

Delegated Report		Analysis sheet	Expiry Date:	16/05/2018
		N/A / attached	Consultation Expiry Date:	11/05/2018
Officer			Application Numbers	
John Diver			i) 2018/1447/P ii) 2018/1448/A iii) 2018/1658/L	
Application Address			Drawing Numbers	
Unit 18 Brunswick Centre London WC1N 1AE			See draft decision notices	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposals				
<p>i) Change of use of ground floor unit from retail (Use Class A1) to restaurant (Use Class A3) with ancillary take away sales including the installation of new extract vent to rear</p> <p>ii) Display of one internally-illuminated fascia sign behind glazed shopfront and one internally illuminated projecting signs onto existing shopfront</p> <p>iii) Internal and external alterations to ground unit including installation of illuminated fascia behind glazed shopfront; creation of opening in rear elevation and installation of extract louvre; installation of internal air handling equipment (GII)</p>				
Recommendations:		i) Refuse planning permission ii) Refuse advertisement consent iii) Refuse Listed Building consent		
Application Types:		i) Full Planning Permission ii) Advertisement Consent iii) Listed Building Consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notices			
Informatives:				
Consultations				
Summary of consultation:	For both the planning (i) and listed building consent (iii) applications, two site notices were erected near to the unit on the 20 April 2018 (expiring 11 May 2018). For both these applications, notices were also published in the local press on the 19 April 2018 (expiring 10 May 2018). All three applications were also advertised via the Council's e-alert system.			
Adjoining Occupiers:	No. of responses	00	No. of objections	00
Summary of consultation responses:	No comments were received from neighbouring occupiers.			
Brunswick Centre Tenants' and Residents' Association	<p>A letter of objection was received on behalf of the Brunswick Centre Tenants' and Residents' Association (BCTRA). Their objection comments may be summarised as follows:</p> <ul style="list-style-type: none"> • Development contrary to the restrictive conditions placed upon flexible permission (ref. PSX0104561, dated 1 September 2003) • Retail survey within planning statement under estimates level of food, drink and entertainment uses • In several locations in The Brunswick Centre there are already more than two consecutive FDE uses • Fifteen of the existing FDE users exceed the maximum 100m² allowed by the guidance • If number of FDE units include the number of units (where combined) the resulting percentages are contrary to CPG • Concentration of food uses is harmful to the environment of residents by virtue of noise, odour, littering and antisocial behaviour • Outdoor benches provided in The Brunswick Centre would tend to exacerbate this behaviour. • Existing restaurants venting at pavement level cause staining to fabric and odour/fume issues. • Provision would not be a unique offer for the local area, with several similar businesses within 100m of the site. Business will add nothing to the diversity and vitality of the Centre • Unacceptable proposed hours • Lack of consultation between developer and residents 			
Marchmont Association	<p>A letter of objection was received on behalf of the Marchmont Association (MA). Their objection comments may be summarised as follows:</p> <ul style="list-style-type: none"> • Change of use is in conflict with the standards of quality aimed for under the approved Allied London Redevelopment plans of 2003 • Proposed hours of operation are inappropriate for the residential / commercial mix, and will cause additional noise nuisance for residents late at night • Not satisfied that submitted information demonstrates that the odour control system would be adequate to avoid exacerbating existing issues of disturbances from noise and odour • Size of unit contrary to CPG requirements for this land use, regardless of proportion accessible for public 			

	<ul style="list-style-type: none"> • Lack of marketing evidence to support claims of a lack of interest from retail users • Venting through front grills may cause staining and odour issues within the centre • Internally illuminated signage would be harmful to the character of the centre • Lack of consultation between developer and residents
Historic England (iii):	Historic England responded to a consultation request to state that they did not seek to comment on the listed building consent application and that the Council should seek to determine the application for listed building consent referred to above as they think fit.

Site Description

The application site is Unit 18 Brunswick Centre, which is a ground floor commercial unit (plus ancillary basements) within the Brunswick Centre, WC1N 1AE. The Brunswick Centre is part of a grade II listed development containing two linked blocks of flats above a shopping centre with rows of shops at raised ground level over a basement containing a car-parking/service area and a cinema. Ramps and steps provide access to the central boulevard from several surrounding streets. The application site is also situated within the Bloomsbury Conservation Area. The centre was built circa 1973 and was grade II listed in 2000 (List entry Number: 1246230). The centre underwent a full refurbishment in 2003 following the approval of works under application PSX0104561 (see para. 4.10 for further details). Historic England's list entry for the site describes the building as follows:

"Complex megastructure of two 'A-framed' blocks, O'Donnell Court and Foundling Court, linked by a raised podium containing shops and a cinema and set over a basement car park on two levels. The outer or perimeter range of five storeys, the inner or main range of eight storeys. Most of the flats on the upper floors have one or two bedrooms, with some studios at the ends, all with glazed living room extending on to balcony, which form a stepped profile down the side of the building... The raised ground floor is occupied by a shopping mall, whose projecting form forms two terraces above, linked by a bridge in the early 1990s when steps from the mall were blocked. The professional chambers, intended for functions such as doctor's surgeries, are now leased as offices and workshops...The elevations are determined by the plan, with metal windows, and metal balustrading to concrete balconies. Mullions to concealed basement ventilation... The internal finishes of the flats, shops and cinema have been inspected, and are not of special interest"

The application site is in the Central London Area. The Council's Local Plan designates the Brunswick Centre as a 'Neighbourhood Centre within the Central London Area' and as such the retail units are afforded special policy provisions. At present, the Brunswick Centre contains a mix of uses within the ground floor units. The extent of the designated 'Brunswick Centre Neighbourhood Centre' is outlined within the Camden Policies Map. The site has a Public Transport Accessibility Level (PTAL) rating of 6b (highest possible) and is located in close proximity to Russell Square underground station.

