

APPEAL STATEMENT OF CASE

35 Pratt Street, London,
NW1 0BG

**CHANGE OF USE OF A FORMER RESTAURANT
(CLASS A3) TO A HOT FOOD TAKEAWAY (CLASS
A5); INSTALLATION OF
EXTRACTION/VENTILATION EQUIPMENT AND
ASSOCIATED WORKS**

APPEAL STATEMENT OF CASE

35 PRATT STREET, CAMDEN, NW1 0BG

ON BEHALF OF DOMINO'S PIZZA UK & IRELAND PLC

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

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PLANNING | **DESIGN** | **ENVIRONMENT** | **ECONOMICS**

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1. INTRODUCTION

- 1.1 The Statement has been prepared by Pegasus Group on behalf of Domino's Pizza & UK Ireland Plc in support of an appeal against the decision of London Borough of Camden to refuse planning permission (ref: 2018/3951/P) for the following development at 35 Pratt Street, London:

"Change of use from a restaurant (Class A3) to a hot food takeaway (Class A5), installation of extraction and ventilation equipment and associated works."

- 1.2 The application was presented at the Planning Committee on Thursday 11th April 2019. The professional recommendation was for the approval of planning permission subject to the imposition of planning conditions. A copy of the Committee Report is included at Appendix 1.

APPENDIX 1 - COMMITTEE REPORT REF: 2018/3951/P

- 1.3 Despite the Officer's recommendation, the Planning Committee resolved to refuse planning permission. From the Decision Notice, it can be seen that planning permission was refused for the following reasons:

"1. The proposed development, by reason of its size, operation and close proximity to schools and other hot food takeaways, would result in an overconcentration of A5 hot food takeaway uses that would have a harmful cumulative impact on public health, contrary to policy TC4 (Town centre uses) of the Camden Local Plan 2017, and policy E9 (Retail, markets and hot food takeaways) of the Draft London Plan, and relevant planning guidance.

2. The proposed development, by reason of customer activity and delivery and servicing, would have a harmful impact on local residential amenity and the local environment, including impacts on noise, disturbance, air-quality and anti-social parking, contrary to A1 (Managing the impact of development), A4 (Noise and vibration), and TC4 (Town centre uses) of the Camden Local Plan 2017, and relevant planning guidance.

3. The proposed development, in the absence of a legal agreement to secure a delivery and servicing plan would be likely to have a harmful impact on local residential amenity and the local environment, including impacts on noise, disturbance, air-quality and anti-social parking, contrary to A1 (Managing the impact of development), A4 (Noise and vibration), and TC4 (Town centre uses) of the Camden Local Plan 2017, and relevant planning guidance.

4. The proposed development, in the absence of a legal agreement to secure a waste and recycling plan including litter picking programme would have a harmful impact on local residential amenity and the local environment, contrary to A1 (Managing the impact of development), CC5 (Waste) and TC4 (Town centre uses) of the Camden Local Plan 2017, and relevant planning guidance.”

- 1.4 A copy of the Decision Notice is included at Appendix 2.

APPENDIX 2 – DECISION NOTICE REF: 2018/3951/P

- 1.5 The Decision Notice was not issued until 30th April 2019 as Planning Officers needed to review and confirm the precise reasons for refusal before issuing a decision which resulted in a delay of nearly 3 weeks.

Grounds of Appeal

- 1.6 The proposal is not contrary to any adopted policy or guidance on the number of takeaways or food and drink uses which would be acceptable within town centres or within certain distances of schools. Therefore, the proposal would not result in a harmful cumulation of takeaway uses contrary to Policy TC4 of the Camden Local Plan (adopted July 2017).
- 1.7 In terms of the Council's assertion that the proposal would be contrary to Policy E9 of the emerging London Plan, it is not considered that emerging Policy E9 is compliant with the NPPF in its current form. It does not allow for flexibility and would be contrary to other objectives within the Framework, such as improving the vitality and viability of town centres.

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- 1.8 Given that emerging Policy E9 has not yet undergone examination from an independent panel of Inspectors, has a number of significant unresolved objections, and is considered to contradict the NPPF, only minimal weight should be afforded to this policy in the determination of the proposal.
- 1.9 Furthermore, the site's last active use as a Class A3 restaurant served food which could be considered unhealthy. The site could lawfully be opened as a restaurant without the need for planning permission. Indeed, the site could sell exactly the same food as the proposed hot food takeaway with the only exception being that the sale of hot food for off-site consumption would have to be ancillary to the main use.
- 1.10 It is also considered that the Council was unreasonable to refuse the proposal on the grounds that the noise impacts, odour, and anti-social parking from the operation of the site as a takeaway would result in an unacceptable impact on residential amenity.
- 1.11 The proposed opening hours will be between 11am and 11pm on a daily basis. Therefore, the proposed takeaway would not stay open later than other existing commercial uses within the centre. The level of customer activity is unlikely to be significantly higher than other commercial uses such as the existing lawful use (Class A3 restaurant).
- 1.12 Furthermore, the extraction and ventilation equipment have been designed with input from specialist acoustic consultants and ventilation specialists who have advised that additional attenuation measures are included to ensure that odours are adequately dispersed and the noise emissions will be kept to an acceptable level.
- 1.13 The scheme has been reviewed by the Council's Environmental Health Team who confirmed that they had no objections to the proposal subject to the imposition of conditions, which the appellant would be willing to accept. No robust evidence was provided by the Council to demonstrate the proposal would cause any unacceptable impact on amenity due to noise or odour.
- 1.14 Finally, it is held that the details set out within the Delivery and Servicing Management Plan and Waste Management Plan could be secured through appropriately worded planning conditions rather than a S106 legal agreement. Therefore, refusal reasons 3 and 4 should not be upheld.

Appeal Statement

- 1.15 This Statement will expand upon the grounds of appeal, and set out the justification for the proposal. It will do this, first of all, by reviewing the site and surroundings in terms of its planning context and summarising the relevant planning history and planning policy.
- 1.16 Then, it will proceed to demonstrate how the proposal complies with both national and local planning policies, that it is an appropriate development in accordance with national planning policy and that there are no material considerations which outweigh its acceptability.

2. SITE DESCRIPTION

- 2.1 The appeal site (also known St Martin's Tavern) comprises an existing three storey Victorian property located on the northern side of Pratt Street. The junction between Pratt Street and Bayham Street is located approximately 50 metres to the south west of the site. The property backs onto St Martin's Gardens.
- 2.2 The ground floor level was previously occupied by a Japanese restaurant (Sen Nin) under a Class A3 use. The upper floors are in residential use (Class C3). An online review highlights that Sen Nin relocated to Islington and the opening hours are between 12:00 and 23:00 Sunday to Thursday and between 12:00 and 23:30 on weekends.
- 2.3 Extraction and ventilation equipment has previously been installed on the rear of the building in association with the previous restaurant use.
- 2.4 The appeal site is not within a defined town centre but it is approximately 65 metres to the north east of the boundary of Camden High Street Town Centre and is therefore an 'edge-of-centre' site in planning policy terms.
- 2.5 There are a number of other commercial units in the vicinity of the site, located along this side of Pratt Street. Indeed, the site is within a commercial parade which includes cafes, a restaurant, a dry cleaners and a small convenience shop amongst other uses.
- 2.6 There are residential flats (Class C3) immediately above the appeal site and at the upper floors of the adjacent commercial units.
- 2.7 The entrance to St Michael's Church of England Primary School is approximately 140 metres from the appeal site. Our Lady's Catholic Primary School is approximately 230 metres from the site and Richard Cobden Primary School is approximately 338 metres from the site.
- 2.8 The building does not lie within a Conservation Area. Whilst it is not a statutorily Listed Building, it is locally listed due to its architectural merit, contribution to the townscape and social significance.

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- 2.9 The building also lies adjacent to the entrance to the Grade II Listed St Martins Gardens Recreation Ground and Wrought Iron Gates. The building on the other side of this entrance (Carpenters Court) is also included in the Council's list of locally designated heritage assets.
- 2.10 Parking along Pratt Street is limited to disabled parking bays and several pay and display spaces, all within 50m of the site. There is a dedicated moped/motorcycle parking area immediately opposite the unit.

3. THE APPEAL PROPOSAL

- 3.1 This application seeks planning permission for the change of use of the site from a former restaurant (Class A3) to a hot food takeaway (Class A5). It is intended that Domino's Pizza will occupy the site. The proposed takeaway will be open between 11am and 11pm on a daily basis.
- 3.2 The customer waiting and seating area is located at the front of the ground floor and is accessed via the main customer entrance. The store will also comprise an oven and preparation area; a cold room; a washing up area; staff and customer WCs and a manager's office.
- 3.3 Waste and recycling will be stored internally and will be taken to the relevant collection points at certain times. Further details of the waste and recycling are included within the Waste Management Plan submitted during the planning application.

Extraction / Ventilation Equipment

- 3.4 To facilitate the use of the property as a hot food takeaway, the proposal also seeks permission for the installation of extraction and ventilation equipment.
- 3.5 The existing extract opening at the rear elevation, which previously served the restaurant, will be retained and the opening will be widened for reuse by the new oven extract which will terminate via a louvred grille.
- 3.6 In relation to the extraction of fumes from the premises, the system has been carefully designed following advice from Purified Air Ltd who provide advice on effective filtration and control of odours from commercial kitchens. The system has therefore been fitted with fine filtration followed by carbon filters and will ensure no unacceptable harm is caused as a result of odours.
- 3.7 A fresh air intake duct will terminate via a louvred grille at the side elevation of the building.
- 3.8 An existing wall mounted compressor on rear elevation will be decommissioned and removed and then replaced with 1 no. new A/C and 1 no. new cold room compressors. These will be wall mounted at a low level.

3.9 In relation to the plant equipment, a full Plant Noise Assessment was submitted by the appellant's acoustic consultant, Cole Jarman, during the full planning application.

3.10 The acoustic mitigation measures which will be installed include the provision of acoustic enclosures around the compressors at the rear of the premises and the installation of silencers within the extract and fresh air intake ducts. These are detailed on the submitted plans.

Other Alterations

3.11 A number of alterations are proposed to the shopfront. This will include the removal of the existing timber shopfront and replacement with a new timber shopfront which retains arched windows and doors and a timber stallriser with decorative detailing.

3.12 The existing fascia signs and trough lights at the current shopfront will be removed. However, any new signage will be subject to a separate application for advertisement consent.

3.13 A new customer entrance will be installed on left hand side of the shopfront (front elevation).

3.14 At the rear of the building, a pair of existing double doors will be removed and replaced with a single solid core timber rear access door.

Confirmation of Correct Plans

3.15 The full set of external changes are shown on the determined planning drawings. During the determination period of the application, a number of revised plans submitted to the Local Planning Authority. For clarification, the final list of determined plans is set out below:

- Site Location Plan (Drg. No. B10413-AEW-PJ003029-XX-DR-0005 Rev A);
- Block Plan (Drg. No. B10413-AEW-PJ003029-XX-DR-0006 Rev H);
- Existing Elevations (Drg. No. B10413-AEW-PJ003029-XX-DR-0002 Rev B);
- Proposed Elevations (Drg. No. B10413-AEW-PJ003029-XX-DR-0004 Rev F);

- Existing GA Plan (Drg. No. B10413-AEW-PJ003029-ZZ-DR-0001 Rev B);
and
- Proposed GA Plan (Drg. No. B10413-AEW-PJ003029-ZZ-DR-0003 Rev F).

3.16 These are the plans which should be considered as part of this appeal.

4. PLANNING HISTORY

The Appeal Site

- 4.1 Planning permission (ref: **8701322**) was granted in **September 1987** for (1) the erection of a single storey ground floor extension and part 1st floor extension for public house. (2) Change of use of 1st floor from residential to function room in connection with a public house on the ground floor. (3) Erection of a roof extension to provide a maisonette on the 2nd and 3rd floors.
- 4.2 Permission (ref: **PE9800346**) was granted in **May 1998** for the renewal of planning permission granted on 07/12/93 for the construction of a single storey ground floor extension and part first floor extension for use by the public house. Change of use of the first floor from residential to function room, construction of a roof extension to provide a self-contained maisonette on the second and third floors.
- 4.3 Permission (ref: **PEX0101035**) was granted in **March 2003** for the change of use of the first floor from ancillary public bar accommodation to residential; the erection of a single storey rear extension at first floor level and the addition of a third-floor mansard roof to create 4no. new residential units, plus an additional set of emergency exit double doors at rear of the public house.
- 4.4 Permission (ref: **2010/0952/P**) was granted in **April 2010** for the installation of flue, duct work and attenuator to the rear elevation of an existing restaurant.

Other Relevant Appeals

68 Westbury Hill, Bristol

- 4.5 An application (ref: 15/04143/F) was refused on 25th November 2015 for a change of use from a retail unit (Class A1) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and external alterations at 68 Westbury Hill, Bristol.
- 4.6 One of the reasons for the refusal was due to the fact that the proposal would introduce a takeaway within 400 metres of a building which the Council considered to be a 'youth facility'. The Council considered that the proposal would have the potential influence young people's behaviour in relation to eating decisions in a way that was harmful to health contrary to their adopted Local Plan.

- 4.7 The decision of Bristol City Council to refuse the application was appealed and the appeal was allowed on 24th June 2016. The Inspector found that the location of the appeal site (within a town centre) is where a pizza delivery business would be expected to be located. The Inspector found that the imposition of a 400 metre exclusion zone around youth facilities would exclude large parts of the centre which would severely restrict A5 development and would be detrimental to the vitality and viability of the town centre.
- 4.8 Furthermore, the Inspector found that the Council has provided little in the way of robust evidence to show that children attending the youth facility will be influenced by the presence of an additional takeaway in this location. In the absence of such evidence, it was regarded that the addition of a further unit selling takeaway pizza as unlikely to materially alter the present position.
- 4.9 A copy of the Appeal Decision (ref: 3145036) is included at Appendix 3.

APPENDIX 3 – APPEAL DECISION REF: 3145036

33 Station Road North, Forest Hall

- 4.10 An application (ref: 16/00536/FUL) for a change of use from a café (Class A3) to a hot food takeaway (Class A5) at 33 Station Road North, Forest Hall was refused on 26th May 2016 for the following reason:

"The proposed use does not meet the criteria of emerging Policy DM3.7 of the Local Plan Pre-Submission Draft. The use is proposed within 400m of Forest Hall Primary School and Springfield Park and it is in a ward where more than 10% of the Year 6 pupils are classed as obese. As such the proposed use would cause significant harm to the health of residents in the area and is contrary to emerging Policy DM3.7 of the Local Plan Pre-Submission Draft and NPPF."

- 4.11 An appeal against the Council's decision to refuse planning permission was made and the appeal was allowed on 22nd November 2016. The Inspector found that whilst the proposal was contrary to an emerging policy, the policy should be afforded very limited weight given that it imposed a blanket ban on hot food takeaways which did not appear to be in accordance with the principles of the Framework.

4.12 A copy of the Appeal Decision (ref: 3154960) is included at Appendix 4.

APPENDIX 4 – APPEAL DECISION REF: 3154960

50 Romford Road, Newham, London

4.13 An application (ref: 13/0475/FUL) for a change of use from Class A3 with ancillary take-away to Class A5, erection of new shopfront, extract duct and air compressors at Eastern Curry House, 50 Romford Road, London was refused on 21st March 2013 for several reasons including the fact that the Council perceived the proposal would be contrary to their strategy of promoting healthy lifestyles in the Borough.

4.14 This decision was subsequently appealed and the appeal (ref: 2199826) was allowed on 6th December 2013.

4.15 A copy of the appeal decision is included at Appendix 5.

APPENDIX 5 – APPEAL DECISION REF: 2199826

127 The Broadway, Mill Hill, London

4.16 Planning permission (ref: 18/1288/FUL) was refused on 4th July 2018 for the change of use from a former bank (Class A2) to a hot food takeaway (Class A5); installation of extraction and ventilation equipment and other minor external alterations at 127 The Broadway, Mill Hill.

4.17 The application was refused due the perceived fact that by virtue of its operation as a takeaway, combined with the close proximity to existing adjoining residential properties and the accumulation of hot food and drink premises, the proposal would have unacceptable odour and noise impacts on the residential properties in the vicinity and would detract from the character and appearance of the area.

4.18 This decision was subsequently appealed and the appeal (ref: 3207746) was allowed on 7th January 2019.

4.19 A copy of the decision is included at Appendix 6.

APPENDIX 6 – APPEAL DECISION REF: 3207746

5. PLANNING POLICY

5.1 The following policy is considered relevant to this appeal.

National Planning Policy

National Planning Policy Framework (NPPF) 2019

5.2 The revised National Planning Policy Framework (NPPF) was published in July 2019 and sets out the Government's planning policies for the planning system to ensure that the planning system helps to achieve sustainable development.

5.3 The key objective of the NPPF is to achieve sustainable development and **paragraph 8** confirms there are three overarching objectives which need to be pursued, namely economic, social and environmental. The economic role should contribute to sustainable development by building a strong, responsive and competitive economy and ensuring the sufficient amount of and right type of development to support growth.

5.4 **Paragraph 11** confirms that a presumption in favour of sustainable development is at the heart of the NPPF and for planning applications this means proposals for development conforming to the Development Plan should be approved without delay.

5.5 At **paragraph 12**, the NPPF confirms that "*where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate the plan should not be followed*".

5.6 **Paragraph 38** relates to decision making and confirms that "*local planning authorities should approach decisions on proposed development in a positive and creative way*" and that:

"Decision-makers at every level should seek to approve applications for sustainable development where possible".

5.7 **Paragraph 48** states that: "*Local planning authorities may give weight to relevant policies in emerging plans according to:*

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."

5.8 **Paragraph 80** states that *"significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development"*.

5.9 **Paragraph 85** relates to the vitality of town centres and confirms that policies and decisions should *"support the role that town centres play at the heart of local communities"*.

5.10 **Paragraph 91** relates to promoting healthy and safe communities and states that *"Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example

through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.”

5.11 **Paragraph 180** states that *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.”*

5.12 **Paragraphs 186 and 187** relate to decision taking and confirm that *“local planning authorities should approach decision taking in a positive way to foster the delivery of the sustainable development”* and that they:

“should look for solutions rather than problems, and decisions taken at every level should seek to approve applications for sustainable development where possible”.

5.13 **Paragraph 214** states that: *“The policies in the previous Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned”.*

5.14 Overall, the NPPF confirms that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent it. Local Authorities should approach development management decisions positively – looking for solutions rather than problems so that applications can be approved wherever it is practical to do so. Securing the optimum viable use of the property and achieving public benefits are key material considerations for application proposals.

Local Planning Policy

5.15 The relevant adopted local planning policies are contained within the London Plan 2016 (updated January 2017) and the Camden Local Plan (adopted July 2017).

5.16 Other relevant documents include the Council's suite of Supplementary Planning Documents, the Camden Local Plan Evidence Report into fast food takeaways and health (February 2016) and the emerging New London Plan.

Camden Local Plan (adopted July 2017)

5.17 The policies highlighted below are restricted to those set out within the reasons for refusal.

5.18 **Policy C1** states that the Council will improve and promote strong, vibrant and healthy communities through ensuring a high quality environment with local services to support health, social and cultural wellbeing and reduce inequalities.

5.19 **Policy A1** states that the Council will seek to protect the quality of life of occupiers and neighbours. The Council will grant permission for development unless this causes unacceptable harm to amenity.

5.20 **Policy A4** confirms that the Council will not grant planning permission for development likely to generate unacceptable noise and vibration impacts.

5.21 **Policy TC4** states that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. The Council will consider (inter alia):

- the cumulative impact of food, drink and entertainment uses, taking into account the number and distribution of existing uses and non-implemented planning permissions and any record of harm caused by such uses;
- the Council's expectations for the mix and balance of uses within frontages for each centre are set out in Appendix 4;
- the individual planning objectives for each centre, as set out in the supplementary planning document Camden Planning Guidance on town centres and retail;
- the health impacts of development;

- the impact of the development on nearby residential uses and amenity and any prejudice to future residential development;
- parking, stopping and servicing and the effect of the development on ease of movement on the footpath;
- noise and vibration generated either inside or outside of the site;
- fumes likely to be generated and the potential for effective and unobtrusive ventilation; and
- the potential for crime and antisocial behaviour, including littering.

5.22 Appendix 4 sets out guidance on the number of non-A1 uses and food and drink (Class A3, A4 and A5) uses that will be permitted in the designated shopping frontages within identified town centres.

