

<b>Address:</b>	25-27 Farringdon Road London EC1M 3HA		
<b>Application Number:</b>	2009/3368/P	<b>Officer: Jonathan Markwell</b>	
<b>Ward:</b>	Holborn & Covent Garden		
<b>Date Received:</b>	13/07/2009		
<b>Proposal:</b> Change of use of basement floor level and part of ground floor level from restaurant and bar (Class A3 and A4) to restaurant and hot food takeaway (Class A3 and A5).			
<b>Drawing Numbers:</b> Site Location Plan; KFC/SME/2009/Far-GF; KFC/SME/2009/Far-bsmnt; KFC/SME/2009/Far-3; KFC/SME/2009/Far-1GF; KFC/SME/2009/Far-2.			
<b>RECOMMENDATION SUMMARY:</b>			
<b>Applicant:</b>		<b>Agent:</b>	
SME (Hammersmith) Ltd.		Cliff Walsingham & Company Bourne House Cores End Road Bourne End Bucks SL8 5AR	

### ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A3 Restaurants and Cafes A4 Drinking Establishments		670m <sup>2</sup>
Proposed	A3 Restaurants and Cafes A5 Hot Food Takeaways		670m <sup>2</sup>

## **OFFICERS' REPORT**

**Reason for Referral to Committee:**     **The Director of Culture and Environment has referred the application for consideration as it involves the change of use to create a new Class A5 use [Clause 3 (iv)]**

**This application was deferred from the last Committee on 17<sup>th</sup> December due to lack of time. The report has been further revised, particularly in paras 2.3, 6.4, 6.5, 6.8 and 6.9 to clarify certain matters following representations made by residents.**

### **1.     SITE**

- 1.1     The application site comprises the basement floor and part of the ground floor of a six-storey Grade II listed building located on the west side of Farringdon Road at the junction with Greville Street / Cowcross Street (to the north). The application building is one of four buildings on the four corners of the junction; the remaining three are post-war buildings. The application site also fronts on to the east side of Saffron Hill; however the main frontage is on the Farringdon Road / Greville Street juncture. The upper floors of the building are in residential use, having been granted planning permission to be converted into 41 self-contained flats in 1997 (see relevant history section below). At present the basement and part of the ground floor to which this application relates (the whole of the ground floor barring the lobby area for the residential uses above) is vacant, having been most recently been used as a restaurant/bar after being granted planning permission for a Class A3 use in 1997 (see relevant history section below).
- 1.2     The application building is in a Venetian Gothic style and was originally built as workshops in 1873-4. It was designed by Harding and Bond for Bradbury Wilkinson & Co (engravers for printing bank notes). The elevations of the building are in polychromatic brick in yellow, red and black with stone facing to ground floor and stone dressings. There is a recessed corner bay on the junction of Farringdon Road with Greville Street at ground floor level. From this point towards Saffron Hill the land rises gradually, with the ground floor windows on Greville Street decreasing in size in line with land levels at this point.
- 1.3     The surrounding area comprises a mix of uses, largely commercial or residential in nature. Opposite the application site to the north on the Farringdon Road/Greville Street/Cowcross Street crossroad junction is the Sir John Oldcastle public house at ground floor level. At basement floor level of this building is a nightclub (Sui Generis) and above ground floor level is office accommodation (Class B1 known as Farringdon Point) and 14 residential flats (known as City View Apartments, 29 Saffron Hill – as granted permission in 2006 by application 2006/1368/P).
- 1.4     Farringdon Road forms the Borough boundary with LB Islington. The east side of Farringdon Road opposite the application site is currently under development as part of the Crossrail project associated with Farringdon Station (100m to the east of the application site within LB Islington). Up until 1<sup>st</sup> June 2009 KFC had operated from the corner site of Farringdon Road / Cowcross Street. The premises were however compulsory purchased as part of the Crossrail project; the applicant has

indicated that KFC operated from these premises opposite the application site for in excess of 20 years. The applicant has also noted that KFC's opening hours at these premises were 07:00 to 23:00 on Mondays, Tuesday, Wednesday, Saturday and Sunday and 07:00 to 01:00 on Thursday and Fridays.

- 1.5 To the south of the application site is an eight storey building (17-23 Farringdon Road) which, like the application building, extends west through to Saffron Hill. The building is in use as a Sainsbury's Local store (Class A1) at ground floor, with the head offices of Esprit (Class B1) located on the upper floors. On the four most upper floors of the building are 14 self-contained residential units, as granted permission in 2004 (2004/2952/P). These residential units are known as 28 Saffron Hill, with access exclusively from Saffron Hill. Primary access for Sainsbury's Local and the Esprit offices are on Farringdon Road. To the west of the application site is a six-storey (including basement) office building (Class B1) at 24 Greville Street, located on the junction with Saffron Hill.
- 1.6 The application site is within the Hatton Garden Conservation Area and this part of Farringdon Road is a Transport for London Road Network (TLRN) road. The site is within the Central London Area, but is not within a designated Central London Frontage, Town Centre or Neighbourhood Centre.

