

LDC Report	01/11/2016
Officer	Application Number
Tony Young	2016/4828/P
Application Address	Recommendation
53 Camden High Street London NW1 7JH	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use as hot food takeaway (Class A5) at ground and basement floor levels.	
Assessment	
<p>The application site is located on the western side of Camden High Street, directly opposite the junction of Plender Street and Camden High Street to the east. The application relates to the basement and ground floor levels only of no. 53 Camden High Street.</p> <p>The building is not listed but sits within the Camden Town Conservation Area. The site (within the wider terrace) is also recognised as a positive contributor within the conservation area (<i>Camden Town Conservation Area Appraisal and Management Strategy, October 2007</i>).</p> <p>The application seeks to demonstrate that on the balance of probability, the hot food takeaway use began more than 10 years ago such that its' retention would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Cover letter (ref: 4408/AB/A099622/LPA270916) from WYG (agent) dated 27/09/2016, provided in support of the assertion that the ground and basement floors have been used as a hot food takeaway (Class A5) continuously for at least the last 10 years; • Statutory declaration from Mr Mohammad Abbas (customer) dated 23/08/2016, asserting that he has purchased hot food for consumption off the premises and has personal knowledge of other customers eating hot food within the premises since 2004 until the present time; • Statutory declaration from Mr Umar Ayub (employee) dated 23/08/2016, asserting that to his personal knowledge hot food has been purchased by customers to eat both on and off the premises since 2005. <p>The applicant has also submitted the following plans:</p>	

- A site location plan outlining the application site;
- Existing basement and ground floor plans numbered 2582/G099.

Council's Evidence

There is relevant planning history on the subject site but no relevant enforcement history:

2014/5107/A - Display of 1x internally illuminated sign surrounding an ATM. Granted advertisement consent dated 11/09/2014

2014/4820/P - Installation of an automated teller machine (retrospective). Granted planning permission dated 11/09/2014

AE9800829 - Display of externally illuminated fascia sign, and hanging sign and canopy (Rose and Jack Café). Advertisement consent granted 11/01/1999

PE9800413R1 - Installation of new shopfront and replacement of windows on the front elevation. Planning permission granted 03/08/1998

9003516 - Alteration including the erection of a rear ground floor extension to provide additional floorspace for the existing restaurant together with the self-containment of the maisonette on the first and second floors by the provision of an independent access from the rear. Planning permission granted 30/04/1991

TP57852/1950 - The use as a fried fish and chip shop. Planning permission granted 23/10/1950

Both the application form and officer's report for the approved application (ref. 2014/4820/P) describe the premises as a takeaway in 2014. An earlier advertisement consent application (ref. AE9800829) in 1999 was approved in connection with an existing café use as, 'Rose and Jack Café'.

The Valuation Office Agency records indicate that the premises has operated as a takeaway with ancillary uses over basement and ground floor levels since at least 08/04/2014 and previously as a cafe.

Assessment

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the "balance of probability", and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The Council does not have any evidence to contradict or undermine the applicant's version of events. The applicant's cover letter, statutory declarations and other supporting information indicate that the hot food takeaway use has been in existence since at least 2005 and has operated continuously as such until the present time. Approved plans, previous application forms and other information do not contradict this assertion.

The information provided by the applicant is therefore deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the use began more than 10 years from the date of this application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve