

Greenwich Area Planning Committee 6 July 2011	Agenda Item: 17 Reference No: 10/3402/V
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Applicant: Foxtons Ltd, C/O Agent

Agent: Miss Pippa Haworth, Jones Lang Lasalle, 25 Bank Street, Canary Wharf, London E14 5EG

Site Address: Former Armed Forces Recruitment Offices, 9 Lee Road, Blackheath, London SE3 9RQ	Ward: Blackheath Westcombe Application Type: Variation of condition
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1. **Proposal**

1.1 Variation of Condition 1 (hours of operation) of planning permission dated 08/09/2010 (Ref: 10/0847/F) to allow opening hours 08:00 – 20:00 Mondays to Saturdays and 09:00 – 17:00 Sundays, Bank and Public Holidays.

2. **Drawing numbers**

2.1 8805/EX01, Supporting Information (Appendix 1 & 2) and Cover letter dated 21/12/2010. And email received 21 February 2011 confirming opening hours proposed.

3. **Summary**

3.1 The application property is a three storey commercial building located on the eastern side of Lee Road. The site is situated within the Blackheath Village District Centre, within Greenwich, although most of the Centre is within the London Borough of Lewisham. The building was formerly used as offices by the Army for recruitment purposes (Use Class B1) the property is currently vacant.

3.2 The area is characterised by a mix of residential and commercial uses within the District Centre and predominantly residential uses within nearby and surrounding streets.

3.3 Planning permission is sought for the variation of condition 1 (hours of operation) of planning permission dated 08/09/2010 (ref: 10/0847/F) to allow additional opening hours of 09:00 – 17:00 on Sundays, bank and public holidays.

- 3.4 Condition 1 currently restricts the use to: 08:00 hours – 20:00 hours Mondays to Saturdays only”.
- 3.5 The additional opening hours proposed would be consistent with the general operating hours within the centre and would not harm the viability or vitality of the Blackheath Village District Centre.

4 Consultations

- 4.1 A total of 148 properties were notified of the application along with the Blackheath Society, Blackheath Cator Estates Residents Ltd, Blackheath Park Conservation Group and local ward councillors. A press and site notices were issued and displayed on site.

5 Recommendation

- 5.1 Agree to vary condition 1 to read;

01 The A2 use hereby permitted shall be restricted to:

08:00 hours – 20:00 hours Mondays to Saturdays; and
09:00 hours – 17:00 hours Sundays, Bank and Public Holidays

Reason: In order to safeguard the vitality and viability of the shopping centre and ensure compliance with Policy TC17 of the Unitary Development Plan, 2006.

6. Site Description

- 6.1 The application property is a three storey commercial building located on the eastern side of Lee Road. The site is situated within the Blackheath Village District Centre, within Greenwich, although most of the Centre is within the London Borough of Lewisham. The building was formerly used as offices by the Army for recruitment purposes (Use Class B1) the property is currently vacant.
- 6.2 The area is characterised by a mix of residential and commercial uses within the District Centre and predominantly residential uses within nearby and surrounding streets.

7. Relevant Planning History

7.1 10/0847/F – Planning permission was granted, subject to condition, in September 2010 for the change of use from Armed Forces Recruitment Offices to Estate Agent and installation of a new shop front.

7.2 10/0848/A – Advertisement consent was approved in September 2010, in respect of the installation of non illuminated fascia and projecting sign.

8. Proposal

8.1 The proposal seeks to vary the planning condition (1) of the planning permission granted 18.09.2010 restricting the hours of the A2 use to 08:00 hours to 20:00 hours (Monday to Saturday only) to extend the hours by additional 09:00 hours to 17:00 hours on Sundays, bank and public holidays.

9. Consultation

9.1 The Council notified some 148 properties of the proposal and three objection have been received. The objections are raised on the grounds that:

- There is a saturation of estate agents in the village currently operating more hours resulting in additional parking demand in the area.

The site is located within a district centre, within a controlled parking zone with good public transport in the form of buses and train stations nearby.

Due to the scale of the development, its nature and it's location in a controlled parking zone with good public transport accessibility, it is considered that the proposal would not give rise to excessive parking demand in the area. Accordingly, there are no objections to the proposed development on highways grounds.