## **2. THE PROPOSAL**

- 2.1 Planning permission is sought for the change of use of the basement and part of the ground floor of the building from mixed Class A3 (Restaurant/café) and A4 (Drinking establishment) to mixed Class A3 (Restaurant/café) and Class A5 (Hot food takeaway). The applicant has indicated that the intended operator is Kentucky Fried Chicken (KFC), with the applicant operating the premises under a franchisee agreement. The applicant has indicated that there are over 700 KFC's across the United Kingdom and Ireland. It is anticipated that seating will be provided for 158 customers (with a mix of tables, chairs and stools) from the existing servery at ground floor level; purchases will also be able to be consumed off-site as part of a take away service. At basement floor level are toilet facilities, a waste and recyclable storage area and staff room. The KFC operation here is intended to replace the previous KFC one opposite (see para 1.4 above) and operate for the same hours as before, namely from 07:00 to 23:00 on Saturdays to Wednesdays and 07:00 to 01:00 on Thursday and Fridays
- 2.2 For clarification, this application is solely for the change of use of the premises. It does not seek to make any internal alterations and hence listed building consent is not required in this instance. In addition, this application does not seek permission for advertisements in association with the proposed use. The applicant has indicated that applications for advertisement consent and listed building consent will be submitted at a later date.

### Revisions

- 2.3 During the course of the application the applicant has indicated an area at basement floor level where the waste and recycling facilities will be provided for the proposed operator and detailed that deliveries will be via the Saffron Hill entrance.

The applicant has also revised the proposed opening hours of the premises and confirmed details regarding customer access arrangements for the proposed operator through existing points on Farringdon Road and the junction of Farringdon Road and Greville Street. It has also been confirmed that the applicant operated from opposite the application site at 48 Cowcross Street for 20 years until earlier this year and has over 25 years experience operating KFC's. Following new information received from the residents, the applicant has confirmed that they have served notice, as required by Certificate B of the application, on the correct freeholders, Peverel Properties Ltd.

### **3. RELEVANT HISTORY**

- 3.1 PS9604287 - Change of use of part of the ground floor and the basement from business use to uses falling within Class A3 of the Town and Country Planning (Use Classes) Order 1987, including the reinstatement of an access door. Granted Planning Permission 06/06/1997.
- 3.2 LS9604288 - Alterations in connection with the use of part of the ground floor and the basement for Class A3 uses. Granted Listed Building Consent 06/06/1997.
- 3.3 PS9604289 - Change of use of part of the ground floor and the basement from business use to uses falling within Class A3 of the Town and Country Planning (Use Classes) Order 1987, including the reinstatement of an access door. Granted Planning Permission 06/06/1997.
- 3.4 LS9604290 - Alterations in connection with the use of part of the ground floor and the basement for Class A3 uses. Granted listed building consent 06/06/1997.
- 3.5 PS9604283R2 - Change of use of part of the ground floor and the first to seventh floors, including works of conversion and a roof extension from business use to forty-one self-contained flats. Granted Planning Permission 10/09/1997.
- 3.6 LS9604284R2 - Alterations and extensions in connection with the conversion of part of the ground floor and the first to seventh floors to form forty-one self-contained flats. Granted Listed Building Consent 10/09/1997.
- 3.7 PS9704633 - Variation of additional Condition 2 of planning permission dated 6th June 1997 (Reg.no.PS9604287) to also allow the permitted use between the hours of 9.00 and 23.00 on Sundays and Bank Holidays. Granted Planning Permission 09/10/1997.
- 3.8 PS9705327R2 - New entrance doors to Farringdon Road elevation, proposed new ground floor windows to Farringdon Road and Greville Street. Granted Planning Permission 23/07/1998.
- 3.9 LS9705328R2 - New entrance doors to Farringdon Road elevation, proposed new ground floor windows to Farringdon Road and Greville Street. Granted Listed Building Consent 23/07/1998.

- 3.10 AS9705329R2 - Display of 2 externally illuminated projecting signs on the Farringdon Road elevation and 1 externally illuminated sign at the corner of Greville St and Farringdon Road, together with the display of 3 internally illuminated menu display boards. Granted Advertisement Consent 23/07/1998.

#### 4. **CONSULTATIONS**

##### **Statutory Consultees**

- 4.1 London Borough of Islington was formally consulted on the application. LB Islington has confirmed that they do not wish to make any observations on the proposed application.
- 4.2 City of Westminster was also formally consulted. Again, the City Council has considered the proposals and decided it does not wish to comment on the proposals.

