on the current character or appearance of the area providing it is painted an

appropriate colour. It is recommended that a condition be imposed requesting that details of the ducting paint finish are approved prior to the commencement of the development.

5.18 Impact on Neighbours:

5.19 Policy BE4 of the UDP states that proposals for new development should ensure that the relationships between new and existing buildings, particularly in terms of private spaces, do not prejudice the proper use of the accommodation. This policy is applied to protect the amenity of the occupants of buildings which adjoin, or are likely to be affected by the proposed new development. This policy is complemented by Policy DM2 of the Site Development Policies – Proposed Submission, which seeks to protect the amenities of neighbouring properties particularly in terms of noise, vibration, odours, smoke and fumes and times when such disturbances are likely to occur.

5.20 A properly functioning and quiet extraction system should be capable of protecting the amenity of adjoining first floor residents, both within the site and immediately adjoining. In this instance, an extract system should also ensure that there is no issue regarding the transmission of fumes and smells across greater distance along the parade, and to the rear towards the surrounding residential area. The applicant submitted details of the ducting, extract and filtration systems which have been assessed by the environmental health officer, who confirmed that the amenities of nearby residents would not be adversely affected by virtue of noise, litter or fumes emanated from the air extract system, however final specifications of the extractor system to be installed will need to be approved and controlled by way of condition. The application in this respect complies with the second criteria of policy TCS7 and emerging Site Development Policy DM2 which seeks to prevent development which has an unacceptable impact on the surrounding occupiers by reason of noise, vibration, odours, smoke and fumes. The siting of the ducting wouldn't adversely affect the outlook from the adjoining upper floor residential windows.

5.21 Aside from noise and smells emanating from the site, the remaining common disruption caused by such uses relates to either litter, or the noise caused by the movement of people and vehicles, which is often exaggerated by social events, and more keenly felt at normal meal hours (lunch) and later in the day by residents returning from work. However, cafes/restaurants do not generally lead to noticeable littering, and the limited floor area available on site is considered to lead to limited numbers of people, and thus limited levels of general noise and disturbance, and restricted vehicle movements. The imposition of opening hours would allow the effect upon residents to be controlled, and restricted to times where residents are not typically asleep. This is discussed further in the next section of this report.

5.22 Hours:

5.23 The applicant has proposed hours of opening between 0700h to 1900h Mondays to Fridays, 0700h to 1600h Saturdays and 0900h to 1600h on Sundays and Bank Holidays. It is considered that these hours are similar to the hours of the other uses in the district centre and therefore considered to be appropriate and sensitive to the adjacent residential areas. It is recommended that a condition is imposed ensuring that the use operates within these hours only.

5.24 Layout:

5.25 The internal layout is considered appropriate for the intended use. A condition is recommended that a scheme of sound insulation be submitted to and approved by the Local Planning Authority so to avoid any adverse noise transmission with the above residential accommodation.

5.26 Waste and refuse storage facilities have been identified on the submitted plans. Further, it is considered that there is sufficient space available on site for the provision of refuse containers and recycling at the rear of the premises.

5.27 Traffic & Parking:

5.28 The application does not provide any on site parking, as is generally required by Policy TR12, which requires provision to be made in accordance with the Council's car parking standards. However, Policy TR13 states that permission will only be refused where the development would, 'result in an increase in on-street parking, where it would adversely affect traffic flows, bus movement, road safety, the amenities of local residents or the local environment.' Policy DM22 of the SPD Proposed submission reiterates that planning permission will be granted when the Council is satisfied that development will not result in an increase in on-street parking.

5.29 The Council's highways engineer has no objection to the proposed development. It is considered that most of the customer demand during normal working hours would be pedestrians using the district centre retail/commercial facilities and some commuters using Wallington railway station in morning and early evening peak hours. Deliveries to the site will be via the rear of the property where an access way and parking space is provided. The nearest accessible public car park is accessed off Melbourne Road and is within 60m of the subject site. A condition is recommended that secure cycle parking is provided within the site.

5.30 **Other Relevant Material Planning Considerations:** None

5.31 **Considerations Relating to Other Objections:**

5.32 Objections received have asserted that in granting approval to this proposal that the financial interests of nearby enterprises engaged in similar activities would be adversely affected. However, it is important to highlight that considerations of commercial competition is not planning matter for consideration.