In terms of overconcentration of estate agents, the principle of the use of the premises for A2 (Estate Agent) Use Class has been agreed by the planning permission granted in September 2010 as such the use does not form a consideration for this current proposal.

The issues pertaining to parking for the A2 use was also addressed and given careful consideration in the officer's report to Members in September 2010. The parking consideration in the report to Members is as follow:

“The applicant has not provided parking within the development. The site is located within a controlled parking zone with good public transport in the form of buses and train stations nearby.

It is considered that, because of the scale of the development, its nature and its location in a District Centre with public transport accessibility, the proposal would not give rise to excessive parking demand in the area.

In view of the above, no objection is raised to the proposed development on highway grounds”

9.2 The Blackheath Society

Sunday trading is now a fact of life and since Foxtons operate a Sunday trading policy in its other premises across London, it would be difficult to object to this variation.

9.3 Greenwich Conservation Group

Given that another estate agents in Blackheath Village operates on Sundays and that many other retail premises are open on Sundays, the group recognise that Sunday trading is now a fact of life.

10. Policies

10.1 **Central Government Advice**

Central Government advice is contained in a range of government Circulars, Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPS). These are essentially general policies which aim to guide the local planning authority to securing good policies based on real and sound objectives and the need to provide high quality, well thought out developments which make a positive contribution to the locality and which help to protect or enhance the environment.

10.2 **PPSI Delivering Sustainable Development**

This document focuses on delivering sustainable development. It states that good planning is a positive and pro-active process in the public interest and through development control and plan preparation can achieve the right development in the right place at the right time. It points out that the certainty and predictability that the plan led system provides is central to integrating sustainable development objectives. Where the Development Plan contains relevant policies planning applications should be determined in line with the plan unless material considerations indicate otherwise. Sustainable development is the core principle underpinning this planning

policy statement. Its overarching sustainable definition is that “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” The six key principles state that development plans should ensure sustainable development in an integrated manner; that policies contribute to global sustainability and address the causes of climate change; that local planning authorities should take a spatial planning approach; should ensure high quality of design and reject those that are poor; policies should promote social inclusion and that there should be a key role of community involvement. The main aims are to achieve social cohesion and inclusion, protection and enhancement of the environment, prudent use of natural resources, sustainable economic development and integrating sustainable development in development plans. The key thrust of the document is to achieve sustainable development and ensure community involvement in the planning process. The primacy of the Development Plan remains.

10.3 **PPS4 Planning for Sustainable Economic Growth**

This document replaces Planning Policy Statement 6: Planning for Town Centres (PPS6) published on 21 March 2005. This document sets out planning policies for economic development.

The main uses to which the town centre policies in this PPS apply are:

1. retail development (including warehouse clubs and factory outlet centres)
2. leisure, entertainment facilities, and the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls)
3. offices, and
4. arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

10.4 **Circular 11/95**

This circular sets out Government Guidance on the use of planning conditions, including the use of conditions to grant planning permission. In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs sound and precise justification. The argument that a condition will do no harm is no justification for its imposition: as a matter of policy, a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in

dealing with applications for the removal of condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so.

Powers to vary or remove the effect of conditions is provided under Section 73 of the Town and Country Planning Act 1990, which provides for applications for planning permission to develop land without complying with conditions previously imposed on planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse application if they decide the original condition (s) should continue

10.5 **Development Plan Policy**

The Unitary Development Plan was adopted on the 20th July 2006. The new plan gives greater emphasis to town centres, design, sustainable transport and the Council's heritage. The plan outlines the Council's strategy for development and land use and is based on the three themes of equality/social inclusion, sustainable development and regeneration. The main policies relevant to this application are:-

- E1 Planning permission will normally not be granted where a proposed development or change of use would generally have a significant adverse effect on the amenities of adjacent occupiers or users.

- E4 The Council will seek to reduce nuisance caused by existing uses from the emissions of noise, fumes, dust, grit, smells, or vibration by:
 - i) Negotiating reduction of activity or installation of ameliorating measures.
 - ii) Encouraging relocation where appropriate.
 - iii) Refusing planning permission for consolidation or expansion of problem uses, or imposing conditions on permissions.
 - iv) Taking enforcement action where appropriate.