##### **Local Groups**

- 4.3 25-27 Farringdon Road Residents Association (FRRA) objects to the application. FRRA's submission includes a petition signed by 73 objectors. This includes all 41 flats at 25-27 Farringdon Road and includes 71 members of FRRA and two visitors to the building. The petition states an objection to the proposed KFC application and support for letter from FRRA. A summary of the issues raised in the written submission by FRRA, on behalf of the owners and tenants of the building, are as follows:

- Proposed change of use to Class A5 will cause increased nuisance to residents and other users of the local area.
- Harm to the character, amenity, function, vitality and viability of the area – more specifically the takeaway use is completely inappropriate for a landmark building located at a primary gateway to the Hatton Garden Conservation Area (where it is considered that the proposed KFC would neither preserve or enhance the character and appearance of the area) and the takeaway use is “completely inappropriate for a Grade II listed building” which acts as a gateway into the area (and increasingly so in the future with ongoing Thameslink and Crossrail works).
- Disturbance to residents within the flats above owing to the proposed use of the entrance next to the existing residential entrance on the junction of Farringdon Road and Greville Street and the extended operating hours, causing late night nuisance. More specially regarding the entrance point, it is clarified that the previous restaurant/bar use did not materially affect residents of the flats above, but a takeaway use will, with concerns over persons lingering at this point, safety of residents, threat of tailgating into the residential building and subsequent threat of burglary and personal attack. With regard to the opening hours, the late night hours are “presumably to service a market comprising inebriated customers on their way home from the pub or possibly on their way to late night clubs in the neighbourhood”, while the early morning customers are

“presumably to attract a post-clubbing crowd. In our experience most of these customers tend to be tired, confused and disorientated”.

- Negative pedestrian and traffic implications owing to customers lingering on the street outside the entrance (exacerbating pedestrian congestion which will worsen in future with Thameslink and Crossrail) and the use encouraging “unnecessary pedestrian movement across a busy red route and risk creating unnecessary vehicular congestion”.
- Proposed use will lead to an increase in public nuisance in the area, including: increased litter, encouraging drunks to linger in the area for longer (causing problems such as noise, threatening behaviour and public urination), cause drug-dealers to relocate their activities outside the building (stated that they previously operating at the traffic lights outside the former KFC) which “is already suffering from illegal taxi touts and pimping activities for prostitution” and lead to the reappearance of beggars within the external porch area.
- Absence of local parks/appropriate locations to consume takeaways makes this “an inappropriate location for such a high volume operation”.
- Emission of fumes and associated ventilation problems with proposed operator, exacerbated by existing design (and listing) of building; subsequent impact on nearby residents. This is also partly due to past experiences with the proposed operator at a site opposite the application site, where the proposed operator previously “caused detriment to the enjoyment of local residents by failing to deal with problems they brought to the area”. These problems were considered to be due to a combination of being either deliberate, inadvertent or incompetence on behalf of the operators. The information provided by the applicant (stating that existing plant will be used) is not considered to be appropriate given the difference in the proposed uses.
- Health and safety concerns over proposed storage of oil waste for 2-3 weeks on site (fire risk) and inadequacy of waste disposal (subsequent issues with rodents and other pests).
- Subsequent applications in the future for signage/shopfront associated with the KFC corporate image would not be compatible for the image of the “grade II listed building standing at the entrance to a Conservation Area”.

## **Local Councillors**

4.4 Councillor Fulbrook objects to the application. A summary of the issues raised are as follows:

- Nuisance caused to residents by the entrance of the proposed KFC being next to the residential entrance. There were limited nuisances previously when occupied by Babushka, but “anyone who has seen the scrimmaging immediate outside Kentucky Fried Chicken Fast Food premises will be aghast”.
- Concern over issues of public order and public safety – “the current waste disposal system does not appear only just adequate, and clearly could not take the overload from a KFC establishment.
- More specifically on public order, concern is raised over “the very lengthy proposed hours of operation”.

- More specifically on public safety, there is potential for waste and delivery trucks to block the highway on Saffron Hill – which could compromise the security of nearby jewellery and diamond businesses located at this point (threat of armed robbery and subsequent safety implications for passers by and the area as a whole).

### Adjoining Occupiers

<i>Number of letters sent</i>	81
<i>Total number of responses received</i>	42
<i>Number of electronic responses</i>	24
<i>Number in support</i>	0
<i>Number of objections</i>	38

- 4.5 In addition to the adjoining occupiers being formally consulted, site notices were erected on Farringdon Road, Greville Street and Saffron Hill on 12/10/2009, expiring on 02/11/2009. A total of 38 separate objections were received from neighbouring occupiers (or those with an interest in these buildings). For clarity, this number of objections does not include the petition referred to above.
- 4.6 These objections have been received from the following occupiers: 25-27 Farringdon Road - Flat 2, 3 (two objections from separate occupiers of this flat), 5, 6 (two objections from separate occupiers of this flat), 7, 8, 9, 10 (two objections from separate occupiers of this flat), 12, 15, 18, 388 Anchor House, Smugglers Way, London, SW18 1EN (owner of Flat 18), 19, 20 (three submissions, including 2 about level of public consultation), JMW Consultancy, 27a Twyford Avenue, W3 9PY (On behalf of leaseholder of Flat 21), 25, 26, 47 East Witton, Nr Leyburn, North Yorkshire, DL8 4SL (owners of Flat 27), 32, 21 Broadlands Road, N6 4AE (owner of Flat 32 – two separate submissions), 33, 34, 37, 38, (two objections from separate occupiers of this flat), Buckingham Gate Properties Ltd (leaseholder owners of Flat 39, 25-27 – two separate submissions) and Marlborough House, Wigmore Lane, Luton (managing agents of No. 25-27 Farringdon Road). 28 Saffron Hill – Flat 8, 14. City View Apartments, 29a Saffron Hill – Flat 1, 4, 7, 8, 9&10, 11.
- 4.7 A summary of the issues raised by these objections are as follows:
- Objection to the principle of a take-away operation (A5 use) at this site. The proposed use is inappropriate and will cause harm to the character, amenity, function, vitality and viability of the area and detrimentally impact on the quality of life of nearby residential occupiers.
  - Detrimental impact on the image of the building (which is primarily in residential use) and area – A take-away use is inappropriate for a historic “landmark Grade II listed building... located at a primary gateway to Hatton Garden Conservation Area” and “will create an eyesore”. Other objectors note with reference to the site being a gateway for the conservation area that the site will increasingly become an important focal point in the future for locals and visitors owing to the Thameslink and Crossrail developments at Farringdon Station.
  - Increase in traffic and vehicular and pedestrian congestion in the local area (Farringdon Road / Greville Street / Saffron Hill), leading to road/pedestrian