Relevant History

Application Unit

CA1831/22/AD125: Advertisement consent was granted on 24/07/1975 for 'The display of a static internally illuminated Perspex fascia sign 3'0" (0.9m) x 9'2 1/2" (2.7m) and located approximately 7'6" (2.3m) above ground level.'

There is no other planning history related to the application unit only.

Wider Brunswick Centre

Unit 2 – **2017/0202/P:** Planning permission was granted on the 29/09/2017 for the retrospective 'Change of use of ground floor unit from retail (Use Class A1) to mixed use retail, restaurant and takeaway (Use Class Sui Generis)

Unit 2 – **2016/3962/A**: Advertisement consent was refused on the 07/12/2016 for the ‘Display of 1x internally illuminated projecting sign to Bernard Street elevation’

Renoir Cinema - **2014/3640/P**: Planning permission was refused on the 18/03/2015 for the ‘Erection of a roof extension above cinema entrance to provide restaurant / cafe (Class A3)’

Unit 5 - **2011/2298/P**: Planning permission at was refused on the 01/07/2011 for the ‘Change of use of unit 5 (lower ground) from retail shop (Class A1) to restaurant and cafe (Class A3) and installation of air extract and ductwork’

Reason for refusal:

(1) The proposed development, on account of its floorspace, position in close proximity to residential dwellings and the concentration of other such uses in the vicinity, would result in a significant adverse impact on the amenities of neighbours...

An appeal of the above decision was dismissed on 19 April 2012 (APP/X5210/A/11/2162818). Within their report, the inspector reasoned that due to the proposed late night opening (23:30pm), size of the unit and resulting likelihood of large number of patrons leaving the unit at night time, the cumulative impacts of the development combined with the existing adjacent large restaurant would give rise to unacceptable levels of noise and disturbances.

Unit 5 - **2010/2849/P**: Planning permission was refused on the 23/07/2010 for the ‘Change of use of unit from retail shop (Class A1) to restaurant (Class A3) and the installation of associated extraction and ventilation equipment’

Reasons for refusal:

(1) The proposed change of use from A1 (retail) to A3 (restaurant) would result in an over-concentration of A3 uses within the Brunswick Neighbourhood Centre would be detrimental to the character, function, vitality and viability of the Centre...

(2) In absence of more detailed acoustic information the Council is not satisfied that the use could be carried out without harm to amenities of adjoining occupiers...

Unit 9 - **2006/2114/P**: Planning permission was granted on the 29/08/2006 for the ‘Variation of condition 10 (no hot food takeaways) of planning permission (ref. PSX0104561) dated 1st September 2003 (for the refurbishment of the Brunswick centre) to allow the sale of hot food takeaway in association with the Class A3 use.’

Units 19/21 - **2006/2107/P**: Planning permission was granted on the 29/08/2006 for the ‘Variation of condition 10 (no hot food takeaways) of planning permission (ref. PSX0104561) dated 1st September 2003 (for the refurbishment of the Brunswick centre) to allow the sale of hot food takeaway in association with the Class A3 use.’

Brunswick Centre (whole centre) - **PSX0104561 & LSX010456**: Planning permission and listed building consent was Granted Subject to a Section 106 Legal Agreement on the 01/09/2003 for the ‘Refurbishment of The Brunswick Centre involving various external alterations including the extension of the retail units fronting the concourse; the creation of a supermarket (Class A1) across northern end of the concourse; creation of new retail units (Class A1) within redundant access stairs; erection of new structure above Brunswick Square for use as (Classes A1, A2, and A3), business (Class B1) or as non-residential institutions (Class D1)...’

Attached conditions included the following stipulation (condition 4):

“Up to a maximum of 40% of the retail floorspace equating to 3386m² (excluding eye catcher store and supermarket) is permitted to be used within Use Classes A2 and A3...”

Approval of details application **2006/3876/P**, which provided details of ‘ventilation and extraction systems to all Class A3 units’ was subsequently granted.

Unit 5 - **PSX0105449**: Planning permission was granted on the 04/04/2002 for the ‘Change of use to a mixed use of retail (Class A1), café (Class A3) and therapy room (Class D1)’

Brunswick Centre (whole centre) - **P9602180R1**: Planning permission at was refused on the 10/03/1997

for the 'Refurbishment of the existing shopping centre, including reduced extension to Safeways, reduction and repositioning of glazed canopies over the entrances to the mall, construction of two pedestrian bridges across the central mall, construction of new entrance to restaurant unit (ClassA3) in the mall, together with reduction in the size of the proposed new residential block to six-storeys and mezzanine (thirty-one flats)'

Unit 4 - **9501140**: Planning permission was refused on the 28/02/1996 for the 'Change of use from betting shop (A2) to restaurant (A3)'

Reasons for refusal:

(1) It is considered that the introduction of a further restaurant use in this location would have an adverse effect on the quality and character of the shopping parade...