5.23 However, as the site is technically an 'edge-of-centre' site in planning policy terms there is no set guidance for the concentration of certain uses in these locations.

5.24 **Policy CC5** confirms that the Council will seek to make sure that developments include facilities for the storage and collection of waste and recycling.

New London Plan

5.25 A New London Plan is under preparation and this will replace the existing London Plan upon adoption.

5.26 A draft version of the New London Plan was published by the Mayor for consultation in December 2017 and the consultation period ran until 2nd March 2018. Following this, the Mayor published a version of the draft Plan in August 2018 that included his minor suggested changes based on a review of the consultation responses.

5.27 This version of the Plan is being examined by an independent panel of Inspectors and the Examination in Public Hearing Sessions commenced on 15th January 2019.

5.28 **Part C of Policy E9** of the emerging London Plan states that "*Development proposals containing A5 hot food takeaway uses should not be permitted where these are within 400 metres walking distance from the entrances and exits of an*

existing or proposed primary or secondary school. Boroughs that wish to set a locally-determined boundary from schools must ensure this is sufficiently justified. Boroughs should also carefully manage the over-concentration of A5 hot food takeaway uses within town centres and other areas through the use of locally-defined thresholds in Development Plans."

5.29 **Part D of the Policy E9** states that *"Where development proposals involving A5 hot food takeaway uses are permitted, these should be conditioned to require the operator to achieve, and operate in compliance with, the Healthier Catering Commitment standard."*

5.30 The Hearing Session in relation to key policy E9 is due to take place on 15th May 2019.

5.31 The Draft London Plan is a material consideration in planning decisions. The significance given to it is a matter for the decision maker, but in accordance with paragraph 48 of the NPPF, weight can be given to relevant policies according to

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

6. CASE FOR THE APPELLANT

6.1 This section of the statement seeks to demonstrate how the proposal is fully compliant with National and local planning policy and that there are no material considerations which outweigh its acceptability. As a result, it will demonstrate that the proposal will:

- Not result in an unacceptable concentration of takeaways that would have a harmful cumulative impact on public health; and
- Not cause unacceptable harm to residential amenity.

6.2 Each of these issues is discussed in turn below.

Impact of the Proposal on Public Health

Over-concentration of Similar Uses

6.3 The first reason for the refusal of planning application ref: 2018/3951/P relates to the perceived fact that the development, by reason of its size, operation and close proximity to schools and other hot food takeaways, would result in an overconcentration of A5 hot food takeaway uses that would have a harmful cumulative impact on public health contrary to Policy TC4 of the Camden Local Plan (adopted July 2017) and emerging Policy E9 of the New London Plan.

6.4 The appeal site is approximately 140 metres from the entrance to St Michael's Church of England Primary School in walking distance. Our Lady's Catholic Primary School is approximately 230 metres from the site and Richard Cobden Primary School is approximately 338 metres from the site.

6.5 As highlighted within the Committee Report included at Appendix 1 of this Statement, the Council's Public Health consultation response highlighted that with regard to these schools, there are 16 fast food takeaways within 400m of at least one of the three schools, including a cluster of five fast food stalls at Inverness Street market.

6.6 It should be noted that the Council itself sought to introduce a policy within criteria f of Policy TC4 of the Camden Local Plan (adopted July 2017) which prevented hot food takeaways within 400 metres of secondary schools. However, during the examination of the Local Plan, the Inspector recommended that this criteria was

removed as there was insufficient Camden-specific evidence to demonstrate a causal link between A5 uses and childhood obesity/eating habits in relation to a 400 metre zone around secondary schools. Therefore, there is no specific adopted guidance about the number of takeaways which will be acceptable within certain distances of schools.

- 6.7 Policy TC4 states that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours and that the Council will consider (inter alia) the cumulative impact of food, drink and entertainment uses, taking into account the number and distribution of existing uses and non-implemented planning permissions and any record of harm caused by such uses.
- 6.8 The Council's expectations for the mix and balance of uses within frontages in the designated centres are set out in Appendix 4 of the adopted Local Plan. In relation to food and drink uses (Class A3, A4 and A5), the Appendix confirms that no more than a maximum proportion (typically ranging from 25% to 50%) of A3, A4 and A5 uses combined in each individual frontage will be permitted. In addition, there should be no more than two A3, A4, and A5 uses permitted consecutively in a frontage.
- 6.9 The appeal site is not technically within a designated centre as it is an 'edge-of-centre' site in planning policy terms, and therefore none of the thresholds directly apply to the site. However, the site is within a row of commercial units which comprises 8 no. units consisting of 3 no. Class A1 uses, 4 no. Class A3 uses and 1 no. Class B1 use. Therefore, there are no other existing hot food takeaways within this particular frontage although there are a number of takeaways in the wider area (as highlighted above).
- 6.10 Nevertheless, given the site's current use as a Class A3 restaurant, the proposal would not result in any change in the portion of food and drink uses in this frontage. Therefore, it cannot be said that the proposal would result in a harmful concentration of food and drink uses when assessed against the guidance within the adopted Local Plan.

- 6.11 The Council has not provided any policy justification to support its argument that the proposal would result in a harmful concentration of takeaways which would be detrimental to public health. Indeed, the proposal is not contrary to the only clear policy guidance on what would cause a harmful concentration of food and drink uses (i.e. the thresholds set out at Appendix 4 of the Camden Local Plan).
- 6.12 In addition, the Council's Professional Planning Officer did not feel that the proposal would create a harmful accumulation of similar uses as evidenced within their report to Planning Committee which is included at Appendix 1.

Weight to be given to Emerging Policy E9 of the New London Plan

- 6.13 Section 38(6) of the Planning and Compulsory Purchase Act requires that planning applications are determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) confirms at paragraph 12 that the Development Plan is the starting point for decision making. The Development Plan currently comprises the Camden Local Plan (adopted July 2017) and the London Plan 2016.
- 6.14 Paragraph 48 of the NPPF confirms that local planning authorities may give weight to relevant policies in emerging local plans according to:
- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that might be given); and
 - c) The degree of consistency of the relevant policies in the emerging plan to the policies in the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 6.15 In relation to assessing the degree of consistency of relevant policies in emerging plans to the policies in the Framework, for plans submitted on or before 24th January 2019, such plans will be assessed against the Framework published in March 2012.

- 6.16 Therefore, the starting point for assessing the principle of this proposal is adopted Development Plan and there are no policies within the adopted Development Plan which explicitly prevent any new takeaways within a certain distance of schools.
- 6.17 Emerging Policy E9 of the Draft New London Plan is a material consideration to which the weight applied must be carefully considered against the above criteria. The policy is therefore considered against each of the above criteria in turn below.
- 6.18 The draft New London Plan was consulted on between 1st December 2017 and 2nd March 2018. Following this, the Mayor made a number of suggested changes following a review of the consultation responses. However, these changes were not consulted on. The draft New London Plan along with the Mayor's suggested changes is now undergoing Examination in Public by an independent panel of Inspector's and the hearing sessions have been taking place since 15th January 2019.
- 6.19 On this basis, the preparation of the plan remains at a relatively early stage (with the hearing sessions still taking place) and could potentially change significantly before being adopted. Therefore, with regard to the first bullet point of paragraph 48, the emerging plan can only be given limited weight.
- 6.20 With regard to the second criteria, the Council have published the written representations made in advance of the hearing session which will cover emerging Policy E9. There are a number of significant objections to emerging Policy E9 in its current form and these objectors will be making representations during the hearing session covering Policy E9 which is due to take place on 15th May 2019.
- 6.21 With regard to the third criteria, the NPPF confirms that local planning authorities should create policies that are flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances. With regard to the above, emerging Policy E9 is not considered to be compliant with the NPPF as it allows for no flexibility or responsiveness to site-specific or economic circumstances.
- 6.22 Indeed, the wording of the policy simply confirms the Local Planning Authority will prevent all new hot food takeaways within 400 metres of the entrance and exit of both primary and secondary schools.

6.23 This provides no opportunity for an assessment of the specific circumstances of the site and other material considerations. For example, it does not allow for any consideration of the existing use of a site; whether the proposed use would actually have any harmful impact on health etc. As such, emerging Policy E9 is not consistent with the general thrust of the NPPF in this regard.

6.24 Further, paragraph 85 of the NPPF (and paragraph 23 of the previous 2012 Framework) confirms that planning policies should be positive, promote competitive town centre environments and pursue policies which support the viability and vitality of town centres. Simply imposing a blanket ban on takeaways within 400 metres of schools is clearly likely to restrict such uses in a considerable amount of locations, including town and district centres where other planning policies direct such uses.

6.25 Appeal decision (ref: 3145036) allowed a new hot food takeaway at 68 Westbury Hill in Bristol. The Inspector's decision is included at Appendix 3 and states the following at paragraph 14:

"In this case, the proposed development would be a pizza delivery business located in the town centre, an area where such uses are to be expected. The imposition of a 400m exclusion zone around youth facilities in this location would exclude large parts of the town centre and would severely restrict Class A5 development in that area. This would be detrimental to the overall vitality and viability of the town centre, contrary to the advice set out in paragraph 23 of the National Planning Policy Framework."

6.26 Although the appeal site is within an 'edge-of-centre' location, it is within close proximity to Camden Town Centre where main town centre uses such as hot food takeaways are expected to be located. Furthermore, it is within a row of commercial units.

6.27 Imposing a blanket ban on takeaways within 400 metres of the entrances and exits of schools would prevent any takeaways within large areas of the Camden Town Centre. This can be seen via the map at page 11 of the Committee Report included at Appendix 1 of this statement.

6.28 As mentioned above, Camden Council also sought to introduce a similar policy within criteria f of Policy TC4 of the Camden Local Plan (adopted July 2017) which prevented hot food takeaways within 400 metres of secondary schools. The Inspector's Report on the Examination of the Camden Local Plan (dated April 2017) states the following in relation to this emerging restriction:

"140. Policy TC4 also resists the development of hot food takeaways within 400 metres of secondary schools. The Council has drawn my attention to a study by the London Borough of Brent on 'Takeaway Use among Brent's school students' (2014) (CD8.38), and cited a number of other national and international studies relating to the use of hot food takeaways near schools. Nevertheless, there is no Camden-specific evidence before me that demonstrates a causal link between A5 uses and childhood obesity/eating habits in relation to the proposed 400 metre zone around secondary schools. I also note that the proposed zones would cover the majority of the Euston Growth Area and a significant proportion of the King's Cross Central London Frontage. These areas are identified as a key focus for growth in the Plan, and therefore the effectiveness of the policy is unclear.

