

HAPLIN ENGINEERING LTD
13 Longford Road
Middlesex
TW2 6EB

Application Ref: **2012/5441/P**
Please ask for: **Angela Ryan**
Telephone: 020 7974 **3236**

13 December 2012

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) Order 2010
Town and Country Planning (Applications) Regulations 1988

Full Planning Permission Refused

Address:
134 Charing Cross Road
London WC2H 0LA

Proposal:

Change of use from shop/internet cafe (Class A1) to Hot food Takeaway (Class A5) at basement and ground floors and installation of extract flue to rear elevation.

Drawing Nos: NB/2012/10 Rev A; Design and Access Statement dated 10th October 2012; Noise Impact Assessment by Clement Acoustics dated 3rd October 2012 (Ref: 7572-NIA-01)

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 1 The development would result in the unacceptable loss of a (use class A1) retail shop, exerting harmful impact upon the character, function, vitality and viability of the designated shopping frontage, contrary to policy CS7 (Promoting Camden's centres and shops) of the Core Strategy and policy DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses) of the Development Policies Development Plan Documents.



- 2 In the absence of sufficient information in regard to measures to control odour (such as the extraction and filtration system , grease filters are to be an integral part of the canopy, followed by course pre-filter, fine pre-filter and finally activated carbon filters) the applicant has failed to demonstrate that the proposed extraction system would not harm the amenity of surrounding occupiers and neighbours. The proposal is therefore considered to be to be contrary to Policies CS5 (Managing the impact of growth and development), CS9 (Achieving a successful Central London), DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (noise and vibration) of the Local Development Framework Core Strategy and Development Policies Development Plan Documents.

Informative(s):

1

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termination point. Due to the lack of information provided the Council is unable to assess whether or not the proposal would be harmful to existing amenity by virtue of potential cooking smells and fumes and as such this constitutes a further reason for refusal of the application.

Refuse Storage and Management

Refuse storage is proposed at basement level. However no information has been supplied in respect of refuse collection and servicing arrangements. In the absence of information in respect of refuse collection and servicing arrangements if the application were acceptable in all other respects then these issues would have been dealt with by means of an appropriate planning condition and informative.

Transport Issues:

The application site has been identified as having a Public Transport Accessibility Level (PTAL) of 6a (excellent). Therefore transport access to the proposed facility will be in accordance with policies DP18 and DP19 of the LDF.

CONCLUSION:

The proposed change of use from A1 (retail) to A5 (take away) would be contrary to the aims and objectives of LDF policies CS7, DP10 and DP12 and is considered to harm the function, vitality and viability of this designated shopping frontage. For the reasons mentioned in the report, it is considered that the proposal is unacceptable in principle.

The development would not result in any harm to the character and appearance of the street scene.

Concerns are raised in respect of the impact of the extract duct in terms of visual amenity, and cooking smells and fumes. In the absence of a robust scheme to facilitate the levels of odour control, and potential noise nuisance at unsociable hours it is considered that unacceptable harm would arise to the amenities of neighbouring occupiers located above the shop unit, contrary to policy DP28.

The proposal is considered acceptable in terms of highway / parking issues. Servicing and refuse arrangements can be secured by means of appropriate conditions.

RECOMMENDATION: Refuse planning permission.

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Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	28	No. of responses	4	No. of objections	4
			No. electronic	3		
Summary of consultation responses:	<p>A site notice was displayed on 02/11/2012, expiring on 23/11/2012 and a public notice published in the local press on 15/11/2012, expiring on 06/12/2012. Four objections have been received from the occupiers of flat nos. 8, 9, 12 and 16 Shaldon Mansions which is located directly above the application site. A summary of the objections are as follows:</p> <p><u>Design:</u></p> <ul style="list-style-type: none"> - The development would not enhance the building's external appearance <p><u>Amenity:</u></p> <ul style="list-style-type: none"> - Noise nuisance at unsociable hours -Anti-social behaviour -Increased noise levels by virtue of the proposed flue. Noise is already being experienced by virtue of an existing extract duct located to the rear of the site - Cooking smells -Litter pollution - Loss of light - Visual amenity 					
CAAC/Local groups* comments: *Please Specify	<p>Convent Garden Community Association: Were formally consulted and raise objections on the following grounds:</p> <ul style="list-style-type: none"> -Increased level of noise - Area unsuitable for late-opening premises due to residential developments within the locality 					

Site Description

The site comprises a single storey and basement shop unit with a 7 storey residential block of flats situated above. The shop is currently occupied. It lies within a group of buildings with commercial uses located on the ground floor and residential above. There is no particular consistency of building age, type or design along this part of Charing Cross Road, although Shaldon Mansions (126-136 Charing Cross Road) and nos. 122-124 Charing Cross Road form a red-brick and stone "frame" which provides a handsome gateway into Denmark Street. Shaldon Mansions is one of the most distinctive buildings here, and comprises shops at ground floor level with residential accommodation above. It is built of red brick with stone embellishment and a distinctive, tall stepped gable detail on the main elevation.

This part of Charing Cross Road lies within the Central London Area within a designated Central London Frontage, located on the east side between Charing Cross Road and Shaftesbury Avenue. There are 21 units located within the frontage (11 of them being retail units).

The site is not listed but lies within the Denmark Street Conservation Area. Whilst the shop unit is not identified as a positive contributor, the mansion block situated above (Shaldon Mansions) located at nos.126-136 Charing Cross Road has been identified as making a positive contribution to the character and appearance of the Denmark Street Conservation Area.

Though described on the application form and plans as a café, the existing use is accurately described as a shop and internet café.

Relevant History

134 Charing Cross Road:

10/08/1967- Permission granted for the installation of a new shopfront at No.134, Charing Cross Road, Camden. (P13/6/3/4012)

45 New Oxford Street:

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47 Endell Street:

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Relevant policies

LDF Core Strategy and Development Policies

Core strategy:

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centres and shops)

CS11 (Promoting sustainable and efficient travel)

CS14 (Promoting high quality places and conserving our heritage)

CS18 (Dealing with our waste and encouraging recycling)

Development policies:

DP10 (Helping and promoting small independent shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

seeks to protect small shop units such as the one subject of this application. Paragraph 15.22 of the Revised Planning Guidance for Central London (adopted 4/10/2007) stipulates that whilst the retail function is not as significant in terms of their size of number as the Tottenham Court Road/New Oxford Street area, the uses do support other concentrations of specialist book and music shop uses in Charing Cross Road and Denmark Street. Paragraphs 15.22 and 15.23 further goes on to say that this part of Central London Frontage has the potential to accommodate some additional non-retail uses provided that the overall level of retail use does not fall below two third (66%) of uses on the frontage. A site visit ascertained that there are 22 units located within this particular shopping frontage (spanning from 123 Shaftesbury Avenue to 136 Charing Cross Road), where it has been ascertained

Address Charing Cross Road	86-90 – including 113-115 Shaftesbury Avenue	90	92	94	96	98- 100	1 0 2	104	106	108	110	112- 112	114- 116	118	120 - 124	12 6	128
Use Class	A3	A3	A1	A1	A4	A1	A 1	A1	A3	A1	Vacant unit	Sui gen eris	A3	B1	A1	A1	A1

that 14 of these are in retail use, therefore providing 63% of retail within the shopping frontage, which is currently below the Council's requirement. If the change of use were to be allowed this would further erode the retail use along the frontage to 59% which would be contrary to the Revised Planning Guidance. See table below:

Address Charing Cross Road	130	134	136
Use Class	A3	A1	A1

Address Shaftesbury Avenue	117	119	121	123
Use Class	A3	A1	A1	A1

The proposal would therefore be contrary to policy as the proposal would result in the retail uses within this designated shopping frontage being below the recommended quota.

However, the assessment should not be based solely on the figures alone. Consideration has also been given to the fact that an A5 use may be considered appropriate within the location as it would be likely to attract both dedicated customers and those on more general shopping trips, displaying similar characteristics to most A1 uses in terms of general activity and expenditure levels. Notwithstanding this, the retail unit is still operational and has not been vacant at any time during the course of the application. A site visit ascertained that the retail unit is occupied as an internet shop and café. Whilst the applicant has provided evidence to show that his particular business is not doing well, no clear evidence has been provided in respect of the viability of the unit for continued A1 use at the application site. Due to the lack of clear evidence to show that the unit is not viable for continued A1 use, it is clear that the 'need' for such a unit has not been explored. Marketing evidence for the property should be submitted if the A1 use is considered to be no longer viable.

In light of the proposal being contrary to policy and the lack of evidence to demonstrate why a breach of policy should be justified, it is considered that the proposal is unacceptable in its current form. The proposal is therefore considered to be unacceptable and contrary to Policies CS7, DP10 and DP12 of Camden's LDF.

Impact on the character and appearance of the host building and conservation area:

The submitted plans do not show any changes to the existing front elevation. An extract duct is proposed at the rear of the building rising all the way up from ground floor level to roof level. Given that the flue would not be seen from the street it is considered that no harm would be caused to the character and appearance of the conservation area and no perceived harm will be caused to the character and appearance of the host building.

Amenity:

With regard to the impact upon neighbouring properties consideration must be given to potential

implications in terms of operating hours and noise and disturbance, particularly in view of the fact that some residential properties are located on the upper floors of the of the application site. Policies CS5, DP12, DP26 and DP28 are applicable in this respect.