Units 11 & 13 - **9101100**: Planning permission was granted on the 12/12/1991 for the 'Change of use from retail (A1) to uses within Class A3'

Unit 4 - **9501140**: Planning permission was granted on the 28/02/1996 for the 'Change of use from betting shop (A2) to restaurant (A3)'

Relevant policies

National Planning Policy Framework 2012

The London Plan March 2016

Camden Local Plan 2017

The following policies are of relevance to the application:

- E1 Promoting a successful and inclusive Camden economy
- A1 Managing the impact of development
- A4 Noise and vibration
- D1 Design
- D2 Heritage
- D3 Shopfronts
- D4 Advertisements
- CC5 Waste
- TC1 Quantity and location of retail development
- TC2 Camden's centres and other shopping areas
- TC4 Town centres uses
- T1 Prioritising walking, cycling and public transport

Camden Planning Guidance (SPDs)

Town centres and Retail CPG (2018)

Amenity CPG (2018)

Advertisements CPG (2018)

CPG1 Design (2015 updated 2018)

CPG7 Transport (2011)

Bloomsbury Conservation Area Appraisal and Management Strategy (April 2011)

1. The proposal

- 1.1. (Application i): Planning permission is sought for the change of use of the application unit from retail (use class A1) to a restaurant (use class A3) with ancillary takeaway sales (use class A5). Planning permission is also sought for the installation of a ventilation grill to the rear elevation at lower basement level for the discharge of an internal kitchen extract system.
- 1.2. (Application ii): Advertisement consent is sought for the display of one internally-illuminated fascia sign behind the glazed shopfront as well as one internally illuminated projecting sign. The projecting box sign and fascia are proposed to be constructed of metal and vinyl, and illuminated internally up to a maximum brightness of 500cd/m.
- 1.3. (Application iii): Listed building consent is sought for internal and external alterations to the unit including:
- External works:
- Creation of opening and installation of extract louvre to rear elevation at lower basement level;
- Internal works:
- Installation of illuminated fascia behind glazed shopfront;
 - Installation of internal air handling equipment; and
 - Alterations to internal partitions as part of shop fit out.

2. Assessment

- 2.1. The principal considerations material to the determination of this application are as follows:
- Land use (Full planning (i));
 - The impact upon the amenities of nearby residential occupiers (Full planning (i));
 - Impact on the character and appearance of the host building and wider area (including the Bloomsbury Conservation Area and the listed building) (Full Planning, LBC and Advertisement Consent (i, ii and iii));
 - Transport and servicing considerations (Full planning (i)).

3. Land use (Full Planning (i))

- 3.1. As aforementioned, the application site is located within the Central London Zone as well as within a designated Neighbourhood Centre (the Brunswick Centre). Local Plan policy TC2 (Camden's centres and other shopping areas) states that the Council will promote its centres throughout the borough to serve the needs of residents, workers and visitors by:
- seeking to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located;*
 - providing for and maintaining a range of shops including independent shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice;*
 - making sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area and focusing such uses in Growth areas, Central London Frontages, and Town Centres (Refer to Policy TC4 - Town centre uses);*
 - supporting and protecting Camden's Neighbourhood Centres, markets and areas of specialist shopping, local shops; and*
 - pursuing the individual planning objectives for each centre, as set out in supplementary planning document Camden Planning Guidance on town centres, retail and employment, and through the delivery of environmental, design, transport and public safety measures*
- 3.2. Policy TC2 continues to state that for Neighbourhood Centres (NC), the Council will seek to retain convenience shopping for local residents and will ensure that development in them does not harm the function, character or success of that centre.
- 3.3. Camden's Policies Map defines the Brunswick Centre, as consisting of four frontages made up of units 1-39, 40-42, 44, 46, 48-50, 52, K1, K2, K3 and K4 as well as units 66 – 70 (where K stands for Kiosk - smaller units formed after refurbishment works in 2003 following application PSX0104561). The Local Policies Map excludes the 'eye-catcher' supermarket (currently occupied by Waitrose) as well as the

Renoir Cinema from the extent of the Centre's designation. It should be noted that the recently adopted Town Centres CPG (2018) has altered the Council's approach for the calculation of target thresholds (now to be assessed based upon frontages) as well as updating the boundaries of centres, meaning that the NC has been expanded to include units 66-70.

3.4. As the target proportion of retail units within each frontage varies from centre to centre, detailed guidance on the proportion of retail uses that the Council will seek to maintain within neighbourhood centres is set out in Appendix 4 of the Local Plan. Appendix 3 of the CPG also sets out the procedure for the adopted approach for how to calculate the percentages of uses for frontages/centres. For the Brunswick Centre, the Local Plan seeks to maintain an acceptable level of convenience shopping, and to ensure an overall mix of uses. As such, the Local Plan states that schemes will be resisted if they would result in any of the following within each frontage:

- less than 50% of ground floor premises being in A1 retail use;
- more than 25% of premises being in food, drink and entertainment uses;
- more than 2 consecutive food, drink and entertainment uses; or
- food, drink and entertainment (FDE) premises larger than 100sqm (pg.319).