141. The health impacts of development are relevant planning considerations, as established in the NPPF. Nevertheless, for the reasons above I consider there is insufficient evidence before me to support the Council's approach in Policy TC4 to hot food takeaways. Accordingly, I recommend that the last section of criterion f is deleted and related changes made to the supporting text (MM87)."

6.29 As is highlighted within these comments, the imposition of a blanket ban on takeaways within 400 metres of secondary and primary schools would result in the prevention of any Class A5 uses in areas highlighted for growth which would be confusing and would also be harmful to businesses and the vitality and viability of such areas.

6.30 Overall, emerging Policy E9 is inconsistent with the NPPF. It is yet to undergo examination by an independent panel of Inspectors but, given the lack of flexibility and consistency with the NPPF, it is considered unlikely to be found 'sound' in its current format. Therefore, emerging Policy E9 should only be afforded limited weight when assessing the proposal.

Consideration of the Existing Fall-Back Position

6.31 The Council in applying the first reason for refusal to planning application ref: 2018/3951/P appear to have given no weight to the fall-back position and the site specific circumstances. In this instance, the application site is lawfully a Class A3 use which was previously occupied by a Sushi restaurant (and likely had an ancillary takeaway element to the business).

6.32 Although the site is currently vacant, it could be lawfully operated by a Class A3 use without the need for planning permission. Indeed, a pizza restaurant serving extremely similar products to that proposed at the hot food takeaway could open at the site. Again, it is likely that such a use would also offer an ancillary takeaway element as part of the business.

6.33 Therefore, it is not considered that the proposal would cause any unacceptable harm on the health of local residents or result in unhealthy eating when compared to the existing lawful use of the site. Significant weight should be given to the existing lawful use and the fall-back position.

6.34 An appeal (ref: 3154960) at 33 Station Road North, North Tyneside was allowed on 22nd November 2016 in relation to a change of use from a restaurant (Class A3) to a hot food takeaway (Class A5). The application was refused by the Council on the grounds that it was contrary to their emerging policy which sought to resist takeaways within close proximity to schools and in wards where at least 10% of Year 6 pupils were classified as obese.

6.35 A copy of the appeal decision is included at Appendix 4 of this Statement. In relation to the existing fall-back position, the Inspector stated the following at paragraph 13:

"The appellant has referred to the existing permitted use of the site, which as a Class A3 use could operate as a café or restaurant selling a similar range of food to the proposed use. In response, the Council

*has stated that the proposal should be determined on its own merits. **However, I consider that the fallback position of the existing use is a material consideration and should be given considerable weight. The premises could continue to be used for a Class A3 use and the Council has not provided substantive evidence to demonstrate how the proposal would lead to a significant impact on the health of the community compared to the lawful use of the site.*** [our emphasis]

6.36 Similarly, an appeal (ref: 2199826) at 50 Romford Road in London was allowed where a Council had refused planning permission for a change of use from a Class A3 restaurant to a Class A5 hot food takeaway.

6.37 When considering the impact of the appeal proposal on healthy lifestyles, the Inspector stated the following:

"... In this instance, and crucially, the unit already has an A3 use which the Council itself has described as having an ancillary takeaway. This proposal would merely consolidate the takeaway element that already exists at the site. In other words, this is not a 'new' food facility, but a pre-existing one."

6.38 In their conclusion of this issue, the Inspector stated:

*"... whilst I appreciate the Council's laudable objective to promote healthy neighbourhoods, **having regard to the existing A3 use of the premises, I find that there is no indication that the proposal would have an unacceptable effect on the health of local people.** Consequently, the Council's objections are not well founded and I find no conflict with the provisions of Policy SP2 of the Core Strategy."* [our emphasis]

6.39 Considerable weight must be given to the existing lawful use of the application site as a Class A3 use. The site could serve food identical to that proposed at the hot food takeaway without the need for planning permission. The only difference would be that the majority of customers would eat food on the premises rather than taking it off the premises for consumption.

6.40 Overall, it is clear that whilst the thrust of emerging Policy E9 is to reduce unhealthy eating and improve the health of the local residents, particularly of secondary and primary school students. Whilst this is encouraged, it is not thought that the proposal would be contrary to the key objective of this emerging policy given that its current lawful use is as a Class A3 unit.

Impact upon Health and Healthy Lifestyles

6.41 It is clear that the intention of the Council's first reason for refusal is to prevent any perceived harmful impact from unhealthy eating and improve the wellbeing of the health of residents. However, it is not considered that in this instance the proposal would result in any harmful impact on healthy eating given the site-specific circumstances.

6.42 The appeal at 50 Romford Road was against the decision of London Borough of Newham's decision to refuse a takeaway application as it did not comply with the Council's objective to promote healthy lifestyles. The Inspector's Decision (ref: 2199826) is included at Appendix 5 and states the following in relation to policies which seek to impose blanket bans:

*"Moreover, I accept the appellant's point that 'unhealthy' foods can be purchased from a wide range of outlets, including supermarkets, garage forecourts, and so on, not just A5 outlets. Conversely, all such outlets, including A5 premises may sell healthy food, **so a blanket ban is inherently problematic...**" [our emphasis]*

6.43 In reality, a young person of primary school age would be far more likely to purchase a fizzy drink or a chocolate bar from a convenience store or a coffee and cake from a nearby café on a regular basis than to purchase a pizza from a Domino's pizza store.

6.44 Given that the site is located within close proximity to a Town Centre, there are a number of opportunities to already purchase what could be considered as unhealthy food from convenience stores, cafes, other takeaways etc.

6.45 Further, it is not considered that Domino's is particularly unhealthy in comparison to other available products within the vicinity of the site.

- 6.46 Domino's is committed to improving the nutritional value of its pizzas, and is actively pursuing the following actions under the Government's Food Responsibility Deal including calorie counts for large, regular crust pizza slice onto the ordering website, alongside the price.
- 6.47 The calorie information is available under the product description. Domino's also provide calorie counts for the core pizzas and best sellers as a guide for consumers. Domino's continue to look at ways in which to provide customers with calorie information and their nutrition website, www.takeafreshlook.co.uk, is frequently updated to show the most current information about our products. Information gives full allergen labelling for all products as well as tips on eating a healthy diet. Domino's is a supporter of the Anaphylaxis Campaign and take the issue of food allergies very seriously.
- 6.48 All added trans-fats from products were removed several years ago. This requirement forms part of Domino's supplier policy.
- 6.49 Domino's continue to work with ingredient suppliers to reduce salt in products, where possible, without significantly affecting the taste of the food. A nutrition table has been incorporated onto the www.takeafreshlook.co.uk website to inform customers about salt contents in pizzas, dips, side orders and desserts. Domino's are on track to comply with PHE's sugar reduction requirements which mostly affects desserts provided by third party suppliers.
- 6.50 Domino's don't market specifically to under-16s including no advertising in TV programmes specifically targeted at children. Furthermore, as standards, HFSS advertising must be at least 50 metres from schools.
- 6.51 Domino's often provide speakers for schools, or run school tours, to discuss the ways pizzas can be made healthier – ordering smaller sizes or sharing larger pizzas, choosing reduced fat cheese and swapping high fat and salt meats such as pepperoni for vegetables, tuna or chicken.
- 6.52 In terms of the proximity of the proposed hot food takeaway to the identified schools, it is clearly relevant that children of primary school age would normally be accompanied by parents on their journey to and from the school, who would guide their food choice and would not normally leave school premises at lunch times.

- 6.53 Domino's Pizza typically caters for adults and families who purchase a pizza as a luxury treat – with the average Domino's Pizza customer ordering approximately one pizza each month. It is, therefore, important to allow for differentiation between takeaway operators and it should not be considered that all hot food takeaways are indistinguishable in terms of possible health impacts as clearly they are not.
- 6.54 There are a multitude of establishments within the vicinity of the appeal site which have the ability to sell food which could be considered to be unhealthy. Therefore, it is considered that the introduction of a Domino's Pizza would not be likely to influence behaviour harmful to health or to the promotion of healthy lifestyles particularly when considering the lawful fall-back position.
- 6.55 It is noted that Part D of emerging Policy E9 states that where development proposals involving A5 hot food takeaway uses are permitted, these should be conditioned to require the operator to achieve, and operate in compliance with, the Healthier Catering Commitment standard.
- 6.56 Whilst Domino's are committed towards improving the nutritional value of its pizzas and taking a number of measures to do this, it is considered very difficult to meet all of the necessary criteria within the Healthier Catering Commitment Assessment. This is because a lot of the criteria which need to be met relate to cooking operations which are not carried out at Domino's given that they do not carry out any frying or deep fat frying and therefore these essential criteria are not actually applicable to Domino's operations.
- 6.57 As set out in detail above, it is not considered that this policy should be afforded significant weight in the determination of this appeal given that it is yet to undergo independent examination and there are significant unresolved objections to the policy. Therefore, it is not considered that a condition should be added to any permission requiring the operator to operate in compliance with the Healthier Catering Commitment standard.

Summary

- 6.58 Overall, the proposal is compliant with the adopted local policy which provides guidance on the acceptable amount of food and drink uses within specific frontages and therefore would not result in a harmful overconcentration of such uses.

6.59 In addition, the proposal would not result in any harmful impact on healthy eating and should not be refused on the basis that it is contrary to Policy E9 of the emerging London Plan given the weight that should be attributed to this policy, the existing fall-back position, and the measures which will be put in place to encourage healthy eating.

Impact on Residential Amenity

6.60 The second reason for refusal relates to the operation of the site as a takeaway and the impact that this would have on residential amenity through noise, disturbance, air-quality and anti-social parking.

Impact from General Activities associated with the A5 use

6.61 The site is located in an 'edge-of-centre' location in planning policy terms given that it is approximately 65 metres to the east of the Camden Town Centre boundary. The appeal site is surrounded by a mixture of residential and commercial uses.

6.62 The site forms part of a commercial parade which also contains a number of cafés/restaurants (Class A3), a dry cleaners (Class A1), a local convenience store (Class A1), a record shop (Class A1) and a property management offices (Class B1). There is a residential flat (Class C3) immediately above the site and there are also residential properties at the upper floors of the adjacent commercial premises.