The application site is located within the Central London Area where a certain level of activity and associated noise is to be expected. Although a fast food takeaway, such as the proposed use is more suitably located within areas of this nature, the residential premises located above would need to form part of the consideration. The proposed hours of operation will be between 9am to 11:30pm Monday to Friday, and on Saturday and between 10am and 8pm on Sunday. These hours of operation are such that the Council would normally allow within the Central London Area. However, there is an existing hot food takeaway shop and mini-cab office located within close proximity to the application site at no. 130 Charing Cross Road with only the residential entrance accessing Shaldon Mansions (located above the application site) separating the two shops units. It should be noted that the existing use for a hot food takeaway shop at no.130 Charing Cross Road appears to be unauthorised and is currently under investigation. If the existing use at no. 130 Charing Cross Road were to be deemed lawful then it is considered that the cumulative impact of the two A5 uses in close proximity to each other would be harmful as objections/complaints have already been received in respect of the existing use. If the existing use at no 130 Charing Cross Road is not lawful it is considered that it permission were to be granted for the proposed use then it would be likely to have a detrimental impact on residential amenity by virtue of the creation of noise nuisance at unsociable hours, and by the emission of cooking smells and fumes. It should be noted that the Council has received complaints in respect of the existing A5 use located at no. 130 Charing Cross Road.

The proposed flue would be situated very close (0.4m away) to the rear windows (located in the existing lightwell) serving the residential accommodation located above the application site. At the site visit it could not be ascertained what the windows located to the north of the flue served; although it was established that the windows to the south of the flue served an existing staircase. As such the Council was unable to assess whether the flue would have any detrimental impact upon visual amenity for the existing occupiers of the residential block located above the application site.

There is an existing flue located within the lightwell which serves the existing hot food take-away shop located at no 130 Charing Cross Road, which the applicant also owns. It should be noted that the existing use and the installation of this flue appears to be unauthorised and enforcement action has been instigated. Objections have been received in regards to noise nuisance at unsociable hours, noise coming from the exiting flue at the rear, anti-social behaviour and litter pollution.

Development policy DP26 states the Council will only grant permission for development that does not causes harm to amenity. This is further supported by core strategy policy CS5 which seeks to protect the amenity of Camden's residents and those working and visiting the borough.

The fan/motor unit is to be installed so that the noise/vibration is transmitted either through the ducting or fabric; anti-vibration mountings and flexible connectors are to be used throughout. In terms of noise, the acoustic report theoretically demonstrates that the Council's noise criteria can be met and therefore no issues are raised in terms of noise.

The proposed extract fan is located within the duct work located within the kitchen café area. However, insufficient information has been provided in respect of an odour control scheme (such as the extraction and filtration system, grease filters are to be an integral part of the canopy, followed by coarse pre-filter, fine pre-filter and finally activated carbon filters). Given that a complaint has been lodged in respect of the existing use at the owner's other premises located at no.130 Charing Cross Road it is considered imperative that this information is provided.

There is no detailed plan or drawing showing the location of the fans from the extract hood all the way to the external termination point. Typically, the end of the extract ventilation system duct should terminate at least 1m above the eaves of the roof and shall be straight and without a hood on. The plan as submitted does not show the height of the neighbouring adjoining property or the type of

termination point. Due to the lack of information provided the Council is unable to assess whether or not the proposal would be harmful to existing amenity by virtue of potential cooking smells and fumes and as such this constitutes a further reason for refusal of the application.

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CONCLUSION:

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RECOMMENDATION: Refuse planning permission.

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Delegated Report		Analysis sheet		Expiry Date:	14/12/2012
		N/A / attached		Consultation Expiry Date:	06/12/2012
Officer			Application Number(s)		
Angela Ryan			2012/5441/P		
Application Address			Drawing Numbers		
134 Charing Cross Road London WC2H 0LA					
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
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Recommendation(s):		Refuse Planning permission			
Application Type:		Full Planning Permission			

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Impact on the character and appearance of the host building and conservation area:

The submitted plans do not show any changes to the existing front elevation. An extract duct is proposed at the rear of the building rising all the way up from ground floor level to roof level. Given that the flue would not be seen from the street it is considered that no harm would be caused to the character and appearance of the conservation area and no perceived harm will be caused to the character and appearance of the host building.

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Relevant policies

LDF Core Strategy and Development Policies

Core strategy:

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CS7 (Promoting Camden's centres and shops)

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CS14 (Promoting high quality places and conserving our heritage)

CS18 (Dealing with our waste and encouraging recycling)

Development policies:

DP10 (Helping and promoting small independent shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

DP18 (Parking standards and limiting the availability of parking)
DP19 (Managing the impact of parking)
DP24 (Securing high quality design)
DP25 (Conserving Camden's Heritage)
DP26 (Managing the impact of development on occupiers and neighbours)
DP28 (Noise and vibration)

Camden Planning Guidance (2011)

CPG1-Design: chapters 1, 2, 4 and 11

CPG6- Amenity: Chapter 4

Denmark Street Conservation Area Appraisal and Management Statement 2010

Revised Planning Guidance for Central London-Food, Drink and Entertainment, Specialist and Retail uses (2007)

London Plan 2011:

4.7 (Retail and Town Centre Development)

4.8 (Supporting a Successful and Diverse Retail Sector)

National Planning Policy Framework 2012

Assessment

Proposal:

This proposal relates to a small shop unit located on Charring Cross Road. Permission is sought for a change of use from retail (Class A1) to a hot food takeaway (Class A5). The proposed internal layout comprises of a primary cooking and counter area located at ground floor level, and a seating area, wc, and waste storage areas located at basement level.