3.5. In order to ascertain the existing levels of the various uses across the centre, a retail survey was completed by officers in May 2018. A copy of this survey can be found in appendix one of this report. This survey found that of the South-western frontage was performing well in use class terms, with the proposed change retaining 80% of units (16/20) across the frontage in use class A1, and resulting in only 15% in food, drink and entertainment uses across the frontage (3/20). When looking at the entire centre to contextualise these numbers, the proposed change would result in 67% of units (29/43) remaining within the use class A1 and a total of 23% of units (10/43) in food, drink and entertainment uses. The proposal would also not result in a row of more than 2 consecutive non-A1 units in the South-western frontage.

3.6. Although the proposal would seem to align with the majority of the planning guidance thresholds, officers raise concerns within regard to the size of the restaurant proposed, the subsequent concentration of food uses and the resulting effect upon the character and function of the neighbourhood centre.

3.7. The proposed restaurant would have a total GIA of 325sqm, being significantly larger than the maximum policy allowance for a food, drink or entertainment use within this NC. While it is noted that only 175sqm of this area would be at ground floor level and approximately 54sqm of this area would be reserved for kitchen and preparation space, the unit would still represent a sizeable restaurant with the capacity for a large number of covers at any one time. This raises a number of concerns: firstly, in relation to residential amenity of the numerous local residents (discussed further in section 4); and secondly, in relation to the effect upon the NC's character and function.

3.8. As aforementioned, in relation to Neighbourhood Centres, policy TC2 seeks to "*retain convenience shopping for local residents in Camden's Neighbourhood Centres and [to] ensure that development in them does not harm the function, character or success of that centre*". Further to the above, the Local Plan specifies that Neighbourhood Centres are valued for their role in "*cater[ing] for the day to day shopping and service needs of their local populations*" (para.9.21). With regard to proposed FD&E uses, the Local Plan states that "*Neighbourhood Centres will be considered suitable locations for food and drink uses of a small scale (generally less than 100sqm) that serve a local catchment, provided they do not harm the surrounding area*" (pg.318).

3.9. When looking at the distribution of lawfully permitted restaurant uses (A3) within the centre (see appendix two), it becomes clear that this particular use has become increasingly concentrated and that now a significant number of the larger units across the centre are occupied by restaurant chains. Although the overall percentage of units remains slightly below the 25% Local Plan target, it is noted that a number of the existing restaurant operators occupy units which have combined multiple units, giving them their significant size and presence within the centre. The number and size of the existing restaurants within the centre is larger than necessary to serve the needs of the local population and instead attracts customers from further afield. Whilst this is not necessarily harmful in isolation, due to the number and size of restaurant units already permitted, the character and function of the centre has been fundamentally altered to now appear more as a destination for food, drink and entertainment, rather than a centre for convenience shopping to serve the local population. This change in character and function is considered detrimental to the Neighbourhood Centre, with the proposed change of use exacerbating this situation.

3.10. Further to the above, officers note that a large number of units permitted as retail use (A1) are currently

occupied by businesses whose primary function is the sale of hot and cold foods for consumption off premises but which retain areas for seating. Successive enforcement investigations have determined that these units technically remain within the A1 use class by virtue of their lack of primary cooking and limited amounts of seating (see appendix one). However, when one considers both the lawful restaurant uses (A3 use) and the proportion of 'food stores' operating under an A1 use class together (see appendix three) the resulting effect upon the character and function of the NC as a result of the concentration of such uses is clearly evident. At present the shopping offer of the NC, in particular for convenience shopping, is very poor with only 19 out of 43 units (44%) offering any form of convenience shopping compared with the 16 out of 43 units (37%) units which are either restaurants or are a retail 'food store' whose prime function is the sale of prepared foods and drinks. This results in the aforementioned detrimental impacts caused by the lawful A3 units upon the NC being significantly worsened. Although officers note that the 'food stores' outlined in appendix three remain within the A1 use class and could therefore return to a convenience retail use without permission, this does not change the fact that at present, the centre has limited attraction for local residents needing day-to-day shopping convenience provision.

3.11. Officers note the numerous national reporting and guidance referred to within the submitted planning statement describing a reduced demand for retail and a growing demand within the restaurant sector nationally. However, in light of the above the proposed change of use is still considered contrary to the primary aims of policy TC2 and no evidence of the unsuccessful retail marketing campaign have been forthcoming. Given the requirement to determine applications in line with the Local Development plan, the justification outlined with regard to national trends is therefore not considered to present special circumstances for allowing works contrary to adopted policy aims. It is also noted that the Local Plan policies were found to be sound during their public examination more recently than the publication date of a number of the reports referenced.

3.12. In light of the above, the proposed change of use is considered to result in an unacceptable concentration of food, drink and entertainment uses to the detriment of the character and function of the Brunswick Neighbourhood Centre, contrary to policy TC2.

4. Residential Amenity (Full Planning (i))

4.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of residents. This includes factors such as privacy, outlook, impacts on natural light, artificial light spill, odour and fumes as well as impacts caused from the construction phase of development. Policy A4 seeks to ensure that residents are not adversely impacted by noise or vibrations.