- TC17 The Council will seek to protect the overall viability of town centres by designating Core (Primary) and Fringe (Secondary) Shopping Frontages in major and district centres and by designating local centres in their entirety as Local Shopping Frontage. At ground floor level a minimum of 70% of Core Frontage and 50 % of Fringe and Local Frontage, should be available for A1 retail use.

M26 Parking standards for other developments to be determined on their merits.

11. Considerations

11.1 The main planning consideration is to determine the potential impact of increasing the opening hours of the estate agents use (A2) on the area.

11.2 The principle of the development was established by the planning permission granted in September 2010 for the change of use of the premises from Armed Forces Recruitment Offices to estate agents (Use Class A2). The proposal seeks to increase the opening hours of the A2 use to operate between the hours of 09:00 – 17:00 hours on Sundays, bank and public holidays, inclusive of the allowed hours of 08:00 to 20:00 hours Mondays to Saturdays.

11.3 The unit is currently occupied by the Foxtons estate agents who have submitted a statement confirming that the current opening hours of 08:00 to 20:00 hours (Monday to Saturday only) is contrary to Foxtons normal hours of operation and the commitment it makes to its customers and therefore needs to be varied in accordance with the operations of other Foxtons premises across London to enable the premises to open on Sundays, Bank and Public Holidays.

11.4 UDP Policy TC17 states that the Council will seek to protect the overall viability of town centres by designated Core (primary) Fringe (secondary) Shopping Frontages in major and district centres.

11.5 Policy E1 states that planning permission will not be granted where the use proposed would have a significant adverse effect on the amenities of adjacent occupiers. Policy E4 states that the Council will seek to reduce nuisance caused by existing uses from the emissions of noise, fumes, smells or vibration by requiring installation of ameliorating measures or taking enforcement action where appropriate.

11.6 Circular 11/95 sets out the Government Guidance on the use of planning conditions, including the use of conditions to grant planning permission. In considering whether a particular condition is necessary, authorities are advised to consider whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs sound and precise justification. The argument that a condition will do no harm is no justification for its imposition: as a matter of policy, a

condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so.

- 11.7 Powers to vary or remove the effect of conditions is provided under Section 73 of the Town and Country Planning Act 1990, which provides for applications for planning permission to develop land without complying with conditions previously imposed on planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse application if they decide the original condition (s) should continue.
- 11.8 In this instance, the proposed additional opening hours are considered to be acceptable within the district centre. The proposed Sunday, bank and public holiday trading would not be alien to the area and would be consistent with other operating hours within the centre. It is not considered that the proposed trading hours would harm the viability or vitality of the centre.
- 11.9 Whilst the application premises are located within a shopping centre characterised predominantly by commercial uses with some element of residential above. It is not considered that the extension of the opening hours as proposed would generate a significant level of disturbance to nearby occupiers that would be detrimental to their residential amenity. Moreover, the Council has powers to take enforcement action against business operators that generate nuisance to residents or seek appropriate mitigating measures to address matters

12. Highways and Parking

- 12.1 The issue of parking was thoroughly addressed in the committee report to Members in September 2010. The site is located within a controlled parking zone with good public transport in the form of buses and train stations nearby.
- 12.2 It is considered that, due to the scale of the development, its nature and it's location in a District Centre with good public transport accessibility, the increase in opening hours would not give rise to excessive parking demand in the area.

13. Implications for Disadvantaged Groups

13.1 There are no implications resulting to the disadvantage groups from this proposal.

14. Financial considerations

14.1 The application does not raise any specific financial considerations.

15. Conclusion

15.1 The proposal seeks to vary the opening hours as granted by condition 1 to allow the A2 use (Estate Agent) to operate on Sundays and Bank/Public holidays between 09:00 and 17:00 hours. It is considered that the proposed additional opening hours would be consistent with the opening hours within the centre and would not harm the viability or vitality of the centre.

15.2 Consequently the proposed development complies with relevant adopted Unitary Development Plan Policies and as such conditional approval is recommended.

Background Papers:

Unitary Development Plan – July 2006.
PPS1 Delivering Sustainable Development
PPS4 Planning for Sustainable Economic Growth
Circular 11/95

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