safety concerns, particular on the red route Farringdon Road owing to cars stopping outside the premises.

- Increase in noise and nuisance to nearby residential occupiers from proposed use (especially late at night owing to proposed opening hours) and waste disposal. With regards to noise nuisance, one objector notes that the noise nuisance includes “taxi touts and pimps who operate directly underneath our windows” (See below for further noise/disturbance concerns). Noise is also raised to be an issue with the previous occupier at the application site. Further, noise from the previously located KFC close to the application site is raised as a previous issue for residents prior to it closing. These impacts will only worsen with the proposed occupier.
- “Unacceptable increase in servicing required in an already difficult location” - Insufficient refuse facilities are proposed and no clear details are outlined as to how or where the waste produced by the takeaway use will be stored. Concerns over waste being disposed onto nearby Saffron Hill, with subsequent rodent issues. It was also noted that, when occupying the opposite site, KFC were lacking in clearing up the local area of their detritus, ineffective with ventilation mechanisms (re pollution/smells) and lacking in reducing noise from deliveries – such an approach taking place at this site is unacceptable for the amenity of local residents.
- Related to this, with reference to perceived litter from customers, it is considered that “The scope to provide additional rubbish bins immediately next to 25-27 Farringdon Road is extremely limited given the narrow width of the pavement and heavy pedestrian use”. Concern that litter will be dropped into nearby residential properties and subsequent waste/rodent issues.
- Existing ventilation system is not considered to be adequate for the requirements of the proposed operator. A number of objectors note there to be issues with the building’s present ventilation system “which allows in air from the roof on windy days and sucking in odours from outside”. This will be exacerbated with the proposed use impact both on occupiers within the host building and neighbouring buildings, such as those at No. 28 Saffron Hill. A number of objectors note that this was an issue for them where KFC previously operated from across the road and will thus worsen as a result of the proposed location.
- Increased cleaning and pest control duties for nearby residential occupiers given the proposed use and operation of the basement and ground floors (and waste disposal in surrounding streets) will be likely to increase the rodent population in the area.
- Health and safety concerns and increased building insurance costs due to the level of oil being stored on site (for such periods of time) and the extensive amount/time of cooking from deep fat fryers taking place. Another objector notes that the fire exits for the building are located next to where fires are most likely to occur. One objector is noted to be allergic to fat/oil. Further, one objector notes the increase in premiums and contents insurance for the flats above owing to the proposed use.
- Security issues for nearby residential occupiers owing to loitering of customers in the area, especially the doorway adjacent to the entrance to the residential flats above. More specifically, conflict between the non-residential and residential entrances to the building being located alongside one another, causing nuisance and threat of tailgating into the residential block of flats above



(also congregation of customers, pimps, taxi-touts, drunks, beggars and those smoking at this point leading to anti-social / criminal behaviour. Subsequent safety/security/fear of crime implications for nearby residents when entering their properties, especially at night). Suggestion that the non-residential entrance should be relocated along Farringdon Road instead. In addition, increased fear of opportunistic crime at residential properties above owing to closeness of entrances allowing opportunities for people to get into the building, "The statement that 'access to the upper floors will be unaffected' is manifestly wrong". With regard to taxi touts, the proposed use is suggested to provide more clientele for illegal taxi touts in the local area and provide more cover for this operation. Other objectors note the proposed use will encourage drunks to congregate and add to existing problems of the "sex trade pimps operation on the corner outside the building most evenings", with another stating "I fear the KFC will increase the potential client base for these pimps".