6.0 **CONCLUSION AND RECOMMENDATION**

6.1 The application proposal would not lead to an overconcentration of similar uses and the vitality and viability of the Wallington District Centre would not be adversely affected. Therefore the proposed development is considered to maintain and support the function of this Centre, causing no recognisable harm to local resident's amenity, whilst retaining a visually acceptable form of development, and as such the application is recommended for approval, subject to conditions.

Background Papers: C2009/62760/FUL

Drawings and other documents can be viewed on line –

- 1) Go to page: <http://82.43.4.135/FASTWEB/welcome.asp>
- 2) Enter Planning Application Number: **C2009/62760**
- 3) Click on Search and View Current Applications
- 4) Click on View Plans & Documents

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Belmont House4 Elgin Road

D2010/62760/FUL

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WARNING: It is in your interests to ensure you obtain the approval of the Local Planning Authority, where the conditions require that to occur. Failure to comply with the following conditions may lead to enforcement action to secure compliance.

FIRST SCHEDULE

114 MANOR ROAD Wallington Surrey SM6 0DS

Use of premises for purposes falling within class A3 of the Town and Country Planning (use classes) Order 2005 (as amended) and installation of an extract duct at rear.

SECOND SCHEDULE

(1) The development must be begun not later than the expiration of three years beginning with the date hereof.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended.

(2) The development shall not be occupied until space has been laid out within the site in accordance with the details to be submitted to and approved in writing by the Local Planning Authority to provide secure cycle parking for a minimum of 2 spaces. The approved details shall be implemented, and thereafter be permanently maintained.

Reason: PPG 13 sustainability objectives - To encourage access by non-car modes and facilitate integration between sustainable forms of transport.

(3) The use hereby permitted shall operate only between the hours of 0700h to 1900h Mondays to Fridays, 0700h to 1600h Saturdays and 0900h to 1600h on Sundays and Bank Holidays.

Reason: To safeguard the amenities of adjacent residential properties.

(4) No hot food shall be cooked on site until details of the ducting system scheme, including height, width, amount of projection from the rear wall, means of attachment to the rear wall, as well as methods of noise, vibration and odour control, shall be submitted to and approved in writing by the Local Planning Authority before the development is begun. The ducting shall only be installed and operated in accordance with the approved plans, which shall be retained thereafter.

Reason: To protect the amenities of surrounding properties in terms of odour and noise and to ensure compliance with Policy TCS7 and Policy DM2 of the Emerging Site Development Policies of the Sutton Unitary Development Plan.

(5) The permitted ducting shall be painted in a colour to be approved in writing by the Local Planning Authority within one month of the installation of the ducting, and shall be retained in that form thereafter.

Reason: To safeguard the visual amenities of the area and ensure that the development harmonises with buildings and surroundings.

(6) The use hereby permitted shall not be implemented until a scheme for sound proofing between the A3 use and the residential flat above, has been submitted and approved in writing by the Local Planning Authority and implemented, and retained thereafter.

Reason: To protect the amenity of adjoining occupiers.

INFORMATIVES.

(1) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985. An appointment can be made for this purpose by telephoning 020 8770-5070.

(2) This application has been assessed against the relevant policies of the Sutton Unitary Development Plan. The proposal is generally in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and for this reason planning permission is granted.

(3) The permission hereby granted confers no rights on the applicant to encroach upon, extend over or otherwise enter upon property not in his ownership for any purposes connected with the implementation of this planning permission.

(4) The applicant's attention is drawn to the fact that the London Borough of Sutton monitors the implementation of permissions and in particular that conditions imposed are fully complied with. Should you have any queries with regard to the discharge of the conditions please telephone 020 8770 5070 for further information.

(5) The drawing no(s). relating to this decision are 114 Manor Road_Rd_ProElev_rev1; 114 Manor Road_Rd_ProFlr_rev1; 114 Manor Road_Rd_ExFlr_rev1; 114 Manor Road_Rd_ExElev_rev1; 114 Manor Road_Rd_SitePlan_rev1.

(6) Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. They further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewerage flooding and pollution to local watercourses. Further information on the above is available in a leaflet, 'Best Management Practices for Catering Establishments' which can be requested by telephoning 020 8507 4321.