The plans submitted do not show any proposed changes to the existing shopfront, however, an extract duct is proposed to be erected at the rear of the site rising from ground floor level to roof level.

It is proposed to employ 6 full time staff and 6 part time members of staff. Opening hours are proposed to be between 9am to 11:30pm Monday to Friday, and on Saturday and between 10am and 8pm on Sundays, and no opening proposed on bank holidays.

No details have been provided in respect of loading/unloading and servicing arrangements.

The issues to therefore consider are:

- Principle of the Land use
- Impact on the character and appearance of the host building and conservation area
- Amenity
- Refuse storage and management
- Transport

Principle of the land use:

The proposed change of use would result in the loss of an existing retail shop (a café not falling within the A3 use class) and the introduction of a new food and drink use to provide a fast-food takeaway.

Policies CS7 and DP12 of Camden's LDF seeks to ensure that development does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. There is a general presumption in favour of locating food, drink and entertainment uses, such as the one proposed, within central locations on the basis that they are most appropriately located in commercial areas to minimise their impact on residential amenity. This is further supported by the '*Revised Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses*' document (October 2007).

The site is located within the Central London Area and also within a defined Central London Frontage. Policy DP10 of the Development Policies document of Camden's LDF (adopted in November 2011)

DP18 (Parking standards and limiting the availability of parking)
DP19 (Managing the impact of parking)
DP24 (Securing high quality design)
DP25 (Conserving Camden's Heritage)
DP26 (Managing the impact of development on occupiers and neighbours)
DP28 (Noise and vibration)

Camden Planning Guidance (2011)

CPG1-Design: chapters 1, 2, 4 and 11

CPG6- Amenity: Chapter 4

Denmark Street Conservation Area Appraisal and Management Statement 2010

Revised Planning Guidance for Central London-Food, Drink and Entertainment, Specialist and Retail uses (2007)

London Plan 2011:

4.7 (Retail and Town Centre Development)

4.8 (Supporting a Successful and Diverse Retail Sector)

National Planning Policy Framework 2012

Assessment

Proposal:

This proposal relates to a small shop unit located on Charring Cross Road. Permission is sought for a change of use from retail (Class A1) to a hot food takeaway (Class A5). The proposed internal layout comprises of a primary cooking and counter area located at ground floor level, and a seating area, wc, and waste storage areas located at basement level.

The plans submitted do not show any proposed changes to the existing shopfront, however, an extract duct is proposed to be erected at the rear of the site rising from ground floor level to roof level.

It is proposed to employ 6 full time staff and 6 part time members of staff. Opening hours are proposed to be between 9am to 11:30pm Monday to Friday, and on Saturday and between 10am and 8pm on Sundays, and no opening proposed on bank holidays.

No details have been provided in respect of loading/unloading and servicing arrangements.

The issues to therefore consider are:

- Principle of the Land use
- Impact on the character and appearance of the host building and conservation area
- Amenity
- Refuse storage and management
- Transport

Principle of the land use:

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Policies CS7 and DP12 of Camden's LDF seeks to ensure that development does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. There is a general presumption in favour of locating food, drink and entertainment uses, such as the one proposed, within central locations on the basis that they are most appropriately located in commercial areas to minimise their impact on residential amenity. This is further supported by the '*Revised Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses*' document (October 2007).

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Liliane Businge

From: Tampin, Clare [Clare.Tampin@camden.gov.uk]
Sent: 10 April 2013 09:31
To: 'lbusinge@freemansolicitors.com'
Subject: Planning Enforcement - 130 Charing Cross Road (EN12/0997)

Dear Lillian,

Further to our phone conversation with regards to 130 Charing Cross Road, please find attached letter sent to the owner/occupier in January.

I look forward to hearing from yourselves or the owner as to how you wish to proceed.

Please note that non compliance with my request may lead to enforcement action. This may result in the service of an enforcement notice; failure to comply can lead to prosecution.

In the meantime if you need any assistance or if there are any further developments then please contact me or for information in relation to our policy please visit www.camden.gov.uk/planning

Kind regards

Clare Tampin
Planning Officer
Appeals and Enforcement

Telephone: 020 7974 7839

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