- Requested extension to the existing permitted opening hours of the building are wholly unacceptable for nearby residents, with the area becoming a "magnet for late night visitors"... "Simply adding amenities to support these activities is incompatible with the mainly residential nature of the property". Further objections note that the increase in opening hours to that consented for the A3 use "will have a significant effect on the amenity of residents and character of the area".
- Noise and congestion implications from delivery vehicles and waste collection for the proposed use on local residents and those using the nearby roads.
- Increased use of Saffron Hill and other nearby streets being used as a public urinal by late night customers.
- Claim that the proposed change of use should be refused on the basis of the sequential test – alternative sites within Central London Frontages or Town Centres should have been considered and the proposal is thus contrary to UDP policy R1B.
- View that there are already a sufficient number of such venues in the area; there is no need for another such use in the area.
- Objection to the KFC will help other venues in the area (which it is considered should cease to exist – namely The Sir John Oldcastle public house and Venus nightclub).
- Preference for "a quality restaurant or establishment to open at 25-27 Farringdon Road" rather than the proposed KFC.
- Health implications - The proposed use encourages obesity "it is unusual Camden Council is allowing KFC to open more premises when the Government is encouraging healthy eating".
- "The absence of local parks or anywhere to consume the takeaways purchased makes this an inappropriate location for such a high volume operation"
- The KFC fascia and projecting signs is inconsistent with the building's façade and the Hatton Garden Conservation Area. Another objector denotes "the installation of the company's corporate signage [is] something that is highly unlikely to preserve or enhance the listed building or the Hatton Garden Conservation Area".

## 5. POLICIES

## 5.1 **Camden Replacement Unitary Development Plan 2006**

SD1	Quality of life
SD6	Amenity for occupiers and neighbours
SD7B	Noise/vibration pollution
SD8	Disturbance
SD12A	Development and waste
B6	Listed buildings
B7	Conservation areas
T2	Capacity of transport provision
T9	Impact on parking
R1B	Location of new retail and entertainment uses – Food and drink and entertainment
R2	General impact of retail and entertainment uses
R3	Assessment of food and drink uses and licensed entertainment uses
Appendix 1	Noise and vibration thresholds

## 5.2 **Other Relevant Planning Policies**

Camden Planning Guidance 2006 (CPG)

## 5.3 **Supplementary Planning Guidance**

Hatton Garden Conservation Area Statement (Designated 05 August 1999);  
Revised Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses. Adopted 4 October 2007.

# 6. **ASSESSMENT**

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Principle of development – change of use
- Impact of proposed Class A3/A5 use

### **Principle of development – change of use**

6.2 Planning permission was granted in 1997 for the change of use of the basement and part of the ground floor of the building to a Class A3 use (see relevant history section above). At this point in time a Class A3 food and drink use encompassed restaurant/cafés, drinking establishments and hot-food takeaways all under the same use class. The applicant has denoted that the most recent previous occupier (Babushka) operated as a bar and restaurant. Under the amended Use Classes Order of 2006 (where differentiation between food and drink uses were introduced with Classes A3, A4 and A5), the lawful use of the premises is therefore a mixed Class A3 (restaurant and café) and A4 (drinking establishment).

6.3 This application is therefore seeking permission to change the use of the premises from Class A3/A4 to Class A3/A5 (mix of restaurant/café and hot-food takeaway). The UDP does not afford any weight to the protection of Class A4 uses, particularly those located outside of any designated centre such as the application site. In

addition, the agent has confirmed that the vacant unit has been marketed without success for circa 18 months. As such, the loss of a Class A4 use does not raise any planning policy issues.

- 6.4 With regard to the principle of the Class A5 use at the site, although the site is located outside of a Central London Frontage, Town Centre and the King's Cross Opportunity Area (which policy R1B denotes is the preferred location for food and drink uses), it is important to clarify that there is an existing permission for food and drink uses at the application site. This was granted in 1997 and prior to the Use Classes Order being amended in 2006, it is also worth noting that it could have been possible to operate a hot-food takeaway use from the premises without the need for further permission, which would have meant that the premises would have a lawful use as Class A3/5. However it is accepted that this possibility was never implemented by Babushka or any other operator and that the premises has always operated as some form of bar/restaurant and not as a hot-food takeaway. Nevertheless, given that the site has permission for a food and drink use and that policy R1 does not differentiate between Classes A3 and A5 in terms of location of new retail and entertainment uses, it is considered that the principle of a Class A5 use is supported in policy terms and that it would be difficult to resist the proposed Class A5 use on its principle if it were to be considered within an appeal scenario. This however is only in relation to the principle of the location of this use; more detailed commentary regarding the potential impact of the proposed use as required to be assessed by policies R2 and R3 is given below.
- 6.5 It is also worth noting in relation to neighbour objections that circumstances have somewhat changed since the previous permission was granted for a restaurant use here in June 1997- at that time the building was vacant with lawful B1 use whereas a later permission was granted in September 1997 to 41 flats (see history above) and these flats are now all occupied; similarly in 1997 the neighbouring building at 17-23 Farringdon Rd has been converted to a further 14 flats. Hence there is the potential for more residents to be affected by a new Class A5 use at this site. Since 2007, 2 new supermarkets (Sainsbury and Tesco) have been permitted and opened in the immediate vicinity, which have long opening hours and alcohol licences. Finally permission has been granted for expansion of Thameslink and Crossrail services nearby at Farringdon station within Islington which will increase the potential customer base for any Class A3-5 premises here.