6.63 The proposed Domino's takeaway will not open any later than other units within the vicinity of the site. The proposed opening hours are between 11am to 11pm on a daily basis. This is considered to be entirely appropriate for the site's location within close proximity to a busy Town Centre and other uses which open during similar times.

6.64 Indeed, the appeal site is immediately adjacent to a restaurant/café known as 'Bar & Co' which is open until 11pm Monday to Friday, 12.30am on Saturdays and 10pm on Sundays. 21-23a Pratt Street, which is just 30 metres from the site, operates as a restaurant and it's opening hours are advertised as 12 midday to 11.30pm (as evidenced within the Committee report included at Appendix 1).

6.65 This point was agreed with by the Council's professional Planning Officer who confirmed in their report to Committee (included at Appendix 1) that:

"Within this context, the hours of operation proposed would not start earlier or end later than any restaurants within the locality, nor would it end later than the previous occupier at this location would. The hours of operation are therefore considered acceptable and in accordance with policy, subject to other appropriate controls. A condition will require the use does not operate outside these proposed times (condition 5)."

6.66 Furthermore, given the site's proximity to Camden Town Centre, there are numerous other shops and services which open during similar hours or later than the proposed takeaway. As such, the noise from customer activity and delivery drivers at the proposed takeaway will not cause any unacceptable impact on amenity when considering the site's location and ambient background noise levels.

6.67 Following the refusal of planning permission at Committee on 11th April 2019, the appellant has commissioned an additional noise report by Cole Jarman to consider the potential noise levels from delivery drivers and customer vehicles when measured against the background noise levels. This is submitted in support of this appeal and clearly demonstrates that even in a worst-case scenario i.e. during the busiest periods of the proposed takeaway, the anticipated noise levels would not result in any unacceptable impact on the amenity of the nearest noise-sensitive receptors.

6.68 Notwithstanding the fact that the background noise levels are high and the activities associated with delivery drivers and customers will not cause any harm to amenity, the appellant submitted a Delivery and Servicing Management Plan during the course of the application which details how noise from delivery drivers would be kept to a minimum through site notices being displayed and training courses. Should the Inspector be minded to allow the appeal, the appellant would be happy to accept a condition confirming that the development should be carried out in accordance with the details in the management plan.

- 6.69 Planning permission (ref: 16/4180/FUL) was refused in June 2018 for a change of use of a former bank (Class A2) to a hot food takeaway (Class A5) at 127 The Broadway, Mill Hill as the Council considered by virtue of its operation as a takeaway, combined with the close proximity to existing adjoining residential properties and the accumulation of hot food and drink premises, the proposal would have unacceptable odour and noise impacts on the residential properties in the vicinity and would detract from the character and appearance of the area.
- 6.70 The decision was appealed, and the Inspector subsequently allowed the appeal and granted planning permission. A copy of the appeal decision (ref: 3207746) is included at Appendix 6 of this statement and it can be seen that based on the busy nature of the location; the fact that the appellant had provided a suitable management plan to address concerns relating to noise associated with delivery vehicles; and based on the suggested opening hours of the business which were in accordance with other similar operators in the area, the Inspector considered that the occupiers of nearby residential properties would not be subjected to an unacceptable level of noise or disturbance.
- 6.71 This site was within a designated District Centre and there were residential properties immediately above. The intended occupier of the proposed takeaway was Domino's Pizza. The site therefore shares a number of similar characteristics to the appeal site and there is no reason why a similar assessment should not be taken at this site when considering the impact of the proposal on amenity.

Consideration of the Fall-back position

- 6.72 Again, due consideration should again be given to the fall-back position at the appeal site. The site is a vacant commercial premises although it is a lawful Class A3 use (without any current planning restriction on its opening or delivery and servicing hours).
- 6.73 Therefore, the site could be reopened as a Class A3 restaurant and operate until 11pm or later without the need for planning permission. This could create a much greater number of customers at the site than the proposed takeaway and similar levels of staff.

- 6.74 Customers of a restaurant would consume food and drink on the premises and would likely be able to purchase alcoholic beverages as part of their meal. Therefore, there would be a higher level of activity from immediately within and outside the site (with customers likely congregating to smoke outside etc.) in comparison to the proposed takeaway which largely relies on home deliveries with a small portion of customers collecting their orders from the site.
- 6.75 Furthermore, there is no planning restriction on deliveries and these could take place at the front of the store at any time if a Class A3 use were to be reopened at the site. In comparison, suitable conditions could be imposed on the proposed A5 use limiting deliveries and servicing to take place within reasonable hours which would not cause disturbance to the amenity of nearby occupiers.
- 6.76 As such, the levels of noise associated with general activities of the proposed takeaway could realistically be exceeded by the existing use without the need for planning permission. This is a material consideration which needs to be taken into account.
- 6.77 The Council have not provided any robust evidence to demonstrate that the proposed use would generate a greater level of noise than the existing use (Class A3 restaurant) or other town centre uses (such as Class A1 operations).
- 6.78 Indeed, the Council's own Professional Planning Officer and Environmental Health Officer did not feel that the proposed development would result in any unacceptable impact on residential amenity subject to the imposition of suitably worded planning conditions.

Impact on Amenity from Odour and Plant Noise

- 6.79 When coming to the conclusion that the proposal should be refused on amenity grounds, the Planning Committee were also concerned with the potential for noise and odours associated with the extraction and ventilation equipment which will be installed to serve the proposed hot food takeaway (Class A5).
- 6.80 As part of the application, the appellant provided empirical evidence comprising a Noise Report was prepared by Cole Jarman (Acoustic Consultants) which set out the predicted noise levels at the nearest residential properties. The report confirmed that, provided appropriate sound attenuation measures are installed, such as atmospheric side attenuators and acoustic enclosures, then the equipment

will not cause any detrimental impact to the nearest residential properties in terms of noise.

- 6.81 This Noise Report was reviewed by the Council's Environmental Health Officer who agreed that the potential for noise impacts from the plant at the proposed takeaway would not result in unacceptable harm to amenity, subject to implementation of the noise mitigation measures. The Council's Planning Officer sought to secure this through a condition and the appellant would be happy to accept a similar condition should the Inspector be minded to allow this appeal.
- 6.82 In relation to odours, the extract duct will run from the oven in the cooking and preparation area towards the rear (western) elevation of the building. It will terminate via a louvred grille at the rear elevation.
- 6.83 In relation to the extraction of fumes from the premises, the system has been carefully designed following advice from Purified Air Ltd who provide advice on effective filtration and control of odours from commercial kitchens. The system has therefore been fitted with fine filtration followed by carbon filters and will ensure no unacceptable harm is caused as a result of odours.
- 6.84 With the inclusion of these measures, the Council's Environmental Health Officer and Planning Officer were satisfied that the proposal would not cause any unacceptable impact in terms of odours. Again, a condition was proposed to ensure the implementation of the agreed extract system and odour management plan and the appellant would be happy to accept such a condition should this appeal be allowed.
- 6.85 Finally, it should be noted that the proposal seeks to replace existing plant equipment at the site which could be reused by a restaurant operator without the need for planning permission. The existing plant would likely result in a similar if not greater level of noise and odour given that the proposal seeks to introduce modern and efficient plant equipment which is entirely suitable to serve the takeaway.

Management Plans

- 6.86 Refusal reasons 3 and 4 relate to the absence of a legal agreement to secure a delivery and servicing management plan (refusal reason 3) and a waste and recycling plan (refusal reason 4) and the perceived harmful impact on residential

amenity that the proposal would have without a legal agreement to secure these management plans.

- 6.87 However, the appellant submitted a Delivery and Servicing Management Plan and a Waste Management Plan during the course of the application detailing how these activities would be managed to ensure there was no unacceptable impact on amenity through noise, litter etc. These documents have also been submitted as part of this appeal.
- 6.88 The Council sought to secure further details of these activities through a S106 Legal Agreement. On a without prejudice basis, the appellant agreed to this method during the course of the application despite considering it wholly unnecessary to secure the management plans through a legal agreement and instead suggesting that these should be dealt with via suitably worded planning conditions.
- 6.89 Indeed, such management plans are frequently conditioned to decisions for restaurants and takeaways and a number of examples of where such conditions have been included by Camden Council are submitted in support of this statement at Appendix 7.

APPENDIX 7 – VARIOUS DECISION NOTICES

- 6.90 Therefore, should the Inspector be minded to allow the appeal and grant planning permission it is suggested that suitably worded conditions should be added to any decision ensuring that the development should be carried out in accordance with the submitted Delivery and Servicing Management Plan and Waste Management Plan. It is not therefore considered that the lack of a S106 legal agreement to secure these details should form a reason for the refusal of this application.

Summary

- 6.91 Overall, it has been demonstrated that the use of the site as a takeaway would not result in any unacceptable noise and disturbance to nearby residential properties and that the proposed extraction and ventilation equipment would sufficiently deal with any harmful odours and ensure that there would be no unacceptable increase in noise to the detriment of residential amenity.
- 6.92 As such, the proposal is compliant with policies A1, A4, TC4 and CC5 of the Camden Local Plan (adopted July 2017).

7. CONCLUSION

- 7.1 This Statement has been prepared in support of an appeal against the decision of London Borough of Camden to refuse an application for a change of use from a vacant restaurant (Class A3) to a hot food takeaway (Class A5); the installation of extraction/ventilation equipment and other minor external alterations.
- 7.2 This Statement has demonstrated that the appeal proposal would not result in a harmful concentration of takeaway uses or food and drink uses contrary to any adopted local policy or guidance.
- 7.3 It has also demonstrated that only limited weight should be afforded to emerging Policy E9 of the New London Plan. The policy has yet to go examination from an independent panel of Inspectors and does not conform to the NPPF as it allows for little flexibility and would be detrimental to the vitality and viability of town centres.
- 7.4 Notwithstanding this, the proposed change of use would not be likely to influence the behaviour of young people so as to cause harm to health and the promotion of healthy eating. Therefore, the proposal is not contrary to the key objective of emerging Policy E9 in any case.
- 7.5 Furthermore, as detailed within this Appeal Statement, the proposal would not result in any harmful impact on residential amenity given that the proposed opening hours are in line with other operators in the area, the fact that the appellant has provided management plans to keep noise to a minimum and additional attenuation measures have been included to ensure no harmful noise and odours are a result of the extraction and ventilation equipment.
- 7.6 Finally, it has been demonstrated that refusal reasons 3 and 4 should not be upheld given that the details requested by the Council can be secured through appropriately worded planning conditions rather than a S106 legal agreement.
- 7.7 Consequently, it is respectfully requested that the Inspector allows the appeal and grants planning permission, subject to any conditions as may be considered reasonable and necessary.