4.2. The only external development proposed would be the installation of the kitchen extract vent at lower ground floor level. As this element would not give rise to impacts in terms of levels of natural light, outlook or privacy, the main consideration regarding the impact on the amenity of neighbouring occupiers therefore remains the potential impacts in terms of disturbance from associated noise and odour issues. As discussed, the application site comprises a ground floor commercial unit within the mixed-use complex of the Brunswick Centre. The nearest sensitive receivers are located directly above the premises, with approximately 400 residential units within the Centre itself / in close proximity. As a result of the proximity and number of sensitive receivers, specific concern is raised with regard to any proposed food, drink or entertainment use. This concern is acknowledged in the Town Centre's CPG and Local Plan Appendix 4, where an additional requirement for any FD&E use to be capped at a maximum of 100sqm is specifically added for the Brunswick Centre and it is noted that particular regard to the impact of additional FD&E uses is required.

Proposed Use

4.3. In this instance the development would result in the creation of a restaurant unit (A3) with ancillary take away sales (A5) with a sizeable internal area and capacity for a large number of covers. The applicant / proposed occupier is a pizza restaurant whose menu primarily consists of pizzas made to order, sides and drinks. Within the applicant's Operational Management Plan (OMP), it is noted that these pizzas are priced low – with the business model driven mainly by high turnover of covers rather than a more up-market dining experience (where one would expect fewer covers but higher prices and a greater reliance upon the sale of alcohol). This is evidenced by the fact that the OMP claims that the two existing London branches each sold over 150,000 pizzas during 2017 alone (1.5million pizzas are claimed to have been sold to date). It is therefore anticipated that there would be a significant amount of trip generations to and from the

proposed restaurant, extending into the evening (proposed to operate up until 23:00pm daily).

- 4.4. It is well established, both in adopted policy and previous appeal decisions relating to units within the centre, that proposed large scale A3 uses, particularly when concentrated, give rise to numerous concerns in terms of disturbances for residential occupiers. Within the centre, breakout noise from customer ingress and egress is of particular concern. As outlined in Section 3 above, the proposed change of use would add to an existing cluster of A3 and FD&E uses within the centre, particularly within the Southern half.
- 4.5. In considering an appeal for the refusal of permission for the change of use from A1 to A3 at Unit 5, the inspector stated that: *“I consider that it would be likely that noise and activity generated by customers of the appeal site would be intrusive to those neighbouring residents and the separation involved would be insufficient to reduce this to an acceptable level. This view is strengthened by the existence of other premises which may generate such activity; the proposal would result in an unacceptable concentration of such uses”* (para.10 – ref. 2011/2298/P). This appeal site was situated approximately 40m from the application unit and since this decision there has been no reduction in the number of FD&E units.
- 4.6. The dismissed appeal established that large scale restaurant uses operating into the late evening have already resulted in disturbances from break out noise, particularly in the southern cluster of restaurants. The application unit is in close proximity to 5 large units with existing lawful A3 uses (Carluccios, Starbucks, Hare & Tortoise, Las Igunanas and Giraffe). Many of these feature similar hours of operation and the units have a combined capacity for a very large number of customers. Given the aforementioned proximity to residential dwellings, the intensity of use proposed, size of the application unit and the concentration of other A3 uses in the vicinity, the change of use is thus considered to result in an overconcentration of A3 uses which would have a significant adverse impact on the amenities of neighbours. It should also be noted that should permission be granted, the Council would have limited controls to restrict future occupiers from relocating the kitchen equipment to a lower level, increasing the area for service (and resulting intensity of use) which would exacerbate this issue.
- 4.7. In light of the above the proposed change of use is considered to result in harm to residential amenity, contrary to policies A1 and A4.

Proposed Plant Equipment

Noise and Vibration

- 4.8. The proposed works would include the installation of both a Heating, Ventilation and Air Conditioning (HVAC) system as well as a kitchen extract system for the ground floor kitchen area. Both systems would intake air via the existing louvres to the front of the unit. It is proposed for the HVAC system to discharge through vents in the same location to the front of the unit and for the kitchen extract system to discharge at basement level through the ventilation louvre hereby proposed. The applicant has confirmed that neither system would be connected to the centre-wide ventilation system (which discharges through communal vent towers built into the centre's original form). All ducting and plant equipment for these systems would be provided within the host unit, although the proposed system would require an additional ventilation louvre to be installed altering the external appearance of the property (meaning that requirements set out by policy A4 in relation to thresholds for noise and vibration apply).
- 4.9. Where development that generates noise is proposed, the Council will require an acoustic report to ensure neighbouring amenity is not harmed (Policy A4). Policy A4 as well as Local Plan Appendix 3 (Noise Thresholds) set the parameters for the assessment of proposed sources of noise in areas sensitive to sounds. Given that the proposed development would include the installation of plant equipment at ground floor level (immediately below residential units), these standards would apply in this instance. Appendix 3 of the Local Plan (pg.312) states that a 'Rating Level' of 10 dB below background noise levels is expected (15dB if tonal components are present). In this instance, the 'Rating Level' of 10 dB below background levels would be considered necessary to remain in accordance with policies A1/A4. In order to test if the above requirements have been met, the submitted information has been reviewed by the Council's Environmental Health officers.
- 4.10. Submitted documents included various documents and plans showing the location and specification of the extract systems. However, no environmental noise survey was undertaken to determine existing background noise levels or a noise emission limit for the proposed mechanical plant operation. Furthermore, no noise predictions have been undertaken to demonstrate that the proposed plant complies

with the relevant noise limits.

4.11. Although the proposed plant equipment would be located internally, in this particular case, due to the proximity of the sensitivity receivers and concentration of similar uses, a noise survey and assessment is essential to ensure that the emissions of the proposed plant does not impact the amenity of the Brunswick Centre residents. Under circumstances where it is demonstrated that appropriate levels could be met, a condition could reasonably be secured to set maximum levels for noise emissions. In this instance, the information provided would not demonstrate that such levels could be met meaning that, in the absence of such evidence, such measures could not be reasonably conditioned. As such the potential impact upon the residential amenities of adjoining neighbours would form a reason for refusal. As details of anti-vibration pads for equipment have been included in submitted documents, these could reasonably be secured by condition and as such, harm from vibration would not form a reason for refusal.

Odour / fumes

4.12. Odours, fumes and dust can be generated from commercial cooking and can have the potential to cause a range of health problems, including respiratory diseases, as well as harm residential amenity. In accordance with policy A1, the Council will expect all development likely to generate nuisance odours to install appropriate extraction equipment and other mitigation measures. These should be incorporated within the building where possible. CPG1 (Design) states that in order to avoid harm to residential amenity, where mechanical ventilation is required to remove odour emissions, the release point for odours must be located above the roofline of the host and, where possible, adjacent buildings (para.11.10). This is in line with DEFRA guidance relating to the design of kitchen extract systems. In this instance the development would result in the creation of a restaurant unit with ancillary take away sales with a sizeable internal area and capacity for a large number of covers as discussed above. Whilst the applicant's menu would be limited and may not include the need for kitchen equipment such as fryers, this intensity of primary cooking on site raised significant concerns in terms of the handling of odour and fumes.

4.13. The applicant claims that, through the use of electric ovens and the kitchen extract specification, there would be no associated issues from smells created as a result of the proposed use. Although some documents specifying the proposed odour control system have been submitted, no assessment has been undertaken to estimate the odour risk of the proposed site. Given the scale of the unit, the intense level of cooking activity proposed on site (see para.4.3) as well as the siting of the single gaseous discharge point into an enclosed, subterranean service route, this lack of formal assessment is of significant concern. It should also be noted that were planning permission granted, the Council would have limited controls to prevent additional cooking equipment being installed by subsequent tenants which might exacerbate the above issue and lead to a further concentration of odours, fumes or smoke. While it is suggest that a condition might be applied requiring the use to be completed in accordance with the submitted Operational Management Plan, such a condition would not pass the tests outlined in para.206 of the NPPF. Specifically, such a condition would be difficult to enforce, would not be precise enough to fully mitigate the harm and may be seen as unreasonably inhibiting the viability of any subsequent A3 users with a differing business model. Considering the above, and due to the proximity of the closest neighbours, the Council would expect (as a minimum) an assessment in line with Annex C of "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems, Defra (2005)" before accepting that the kitchen extract system proposed is sufficiently designed to avoid a harmful impact.

4.14. The above Defra report confirms that for kitchen extract systems, the preferred solution would be to discharge 1m above the roof ridge of any building. If this is not possible, discharge should take place not less than 1m above the roof eaves or dormer window of the building housing the kitchen. If none of the above cannot be complied with, then an exceptional level of odour control will be required. In this instance, the single discharge point for all kitchen equipment would be situated at basement level and would vent into an enclosed subterranean servicing area. The proposed kitchen would be sizable, and would be used intensively in order to provide a high turnover of customers as discussed above. Although at a lower level, this discharge point is in close proximity to a large number of residential units (immediately above).

4.15. In light of the above, the proposed kitchen extract is considered likely to result in a concentration of odour and fumes within this enclosed space, which would in turn be likely to permeate upwards from the open access points to the basement levels towards residential units above as well as to public footways. In the absence of full information this would be the case for the proposed kitchen equipment, but it should also be noted that if approved the Council would have limited control to restrict more disruptive forms of cooking from commencing onsite as permission is sought for an A3 use and the submitted OMP is

deficient of detailed information. Similarly, were permission granted the relocation of the kitchen at a later date to a lower basement level (allowing greater space for covers) would also not require further permission, meaning that the use could intensify further without express consent. In light of the above, in the absence of comprehensive reporting assessing the suitability of the discharge point and evidence of exceptional levels of odour control to avoid the fumes rising up and affecting residents and the amenity of the area, this equipment cannot be found to satisfy the requirements of policy A1.

5. Design, Conservation and Heritage (Full Planning, LBC and Advertisement (i, ii and iii))

5.1. The application site is within a grade II listed building as well as the Bloomsbury Conservation Area. The Council therefore has a statutory duty outlined in Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character, appearance and significance of these heritage assets. The host building was listed due to its unique architectural contribution as well as its importance in terms of townscape and social history.

5.2. The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the application: development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used. Policy D2 states that within conservation areas, the Council will only grant permission for development that 'preserves and enhances' its established character and appearance. In order to preserve or enhance the borough's listed buildings, policy D2 additionally states that the Council will only grant permission for alterations to listed building where those changes do not cause harm to the setting and special interest of the building.

Proposed external alterations and internal fit outs (i) & (ii)

5.3. The only external physical alteration proposed that would require full planning permission would be the installation of a rear louvre. This louvre would be sited above existing plant equipment with the servicing area for the centre at lower ground floor level. By virtue of the siting of the proposed ventilation louvre, this element is not considered to harm the character and appearance of the host building or wider conservation area.

5.4. Sections 61, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") are relevant. These require the local planning authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and that that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

5.5. The effect of these sections of the Listed Buildings Act is that there is a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption. The NPPF provides guidance on the weight that should be accorded to harm to heritage assets and in what circumstances such harm might be justified (section 12).

5.6. Although the entire centre is Grade II listed, the listing description specifically notes that "*The internal finishes of the flats, shops and cinema have been inspected, and are not of special interest*". This is principally due to the utilitarian design of the interior of the commercial units, allowing for the units to remain flexible for future / successive shop fit outs. As such, much of the proposed internal alterations (removal and replacement of internal partitions, ducting and shop fit out) would remain reversible and would not result in harm to the listed building as a result of alterations to its plan form. Furthermore, although the proposed ventilation louvre would involve some minor loss of fabric for the creation of an opening, this would be sitting in a location which would not be visible in any public view and would not appear overly prominent given its location within a service route adjacent to existing plant equipment. As such this addition is not considered harmful to the character, significance or setting of the listed centre. This has been confirmed by the Council's Conservation officers who have reviewed all three submissions.

5.7. Notwithstanding the above, the proposed works would include the installation of illuminated signage, both externally as well as within the shop itself. Whilst the proposed projecting sign would be provided within

existing housing (meaning Listed Building Consent would not be required for these adverts), the proposed fascia would be a new addition affixed internally to listed fabric, triggering a requirement for listed building consent.

- 5.8. As will be discussed in full in the following section, this provision of illuminated signage within the centre is considered to result in the proposed signage disrupting the uniformity and consistency of signage across the centre, meaning that they would appear overly visually prominent. This is considered to have a detrimental impact on the special architectural and historic interest of the listed building and to the Bloomsbury Conservation Area contrary to policies D1, D2 and D3 as will be discussed further below.
- 5.9. Although this harm would be considered 'less than substantial', in accordance with para.134 of the NPPF, such harm would need to be weighed against any public benefit derived from the development when assessing the case. In this instance the development would not provide any public benefits which might outweigh the harm identified to the designated heritage assets, meaning that the works would not be supported.

Proposed Advertisements (ii)

- 5.10. Advertisement consent is sought for the display of one internally illuminated projecting sign as well as one internally illuminated fascia sign. Although the fascia advert would be displayed within the unit, as it would be illuminated and within 1m of the shopfront it would not benefit from deemed consent.
- 5.11. Across the centre, signage generally remains highly consistent in terms of scale, number, positioning and a lack of illumination. This has largely been informed by an approved standardised retail signage strategy granted for the centre under ref:2004/1582/P and amended by ref: 2005/3070/P that formed part of the original refurbishment of the Brunswick in 2003 which sets out approved locations for each unit including a standardised size of projecting sign.
- 5.12. While the proposal would include an appropriate number, type and size of advertisements; the proposal to make these adverts illuminated is of concern. As aforementioned, generally all signage within the centre is not illuminated, giving the centre a consistent visual appearance and avoiding visual clutter. The proposed illuminated signage would act to punctuate the otherwise consistent approach for adverts and would mean that the signs become very visually prominent. The projecting signs in particular are visible not only in the immediate vicinity but also in long views down the centre of the arcade (aiding legibility of the shopping provision). In these views, as well as the immediate context, the proposed signage would appear overly disruptive. As such the proposed illuminated signage is considered to cause harm to the visual amenity of the local area as well as the character and appearance of the Bloomsbury Conservation area, contrary to policies D1, D2 and D3.

6. Transport, servicing, waste and deliveries (Full planning (i))

- 6.1. As the proposed restaurant and ancillary takeaway use would require a considerable amount of servicing, generate considerable amounts of waste and would include takeaway deliveries, the resulting transport impacts arising from these issues was of initial concern.
- 6.2. With regard to the management of takeaway delivery orders, no information has been provided to demonstrate how this element of the business would be managed to avoid impacts to residential amenity or the adjacent transport network. According to the applicant's website, orders can be placed either online or via mobile apps such as Deliveroo, Uber Eats or City Pantry. Given the popularity of similar pizza delivery companies, the take away element of the business has the potential to generate a high volume of traffic from delivery vehicles from and to the site. As takeaway delivery orders tend to be concentrated to evenings and weekend, these peak times also tend to be the times at which local residents are most sensitive to disruption from noise. Whilst this lack of confirmation is of significant concern, it is accepted that if properly managed (with all pick-ups occurring at basement level and within agreed hours) this potential harm could be alleviated by securing a relevant management plan by condition. As such this would not form a reason for refusal.
- 6.3. With regard to waste and servicing, a Servicing and Waste Management Plan has been submitted alongside the application. Whilst this document contains limited information, it does confirm that all servicing and waste storage/collection would be made from the basement servicing area only, in line with

other units across the centre. Given the large area and subterranean location of this servicing area (built as an original design element of the centre), this provision is deemed acceptable. The requirement for servicing to occur at lower ground floor level rather than at street level is a requirement for all units within the centre from condition 7 of planning permission PSX0104561 dated 01/09/2003. Were the development otherwise acceptable in all other regards, this condition would have been re-applied to this permission, including limited hours for servicing in order to ensure adherence and to avoiding amenity or transport harm.