### **Impact of proposed Class A3/A5 use**

- 6.6 It is worthy to first clarify that this application is seeking permission for the use of the premises as a mixed Class A3/A5 use. Although the applicant has intimated that the intended occupier is likely to be KFC, the application must be considered on the basis of any Class A3/A5 occupier as KFC may not be the occupier of any implemented scheme.
- 6.7 Policies R2 and R3 of the UDP guard against Class A3 and A5 developments that are considered to cause individual or cumulative harm to an area, with specific reference in policy R2 to the character, amenity, function, vitality or viability of the area. This policy also states that the site must be readily accessible by a choice of means of transport. Further to this, policy SD6 makes specific reference to

safeguarding amenity for occupiers and neighbours. It is considered that a number of measures have been taken by the applicant during the course of the application, together with the use of relevant conditions, to assist in mitigating any negative impacts of the proposed uses on the local area.

- 6.8 In terms of the operating hours, the permission for a Class A3 use at the site in 1997 (see relevant history above) permitted the use of the premises from 09:00 to 23:30 Mondays to Saturdays and not at any time on Sundays and Bank Holidays. A subsequent variation of condition application permitted the use of the premises from 09:00 to 23:00 on Sundays and Bank Holidays (ref: PS9704633 – see relevant history section above). However it is understood, from recent information provided by residents, that in reality the previous operator Babushka never took advantage of this permission to open on Sundays and indeed it only opened between 11am and 11.30pm on Mondays to Saturdays. The Council did however grant permission for an occupier to operate on Sundays and Bank Holidays at the application site. In addition, the previous operator had an alcohol and recorded music licence from 10am to 11pm Mondays to Saturdays and 12am to 10.30pm on Sundays; this was transferred to a new licensee in October 2009. The current application has been revised in terms of the proposed opening hours. Originally it was proposed to operate until 1am on Thursdays and Fridays in line with the hours of the previous KFC operation opposite. It is now sought to operate the Class A3/A5 use from 07:00 to 23:00 on Sundays to Thursdays and 07:00 to midnight on Fridays and Saturdays. It should be noted that in order to operate a takeaway service beyond 11pm on these 2 latter days, the applicants will have to apply to the Council for a new hot food licence under the Licensing Act 2003; this would be subject to separate consultation with residents, Police, other Council departments etc.
- 6.9 It is also important to verify the operating hours of nearby operators, such as the neighbouring Sainsbury's Local and Sir John Oldcastle Public House. Sainsbury's Local does not have any planning hours restrictions and is open from 06:00 to 23:00 daily (except Saturdays and Sundays where the hours are 08:00 to 23:00). Sainsbury's also has a licence to supply alcohol between these hours. The Sir John Oldcastle public house does not appear to be subject to any planning hours restrictions either, but has a licence to supply alcohol from 09:00 to 23:30 Sundays to Thursdays and 09:00 to 01:00 on Fridays and Saturdays, together with a licence to open from 07:00 to 00:00 on Sundays to Thursdays and 07:00 to 01:30 on Fridays and Saturdays. The applicant has also denoted that KFC's opening hours opposite the application site at 48 Cowcross Street (until it was compulsory purchased earlier this year as part of the Crossrail works) were 07:00 to 23:00 on Mondays, Tuesday, Wednesday, Saturday and Sunday and 07:00 to 01:00 on Thursday and Fridays. Although it is acknowledged that some of the uses noted differ to those proposed, it is considered to illustrate the context of what is considered to be a mixed use area. It is also noted that above the Sainsbury's and Sir John Oldcastle Public House premises are office uses, with residential uses on the upper most floors above fourth floor level. This differs from the application site, where residential uses are directly above the proposed A3/A5 premises at first floor level.
- 6.10 The proposed opening hours are in practice seeking permission for two hours earlier on all days and half an hour later on Friday and Saturday evenings

compared to that already granted permission at the site. It should be noted that these hours were deemed acceptable by the Council in 1997, despite the fact that the previous restaurant here did not subsequently operate during all these hours. Given that the application site is within the Central London Area, the Revised SPD concerning Food, Drink and Entertainment, Specialist and Retail Uses is of relevance. This guidance states at paragraph 6.20 that uses in predominantly residential areas will not generally be permitted to operate later than midnight. As such, the proposed opening hours from Sundays to Thursdays until 23:00 are considered to be appropriate given the proximity to residential uses above and adjacent to the site, albeit in a mixed use area. The later opening hours until midnight at weekends are similarly considered to be appropriate within the context of the local area.