APPENDIX 1

COMMITTEE REPORT REF: 2018/3951/P

Address:	35 Pratt Street London NW1 0BG		6
Application Number(s):	2018/3951/P	Officer: Gideon Whittingham	
Ward:	Camden Town with Primrose Hill		
Date Received:	14/08/2018		
Proposal: Change of use from a restaurant (Use Class A3) to a hot food takeaway (Use Class A5), installation of extraction and ventilation equipment and associated works.			
Background Papers, Supporting Documents and Drawing Numbers:			
Plans:			
B10413-AEW-PJ003029-XX-DR-0005-[A]_Location Plan; B10413-AEW-PJ003029-ZZ-DR-0001-[B]_Existing GA Plan; B10413-AEW-PJ003029-XX-DR-0002-[B]_Existing Elevations; B10413-AEW-PJ003029-XX-DR-0006-[H]_Block Plan; B10413-AEW-PJ003029-ZZ-DR-0003-[F]_Proposed GA Plan; B10413-AEW-PJ003029-XX-DR-0004-[F]_Proposed Elevations;			
Supporting documents:			
Plant Noise Assessment (Report 18/0393/R01) prepared by Cole Jarman, dated 28/08/2018; BB10336-AEW-PJ003192-XX-SP-0002 - PROPOSED VENTILATION SYSTEM ANNEX C DOCUMENT, Date 02.08.2018; B10413-AEW-PJ0023755-XX-SP-0001-[B] - PROPOSED VENTILATION SYSTEM dated 22.11.2018; B10413-PJ003029-ME-RM23755-9438_Preventative Maintenance Contract, dated 13th November 2018.			
RECOMMENDATION SUMMARY: Grant conditional planning permission subject to a Section 106 legal agreement			
Applicant:	Agent:		
N/A c/o Agent	Pegasus Planning Group Ltd First Floor, South Wing Equinox North, Great Park Road Almondsbury Bristol BS32 4QL		

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace (GIA sqm)
Existing		<i>A3 Restaurants and Cafes</i>	141
		TOTAL	141
Proposed		<i>A5 Hot Food Takeaways</i>	141
		TOTAL	141

Parking Details:		
	Parking Spaces (General)	Parking Spaces (Disabled)
Existing	0	0
Proposed	0	0

OFFICERS' REPORT

Reason for Referral to Committee: The Director of Regeneration and Planning has referred the application for consideration after briefing members [Clause 3 (vii)].

1. SITE

- 1.1 The application site (also known as St Martin's Tavern) comprises an existing three storey Victorian property situated on the northern side of Pratt Street, close to its junction with Bayham Street.
- 1.2 The property backs on to St Martin's Gardens, the ground floor level has most recently been used as a restaurant (Class A3) whilst the upper floors are in residential use (Class C3). The ground and basement floor levels of the application site have been in operation as a restaurant (Use Class A3) for at least the past 10 years, however the most recent tenant, Sen Nin, has ceased trading and the basement and ground floor levels are currently vacant.
- 1.3 This application relates to the basement and ground floor levels.
- 1.4 The building is a non-designated heritage asset on Camden's Local List.
- 1.5 The drinking fountains and wrought iron gates (fronting Camden Street) in the north east corner of St Martin's Gardens are Grade II listed. The Charles Dibdin Memorial in St Martin's Gardens is also Grade II listed. However the site is not within the setting of the listed structures, and does not impact on their setting. The gardens are not listed.

2. PROPOSAL

- 2.1 The application proposes:
 - The change of use of the basement and ground floor level of the premises from class A3 use (restaurant) to class A5 use (hot food takeaway). The total floor space is 141sqm (GIA).
- 2.2 The proposal also includes the following:
 - External alterations - front elevation:
 - Replace existing timber shopfront with new timber shopfront with stall riser
 - External alterations - rear elevation:
 - The installation of a rear timber door
 - The installation of a grille (0.6m x 0.6) associated with internal plant
 - The installation of a timber enclosure 1.8m (h) x 4m (w) x 1.2m (d) to house 2no. plant units
 - External alterations - flank elevation:
 - The installation of a grille (0.6m x 0.6) associated with internal plant

2.3 Following officer advice, the shopfront was amended from an unsympathetic PPC aluminium framed shopfront which eroded the existing character and form of the existing openings to a more sympathetic timber framed shopfront.

3. RELEVANT HISTORY

3.1 The site

- **2010/0952/P** - Installation of flue, duct work and attenuator to the rear elevation of existing restaurant (use class A3). Grant Full Planning Permission 13-04-2010.
- **PEX0101035** – The change of use of the first floor from ancillary public bar accommodation to residential; the erection of a single storey rear extension at first floor level and the addition of a third floor mansard roof to create 4 new residential units, plus an additional set of emergency exit double doors at rear of the public house. Grant Full Planning Permission 10-03-2003.
- **PE9900965** - The change of use of the first and second floors from staff accommodation for the public house (Class A3) to office (Class B1(a)); the erection of a first floor rear extension and a third floor roof extension for use for office purposes; and the insertion of a ground floor rear access door to the public house. Grant Full Planning Permission 16-05-2000.
- **PE9800346** - Renewal of planning permission granted on 07/12/93 for the construction of a single storey ground floor extension and part first floor extension for use by the public house. Change of use of the first floor from residential to function room, construction of a roof extension to provide a self-contained maisonette on the second and third floors. Grant Full Planning Permission 03-07-1998.

4. CONSULTATION SUMMARY

Councillors:

4.1 Councillor Callaghan:

As one of the local councillors for the Camden Town with Primrose Hill ward I am deeply concerned that the department has received an application, from a takeaway firm which has requested to stay open until the early hours of the morning.

Pratt St, although very near Camden High Street, is a residential area, housing many families, and working age adults, and they certainly don't need any more noise in that area late at night. Customers apart, you would have the constant revving of delivery bikes coming and going throughout opening hours.

Behind the Tavern you have St Martins Gardens, which is a pleasant open green space, but in the recent past suffered with anti-social behaviour. People

coming and going to this venue late at night could impact on the area in a negative way, with noise, litter, urination etc. The Police have clearly stated that the main trouble at night is not from pubs and clubs, but from the takeaways, which is a serious issue in Camden Town, and we certainly don't want to see it increase with another takeaway.

Through the Public Health Agenda, which I am responsible for, we are tackling a rise in childhood obesity and as there are three primary schools in that immediate area, being responsible for this important programme, I would ask that you refuse this application in its entirety.

Officer comment: See section 'Land Use' of the report for comment on these matters.

Consultees:

4.2 Camden and Islington Public Health (Summary):

Research increasingly supports an association between the proximity and concentration of fast food takeaways and obesity. Whilst little published evidence exists regarding fast food outlets' proximity to primary schools, data shows that 29% of family visits to fast food outlets are influenced by children's choices. There are three primary schools in close proximity to the site: St Michael's Church of England (146m); Our Lady's Catholic (230m); and Richard Cobden (338m). It is recommended that the Council refuse this application due to the concentration of existing businesses providing fast food in the immediate area, (four within 200 metres, 11 within 300m, and 20 within 400m of 35 Pratt Street), and the adverse impact of overprovision of fast food in an area with high levels of childhood overweight and high levels of deprivation.

Adjoining Occupiers:

4.3 A site notice was displayed from the 14th September 2018 until 8th October 2018.

Representations summary:

4.4 There were 28 objections received from neighbouring occupiers covering the following issues:

4.5 Land Use

- Health concerns to due nature of operator
- Proximity to school
- No Health Impact Assessment

Officer comment: see 'Land Use' section

4.6 Design

- Unsympathetic alterations and aluminium materials
- Harm facade
- Adverts unsightly

- Harm to listed gardens
Officer comment: see 'Design' section

4.7 Impact on neighbouring amenity

- Security to neighbours doorway
- Late night noise
- Late opening hours
- Odours associated with workers (smoking) and operation generally
- Noise nuisance to park users
Officer comment: see 'Impact on neighbouring amenity' section

4.8 Transport

- Noise and nuisance from mopeds and servicing
Officer comment: see 'Transport' section

4.9 Miscellaneous

1. The use should revert back to a pub
2. Existing drainage concerns
3. No public consultation
4. Operator is a chain who has significant presence already in Camden
Officer comments:
 1. An assessment of the proposed uses can only take place as part of this application
 2. The nature and operation of the proposal is such that this matter would not be detrimentally harmed as a result
 3. As per the Statement of Community Involvement (SCI), site notices were erected on site in addition to email alerts
 4. The existing presence of operators in Camden would not justify a reason for refusal of permission in this instance

5. **POLICIES & GUIDANCE**

5.1 National Planning Policy Framework 2019

5.2 The London Plan 2016

5.3 Camden Local Plan 2017

Growth and spatial strategy

- Policy G1 Delivery and location of growth

Community, health and wellbeing

- Policy C1 Health and wellbeing
- Policy C5 Safety and security

Protecting amenity

- Policy A1 Managing the impact of development
- Policy A4 Noise and vibration

Design and Heritage

- Policy D1 Design
- Policy D2 Heritage
- Policy D3 Shopfronts

Sustainability and climate change

- Policy CC5 Waste

Town centres and shops

- Policy TC1 Quantity and location of retail development
- Policy TC2 Camden's centres and other shopping areas
- Policy TC3 Shops outside of centres
- Policy TC4 Town centres uses

Transport

- Policy T2 Parking and car-free development

Delivery and monitoring

- Policy DM1 Delivery and monitoring

5.4 **Supplementary Planning Policies**

Adopted March 2018:

- CPG Planning for health and wellbeing
- CPG Town Centres

Adopted Prior:

- CPG 1 Design (July 2015)
- CPG 6 Amenity (September 2011)
- CPG 7 Transport (September 2011)
- CPG 8 Planning obligations (July 2015)

6. **ASSESSMENT**

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

7	Land use principles <ul style="list-style-type: none">- Policy Review- Loss of restaurant- Proposed Hot Food Takeaway- Examination of Camden local plan- Report on the Examination of the Camden Local Plan- Conclusion
8	Impact of the proposal on the character of the area. <ul style="list-style-type: none">- Statutory Framework and Implications- Policy Review

	<ul style="list-style-type: none"> - Site and surroundings - Assessment of impact on heritage assets - Conclusion
9	The impact of the proposal upon the amenity of the neighbouring occupiers <ul style="list-style-type: none"> - Policy Review - Site and Surroundings - Outlook, daylight and sunlight - Hours of operation - Refuse and litter - Crime and antisocial behaviour - Plant - Conclusion
10	<ul style="list-style-type: none"> - The impact on transport and waste infrastructure. - Policy Review - Delivery and Servicing - Waste / Refuse
11	Mayor of London's Crossrail CIL and Camden CIL
12	Conclusion
13	Recommendation
14	Legal comments
15	Conditions
16	Informatives

7. LAND USE

Policy review

- 7.1 In relation to the existing A3 use and the proposed A5 use, the following policies are of relevance.
- 7.2 Policy TC2 (Camden's centres and other shopping areas) promotes successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors. An objective of Policy TC2 is to make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area.
- 7.3 Policy TC3 (Shops outside of centres) will seek to protect shops (Use Class A1) unless outside centres.