7. Recommendation

- 7.1. Application i) Refuse planning permission
- 7.2. Application ii) Refuse advertisement consent
- 7.3. Application iii) Refuse Listed Building consent

**Appendix One –
Brunswick Centre Retail Survey May 2018**

No. Cons.	No.	Unit	Occupier	Use Class	CoU applications	Enforcement Investigations
South Eastern frontage:						
1	1	1 & 3	Carluccio's Restaurant	A3	PSX0104561/ 2006/3876/P (to A3)	
2	2	5	Sainsburys	A1		
3	3	K1	Simple Health Kitchen	A1		EN12/0069 (Use) – no breach
4	4	7	Starbucks	A3	PSX0104561/ 2006/3876/P (to A3)	EN12/0096 (Use) – A3 use lawful
5	5	9	Patisserie Valerie	A1	PSX0104561/ 2006/3876/P (to A3)	
6	6	11 & 13	Hare & Tortoise	A3	PSX0104561/ 2006/3876/P (to A3)	
<i>End of frontage (South Eastern)</i>						
Northern Eastern frontage:						
7	1	15 & 17	Las Iguanas	A3		
8	2	19 & 21	Giraffe	A3	PSX0104561/ 2006/3876/P (to A3)	
9	3	K3	Cards Galore	A1		
10	4	23	Nando's	A3	PSX0104561/ 2006/3876/P (to A3)	
11	5	25 & 27	River Island	A1		
12	6	29	Holland & Barratt	A1		
13	7	31	Specsavers	A1		
14	8	33 & 35	Superdrug	A1		
15	9	37	Robert Dyas	A1		
16	10	39	Brunswick Medical Centre	D1		
<i>End of frontage (North East)</i>						
South Western Frontage: (APPLICATION FRONTAGE)						

17	1	Unit 2	Leon	SG	2017/0202/P (to A1/A3/A5 mixed use)	
18	2	4	Tossed	A1		
19	3	6	Hobbs	A1		
20	4	K2	Revital	A1		
21	5	8	Vacant	A1		
22	6	10	Traveller	A1		
23	7	12	Oasis	A1		
24	8	14	Office	A1		
25	9	16	Itsu	A1		EN14/0257 (Use) – no breach
26	10	18	Vacant	A1	(SUBJECT SITE)	
27	11	20	Vodafone	A1		
28	12	22	Vacant	A1		EN12/0039 (Use) – no breach
29	13	K4	Three	A1		
30	14	24 & 26	New Look	A1		
31	15	28	Crussh	A1		EN12/0079 (Use) – no breach
32	16	30 & 32	Yo! Sushi	A3	PSX0104561/2006/3876/P (to A3)	
33	17	34	Chatime Cafe	A1		
34	18	36	Vacant	D1	2013/5725/P (to D1)	
35	19	38a	Sanrizz Salon	A1		
36	20	38b	Ben's Cookies	A1		
<i>End of frontage (South West)</i>						
North Western Frontage:						
37	1	40 & 42	Boots	A1		
38	2	44 & 46	Gourmet Burger Kitchen	A3		EN14/0068 (Flue) – no breach
39	3	48 & 50	William Hill	Sui Gen		
40	4	52	The Fitness Space	D2	2017/4645/P (to D2)	
41	5	66	The Flash Centre	A1		
42	6	68	Drury Porter Eyecare	A1		
43	7	70	SKOOB bookshop	A1		
<i>End of frontage (North Western)</i>						

South Western Frontage totals:


Existing (x units):	Proposed (x units):
Total:20	Total:20
A1 – 17	A1 – 16
A3 – 1	A3 – 2
D1 – 1	D1 – 1
Sui Generis – 1	Sui Generis – 1
<i>Existing retail - A1 (17/20) 85%</i>	<i>Proposed retail - A1 (16/20) 80%</i>
<i>Existing food, drink & entert.- A3, A4 and A5 (+SG Unit 2) (2/20) 10%</i>	<i>Proposed food, drink & entert.- A3, A4 and A5 (+SG Unit 2) (3/20) 15%</i>


Centre wide totals:

Existing (x units):	Proposed (x units):
Total:43	Total:43
A1 – 30	A1 – 29
A3 – 8	A3 – 9
D1 – 2	D1 – 2
D2 – 1	D2 – 1
Sui Generis – 2	Sui Generis – 2
<i>Existing retail - A1 (30/43) 70%</i>	<i>Proposed retail - A1 (29/43) 67%</i>
<i>Existing food, drink & entert.- A3, A4 and A5 (+SG Unit 2) (9/43) 21%</i>	<i>Proposed food, drink & entert.- A3, A4 and A5 (+SG Unit 2) (10/43) 23%</i>

**Appendix Two –
Brunswick Centre location plan restaurant (A3) mark up**



 = permitted restaurant (A3 / SG)

 = proposed restaurant A3



**Appendix Three –
Brunswick Centre location plan restaurant, café & ‘food stores’ mark up**



= permitted restaurant (A3 / SG)

= permitted cafe or 'food store' (A1)

= proposed restaurant A3