- 6.11 The early opening hour to serve passing breakfast trade is considered to be suitable in this location. There is no specific guidance in SPG or CPG regarding opening hours. Nevertheless the proposed opening hours are not considered to have a sufficient adverse impact on residential amenity to warrant the refusal of this application, given the context of the local area characteristics. A condition noting these specific hours is recommended to be added. An informative is recommended further to this condition, stating that this condition means that no customers shall be on the premises and no activities associated with the use (such as preparation and clearing up) will be permitted outside these hours.
- 6.12 In terms of customers accessing the site, the applicant has confirmed that existing entrances to the restaurant/bar will be retained. One access point is on the Farringdon Road elevation, at the southern end of the building adjacent to the Sainsbury's Local at this point. The other access point is one of the two doors beneath the recessed entrance point on the junction of Farringdon Road and Greville Street. At this point there are three separate entrances; a central entrance for the residential units above, flanked on either side by entrances to the ground/basement floor unit. It is the entrance closest to the Farringdon Road elevation which the applicant has confirmed will be used by the intended operator. The applicant has also confirmed that the second entrance, closest to Greville Street elevation will only be used in emergencies and as a fire exit. A further fire exit (and two delivery access points) is provided on the Saffron Hill elevation; no customer entrance points are provided on the Saffron Hill elevation.
- 6.13 A number of concerns have been raised by adjoining occupiers over the threat to safety/fear of crime, noise and disturbance implications to both themselves and any pedestrians owing to an entrance being located alongside the residential entrance to the building. It is worthy to note that the same entrances into the site were used previously with the restaurant/bar operator. In consultation with the Council's Environmental Health team, there appear to be only a limited number of complaints made to the Council over specific noise/disturbance issues associated with the previous occupiers. Many of the objections received to this application are as a result of the more intensive use of the premises a Class A5 operator may create, together with the clientele of the intended occupier. It is acknowledged that the proposed use is likely to result in a more intensive use of the premises. However, it is also considered that the likely differences in impacts of the proposed Class

A3/A5 uses are not significantly greater than the existing Class A3/A4 uses at the site; and not sufficient to warrant the refusal of the application on this basis.

- 6.14 More specifically, given that the applicant has denoted that two entrances will be used by the intended operator, this will split the number of customers using each entrance. This is considered to partially mitigate the impact of customers loitering around the Farringdon Road/Greville Street entrance. However, it is acknowledged that there will inevitably be some congregation of persons around this entrance. By using only one of the two available entrance points, it is considered that the applicant has attempted to mitigate this impact. Furthermore, it is likely that similar implications would have occurred in the past with a restaurant/bar at the site or could potentially occur with a restaurant/bar at the site in the future if the proposed application is not implemented and an A3/A4 use operates from the site (which would not be subject to any planning application). Moreover, the proposed opening hours (as outlined above and as recommended to be secured via condition) are such as to reduce the potential for late-night disturbance occurring, thereby retaining an acceptable level of residential amenity for current and future residential occupiers in this Central London mixed use area. Specific concerns regarding non-residents gaining access into the residential part of the building are overcome in part by the buzzer system currently used. By using only one entrance point, it is considered to reduce the potential for tailgating into the residential building to occur. This entrance lobby will be well lit and it is considered that the presence of an operator at the ground floor unit may actually increase natural surveillance of this residential entrance for occupiers as opposed to the currently vacant premises.
- 6.15 With specific reference to the crime implications of the proposed use, the Crime Prevention Design Adviser (CPDA) raises no issues with the proposed use. It is advised that a KFC has been operating for a long period of time up until recently opposite the application site without major issues arising. Furthermore, the CPDA has advised there is not considered to be a major prostitution issue in the local area and concerns raised regarding the proposed use increasing the potential for such activities (or associated activities) in the area are not considered to be the case in this instance, based on advice from the Crime Prevention Design Adviser.
- 6.16 The applicant has denoted at this stage that the existing ventilation/extraction equipment used by the previous occupier may be able to be reused by a Class A3/A5 operator at the site. This comprises an existing kitchen canopy with ductwork discharging at roof level after extending within an internal service riser. A number of objections have been made with regard to smells and noise from the previous occupier. The Council's Environmental Health team have also confirmed that complaints were received in the past with regard to odours from the premises.
- 6.17 In light of this context, it is considered necessary to recommend a condition seeking a scheme for the ventilation of and extraction of fumes from the site to submitted and approved by the Council. This is recommended in addition to the Council's standard Environmental Health noise condition relating to noise levels at a point 1m external to sensitive facades. Such conditions are recommended in order to maintain the amenity of adjoining occupiers. Furthermore, if any internal or external alterations in association with these plant works are required, planning permission and listed building consent would be likely to be required for these works. This is

recommended to be added as an informative to any permission. The use of such conditions are considered to be satisfactory in ensuring that nearby residential amenity is maintained with any future Class A3/A5 operator from the site.

- 6.18 In terms of design considerations, as already outlined the proposed scheme does not incorporate any external or internal alterations and solely seeks to change the use of this part of the building. As such, any design issues relating to the alterations to shopfronts or fascia/projecting signs are not applicable to the scope of this application. However, informatives are recommended to be included which advise that should alterations to the shopfront or external advertisements associated with the proposed use be proposed in the future, full planning permission / advertisement consent / listed building consent (as appropriate) would be likely to be required for these works. If and when these applications are submitted they will be considered on their own merits in accordance with all relevant policies.
- 6.19 With regard to the impact the use of this part of the building would have on the setting of the listed building itself or the character and appearance of the conservation area as a whole, it is important to verify that this part of the site already has planning permission for a Class A3 use, dating back as far as 1997. As such, the principle of a food and drink use, including a hot-food takeaway (which could have operated lawfully from the premises until the use classes order was revised in 2006) has already been established and accepted by the Council in the past. In the intervening period, the area has been designated a conservation area (in 1999) but the building was listed at the time of the original permission for a food and drink use.
- 6.20 Given this context it is considered difficult to argue, should be application be subject to a future appeal, that the Council would be able to substantiate a reason for refusal of this change of use application on the basis of harm to the setting of the listed building or the character and appearance of the conservation area. Furthermore, it is important to reaffirm that although the applicant has indicated that the intended operator to be KFC, the implemented scheme could be any Class A3/A5 operator. In addition, there are a variety of existing food and drink operators existing in the local area, including a public house opposite the application site and up until earlier this year a KFC itself opposite the application site. Therefore no substantial concerns are raised in this regard as part of this application.
- 6.21 In terms of transport matters, it is considered with policy R2 in mind that the site is located within a readily accessible location in terms of public transport. As already noted, the application site is 100m to the west of Farringdon Station, which is subject to future improvements with Crossrail and Thameslink. Farringdon Road is also a TRLN road and serves a number of bus routes. In overall terms the application site has a Public Transport Accessibility Level (PTAL) of 6b (excellent). Therefore the application site is evidently considered to be readily accessible by a choice of means of transport, including late night public transport provision in light of the proposed opening hours.
- 6.22 With regard to the transportation implications the proposed change of use is anticipated to have in the local area, it is not considered that a proposed Class A3/A5 use compared with a Class A3/A4 use would increase the number of trips to

and from the site by a significant amount. At present there is no vehicular access to the site and this shall remain the same as part of the proposals. In addition, as already noted, the application site is located within a highly accessible location. The adjacent Crossrail project works will in the future further improve the accessibility of the site. As such, the proposals are considered to be acceptable in transport terms and there considered to be no requirement for contributions for highways improvements to be made in this instance.

- 6.23 In terms of the storage and disposal of waste and recyclables, it is understood that previous occupiers utilised the Saffron Hill frontage for these matters. In this instance the applicant has allocated space at basement floor level for the storage of such materials. In terms of the collection of waste and recyclables, the applicant has also confirmed that the intended operator is likely to use the existing Local Authority refuse and recycling collections that already take place on a daily basis along Farringdon Road. This will minimise the number of collections that may be required from Saffron Hill, thereby helping to overcome some issues raised regarding to the safety/public health issues raised during the consultation process. It should also be noted that servicing already takes place along Saffron Hill at this point, such as for the residential units at 28 Saffron Hill. Deliveries however are anticipated to occur from Saffron Hill. Given that Farringdon Road is a TRLN road, Saffron Hill is considered to be the most appropriate location for deliveries to take place.
- 6.24 The applicant has also indicated that four bins will be located within the unit itself for customers, while a litter pick up scheme will also be implemented by the proposed occupier. This will reduce the likelihood of patrons littering the surrounding area, although given the takeaway element of the proposals, it is accepted that this will be difficult to be entirely overcome in practice. However, given the context of the surrounding area and the measures to be put in place, it is considered that this issue has been addressed as far is possible at this stage.
- 6.25 Notwithstanding the above however, it is considered necessary to recommend the addition of a condition denoting details of the precise location, design and method of waste storage and removal to be submitted to the Council. This is to ensure that there is sufficient provision and that it is designed appropriately. This again will seek to mitigate any impacts on nearby occupiers. Informatives are recommended advising the applicant that refuse sacks should not be deposited on the footway until half an hour before collection times and that the Council supports recycling schemes for uses such as those proposed in this instance.
- 6.26 In overall terms it is acknowledged that a number of objections have been received regarding the impact on residential amenity and wider impacts on the local area from a possible hot-food takeaway use. Moreover, in some specific instances issues associated with the impact of the intended occupier (KFC) have also been raised. In short it is considered that the revisions during the course of the application to the proposed opening hours and the recommended conditions relating to waste disposal and plant are sufficient to maintain an acceptable level of residential amenity for nearby occupiers of residential properties. The conditions will also act to minimise the impacts on the area as a whole from the proposed



uses. Consequently it is considered that the proposals are considered to comply with the principles of the appropriate UDP policies.

## **7. CONCLUSION**

- 7.1 The principle of the change of use from mixed Class A3/A4 to mixed Class A3/A5 at the application site is considered to be acceptable. The UDP does not afford weight to the protection of Class A4 uses, especially outside designated frontages. The application site is located in a highly accessible location and, with the use of stringent conditions recommended, it is considered that the proposed mix of uses will not cause harm to the immediate or surrounding area. This is in the context of the local area comprising a mix of uses, predominantly involving a combination of commercial and residential uses. The proposed conditions, such as limiting opening hours and seeking further details regarding ventilation/extraction of fumes, are such as to protect the residential amenity of nearby occupiers to an acceptable degree within a mixed use area. Therefore, on balance, planning permission is recommended to be granted subject to conditions.

## **8. LEGAL COMMENTS**

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.