- 7.4 Policy TC4 (Town centre uses) will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. Where food, drink and entertainment uses are permitted, they will need to be managed to protect the amenity of residents. To ensure such uses do not harm amenity or the character of an area, either individually or cumulatively, we will consider applying controls on:
- hours of operation;
 - refuse and litter;
 - noise/vibration;
 - fumes;
 - customer area;
 - local management issues; and
 - changes of use
- 7.5 The CPG (Town centres) notes that food, drink and entertainment uses should be located in areas where their impact can be minimised.
- 7.6 Policy C1 seeks to tackle child obesity by not only creating places that make it easier to take part in safe and accessible spaces for physical activity, but also by providing access to healthier food choices and considering the health impacts of the development of new hot food takeaways in the borough.

Loss of restaurant

- 7.7 There are no policies in the Local Plan protecting restaurant uses or the character and function of frontages containing shops and local services that fall outside of any designated centre such as in this part of Pratt Street. Policy TC3 protects shops outside of centres but is specifically related to A1 uses. Policy TC4 (Town centre uses) is the only policy that directly addresses food and drink uses (non-A1) in areas such as this because it looks beyond just the designated centre. It seeks to ensure that such uses do not cause harm to the local area or the amenity of neighbours, including cumulative impacts and crime or antisocial behaviour (including littering). Amenity, including crime and antisocial behaviour, is dealt with below in Section 9. However, although located outside the Camden Town designated Town Centre, the application site is in close proximity to it, being approximately 300m away. Therefore the following assessment will balance its proximity to the designated centre, with the objectives of the relevant policies outlined above.
- 7.8 Both the Local Plan and relevant supporting policy documents are clear when permitting A3 (restaurants), A4 (drinking establishments) and A5 (hot food takeaways) uses and other non-retail uses within designated areas. Policies typically follow either:
- A minimum proportion (typically ranging from 25% to 85%) of A1 shops in each individual frontage are to be retained

- A maximum proportion (typically ranging from 25% to 50%) of A3, A4, and A5 uses combined in each individual frontage are to be permitted
- No more than two A3, A4, and A5 uses shall be permitted consecutively in a frontage

7.9 It is noted that these policies and guidance emphasise the retail intent for the area, and a resistance to any excessive loss of A1 uses. Policies and guidance do not emphasise an intent to retain A3 uses.

7.10 In this instance, the application site is located in a row of commercial shops on the north side of Pratt Street. Starting on the junction of Bayham Street, of the 9 commercial units, five are café/restaurants ((A3) - No.21-23a, No.25a, No.33, No.35, No.43), three are in retail use ((A1) - No.27a, 29a, No.31a) and one is in office use ((B1a) No.33b).

7.11 Given the proposal would not result in:

- the loss of a retail unit within this row,
- an increased proportion of A3, A4, and A5 uses in this row, or
- result in two consecutive A3, A4, A5 uses,

the proposal would not contradict general policy objectives, including those for designated centres. The loss of the A3 use is therefore acceptable, subject to replacement A5 use not imposing any undesirable effects on the local area in terms of crime and antisocial behaviour or amenity.

Proposed Hot Food Takeaway

7.12 The Local Plan recognises the health impacts of the development of new hot food takeaways in the borough. The evidence base and objectives of Policies TC4 and C1 shall therefore be assessed in this section.

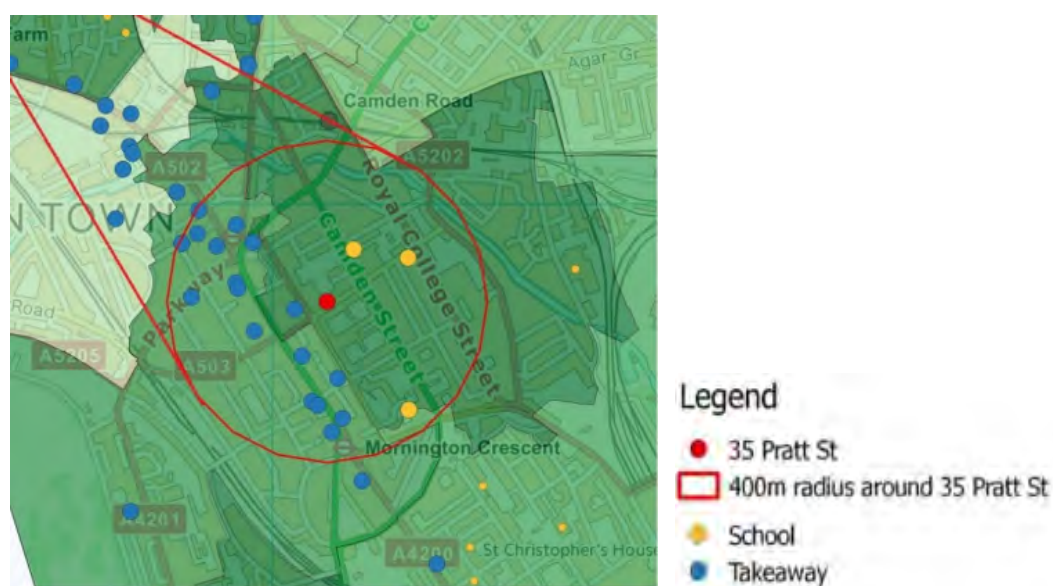
Examination of Camden local plan

7.13 During examination of the Local Plan in 2016, the Council in its evidence report sought to introduce policy to mitigate the over proliferation of fast food takeaways, particularly near to secondary schools, through policy TC4 'Town centre uses'. The planning policy sought to resist new hot food takeaways within 400 metres of secondary schools.

7.14 The evidence report indicates school pupils formed a large proportion of customers of fast food, and that fast food outlets were offering special deals for children which were often made and stacked up in advance to ensure school children are served quickly during lunchtime or on their way home from school. There was far less published evidence regarding fast food outlets' proximity to primary schools. The evidence report also indicated access to fast food outlets by primary students was a result of family visits, where secondary students visited outlets of their own volition.

Report on the Examination of the Camden Local Plan

- 7.15 The inspector was of the view that there was insufficient evidence to support the Council's proposed approach above, in particular that there was no Camden-specific evidence put before examination that demonstrated a causal link between A5 uses and childhood obesity/eating habits in relation to the proposed 400 metre zone around secondary schools. The examination did however acknowledge the health impacts of such development.
- 7.16 As a result, Policies TC4 and C1 neither identify a prescriptive distance away from schools nor specify the number of acceptable fast food outlets within any given area.
- 7.17 This policy position is of particular relevance when considering the significant input raised by local residents, ward Councillor Callaghan, and the Camden and Islington Public Health Department.
- 7.18 There is an acknowledged concentration of businesses providing fast food in the immediate area, with four existing businesses within 200 metres, 11 within 300m, and 20 within 400m of 35 Pratt Street (See map below), however the majority are located along or on a street parallel to Camden Town High Street. The closest takeaway outlet from the application site is No.89-91 Bayham Street, however, the majority are on or parallel to Camden High Street.



- 7.19 The north side of Pratt Street can be characterised with a high percentage of restaurants, particularly when considering its location away from the Camden Town Centre. The introduction of this hot food takeaway would result in an increased provision of just 5% within 400m of the site and significantly less when compared to the provision along Camden Town Centre. The proposal would not significantly differ from the hot-food offer currently on Pratt Street, nor its operation times.
- 7.20 A number of consultation comments raised concern as to the proximity of the takeaway with a number of primary schools, namely:

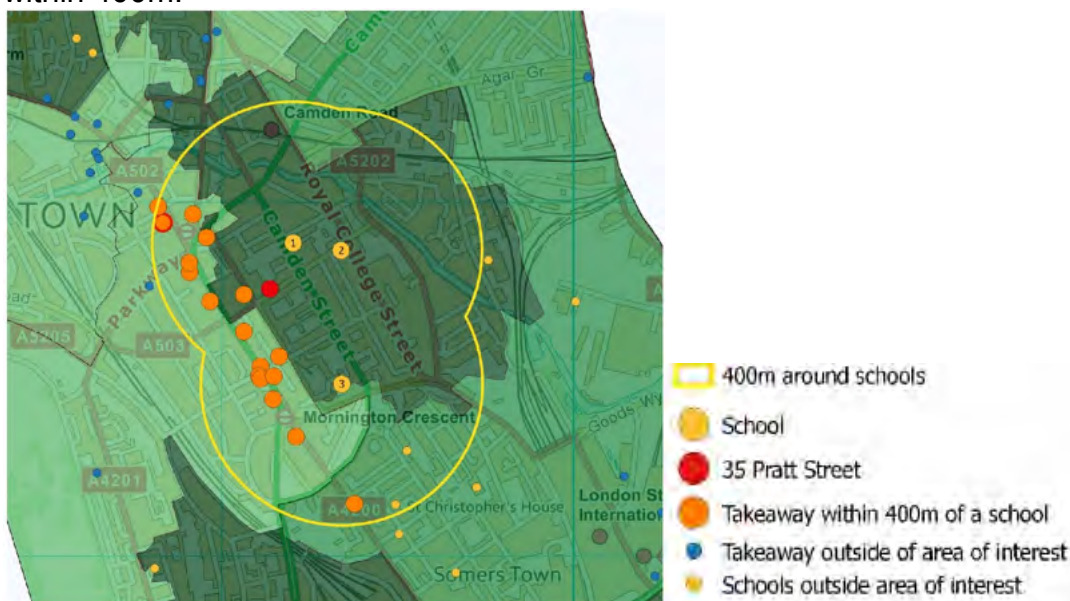
- St Michael's Church of England Primary School, Camden St, London NW1 0JA, with a capacity for 210 pupils, located 146 metres from 35 Pratt Street, has 13 existing fast food retailers within a 400m radius (around 10 minutes' walking time).
- Our Lady's Catholic Primary School, Pratt St, Camden Town, London NW1 0DN, with a capacity for 223 pupils, located 230 metres from 35 Pratt Street, has four existing fast food retailers within a 400m radius.
- Richard Cobden Primary School Camden St, Camden Town, London NW1 0LL, with a capacity for 420 pupils, located 338m from 35 Pratt Street, has nine existing fast food retailers within a 400m radius.

7.21 The Camden and Islington Public Health Department commented as follows:

An additional hot food takeaway within 400m of three schools in an area of high deprivation and high prevalence of childhood obesity would represent an unreasonable concentration that is likely to lead to a greater exposure to unhealthy food among pupils which in turn is likely to impact negatively on their health.

7.22 The above comment is matched with those raised by ward Councillor Callaghan and many local residents who have concern with the concentration of hot food takeaways, proximity with schools and exposure to unhealthy food.

7.23 With regard to proximity specifically to the schools, the yellow boundary shown on the map below indicates a 400m radius around the schools. The map shows that, excluding 35 Pratt Street, there are 16 fast food takeaways within 400m of at least one of the three schools, including a cluster of five fast food stalls at Inverness Street market. Individually, St Michaels school has 13 existing fast food outlets within 400m, Richard Cobden has 10 existing fast food outlets within 400m, and Our Lady's has eight existing fast food outlets within 400m.



Conclusion

- 7.24 The Council is aware of the need for robust policies to ensure the above concerns raised can be incorporated within the Local Plan and applications can be determined accordingly, however, as per the Inspectors examination, this proposal would not contradict the adopted Policies TC4 and C1 on account of its proximity to schools.
- 7.25 Whilst it is acknowledged the application site is located in close proximity to a number of schools, these are primary schools and would not therefore rely on patronage from students themselves, before, during or after their school day. Primary schools have a much smaller proportion of pupils who travel to school independently, and those who do also have less access to independent funds, lowering the impact on primary pupils. The operator and indeed its operation is not catered towards onsite sales, as shown by its limited service area, but rather it is catered primarily towards delivery. Whilst this is more specific to the operator rather the use permitted, the introduction of an A5 use, irrespective of its operator would not result in a harmful concentration of hot food takeaways in this location and would not contravene the policies and objectives of the development plan.
- 7.26 The replacement A5 use is therefore acceptable in land-use policy terms.

8. IMPACT ON THE CHARACTER OF THE AREA

Statutory Framework and Implications

- 8.1 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall 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.

Policy Review

- 8.2 The Council’s design policies are aimed at achieving the highest standard of design in all developments. Policy D1 indicates that any development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used.

Site and surroundings

- 8.3 The application building has been identified as a non-designated heritage asset, being of architectural, townscape and social significance. The local listing itself notes:

Early 19th century Public house. Pale brick to front elevation and red-brown brick to side and rear elevations. Panel with relief decoration at pediment level above a heavy dentiled cornice which continues on east elevation along path to St Martins Gardens but shallow returns only to west and north (rear)

elevations. Contributes to the visual quality and architectural variety of the street scene and also visible from St Martin's Garden - rear elevation altered and extended but still contributes to historic setting of gardens. Historic iron lantern brackets on front elevation.

- 8.4 The nature of the proposal, whilst impacting a non-designated building, would not harm the significance of the asset.
- 8.5 The alterations to the front elevation would result in a renewed shopfront, which itself is non-original and would simply result in larger glazed panels with retained stall risers on the projected element which would be of appropriate form and material.
- 8.6 The alteration to the flank elevation would be limited and involve a single flush grill (0.6m x 0.6), 2.6m above ground level.
- 8.7 The alteration to the rear would relate to non-original features, namely the rear double door for commercial purposes would be amended to a single doorway and the erection of plant enclosures at ground floor level. Although the enclosure would obscure two non-original service windows, this would replace the existing and unsightly metallic flue at first floor level. On balance, this is considered an acceptable and low level position for plant that would neither harm the significance of the asset, nor represent a significant development which would be visible from St Martin's Garden.

Assessment of impact on heritage assets

- 8.8 With regard to the Charles Dibdin Memorial, drinking fountain and wrought iron gates (fronting Camden Street) associated with St Martin's Gardens, this has been given considerable weight and it is considered that the proposed works would not affect their setting. The proposal, by virtue of its scale and proximity, would retain the existing character of St Martin's Gardens and would not harmfully alter the setting in this respect. Furthermore, removal of existing plant on the rear elevation would not harm the wider character of the gardens.

Conclusion

- 8.9 Taking the above matters into consideration, it is concluded that the proposal would not harm the significance of the asset and would preserve the character and appearance of the building, the streetscape and the setting of nearby listed structures. Special regard has been given to the desirability of preserving the listed structures as per the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. A condition would be attached preventing and other equipment being fixed to the building (condition 4) and also a condition requiring all existing redundant plant to be removed (condition 10).

9. IMPACT ON THE AMENITY OF NEIGHBOURING OCCUPIERS

Policy Review

- 9.1 Policies G1, A1, DM1 and CPG6 (Amenity) are relevant with regards to the impact on the amenity of residential properties in the area. Any impact from construction works is dealt with in the transport section. Policy A1 and TC1 seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes outlook, daylight and sunlight and noise and disturbance to include matters such as hours of operation, refuse and litter, customer area, noise/vibration and fumes. Also relevant to quality of life, particularly in relation to the location close to Camden Town centre is policy C5 which addresses crime and antisocial behaviour.

Site and surroundings

- 9.2 The surrounding area is a mix of commercial and residential uses. The application site itself, similar to those along this part of Pratt Street, contains commercial uses at lower ground floor level with residential accommodation above at upper floor levels. Set on the opposite side of the entrance to St Martin's Gardens sites the residential block of 37-41 Pratt Street.

Outlook, daylight and sunlight

- 9.3 The nature of the proposal would not be such that neighbouring residential windows would be impinged as a result of the development. The external alterations relate to the replacement of the shopfront, the installation of flat grilles upon the elevations and the installation of a timber enclosure to the rear, none of which would obscure or detrimentally harm neighbouring windows or private spaces.

Hours of operation

- 9.4 As with any new or hot food takeaway within close proximity to residential accommodation, consideration must be given to the impact the use might cause to the adjoining occupiers, in relation to the patron and delivery activities.
- 9.5 The previous occupier, Sen Nin, was advertised with the following operating hours:
- Monday - Thursday: 12:00 - 15:00 & 17:00 - 23:00
 - Friday - Sunday: 12:00 - 23:30
- 9.6 This application proposes a pizza delivery or takeaway with the following operating hours (hot food deliveries will not be made from the unit outside of these hours):
- Monday - Sunday: 11:00 - 23:00
- 9.7 It is noted that the adjacent restaurants along Pratt street are advertised as

- Monday – Sunday 12:00 – 23:30 (No.21-23a)
- Monday – Sunday 06:00 – 20:00 (No.25)
- Monday – Friday 07:00 – 23:00; Saturday – 07:00 – 00:30; Sunday 10:00 – 22:00 (No.33)
- Monday – Sunday 06:00 – 16:00 (No.43)

9.8 Within this context, the hours of operation proposed would not start earlier or end later than any restaurants within the locality, nor would it end later than the previous occupier at this location would. The hours of operation are therefore considered acceptable and in accordance with policy, subject to other appropriate controls. A condition will require the use does not operate outside these proposed times (condition 5).

Refuse and litter

9.9 The nature and operation of takeaways can result in proliferation of rubbish on the highway directly as a result of the use. To ensure no blight will result, a Waste and Recycling Plan via a legal agreement will include a commitment to litter picking and properly managing trade waste. The applicant has also indicated operational refuse will be stored in the basement. The bins will be collected by a private waste handling company approximately three times on a weekly basis (between Mondays and Saturdays).

9.10 In relation to the impact of the proposed change of use on the amenity of the neighbouring occupiers, this would include provision of plant into the rear courtyard and extract fan to be located within the existing extract ductwork which projects to the rear of the building up to the roof level.

9.11 In relation to odours from cooking activities, the information submitted was assessed by environmental health officers and considered to provide enough evidence to demonstrate that the required level of odour control would be installed and therefore the proposed scheme would not cause harm to the amenity of the neighbouring occupiers. Further information on odour control is at paragraphs 9.19 and 9.20.

Crime and antisocial behaviour

9.12 Given that the business model is oriented towards delivery with a small service area for patrons, the opportunity for anti-social behaviour and noise nuisance is limited. The Design Out Crime Team (Metropolitan Police) were consulted as part of this scheme and confirmed similar sites under the same operation (e.g. Chalk Farm), that were also near and drew upon late night activities, did not result in anti-social behaviour.

9.13 The proximity of the shopfront entrance to neighbouring residential properties is no different than that existing along this side of Pratt Street. The relocation would not increase crime related activity.

Deliveries

- 9.14 The limited customer area means the use is likely to depend on a high proportion of deliveries, as well as takeaway customers. The activity associated with deliveries has potential to also create noise disturbance. However, this impact can be mitigated through effective management and procedures (for waiting, idling engines, and so on) and by ensuring most delivery drivers use their own vehicles, as confirmed by the applicant. This will be set out and secured in a Delivery and Servicing Plan as set out in 10.3. The hours of use condition (condition 5) will also prevent any noise associated with this type of activity from occurring at the time when it is likely to be most noticeable.

Plant

- 9.15 The site already benefits from existing plant equipment for the restaurant (see relevant history 2010/0952/P) and installed to the rear elevation, facing the rear gardens and park. The site does not have a history of noise complaints concerning plant.
- 9.16 The proposal would result in grilles on the rear and flank elevation, and a plant enclosure to the rear.
- 9.17 The application site occupies the basement and ground floor levels. The closest noise and odour sensitive receptors are at first floor level within the building (residential flats).

Plant – Noise

- 9.18 The submission includes a noise report which has been assessed by the Council's Environmental Health Team against Camden's noise standards and is considered acceptable subject to suitable conditions. The report demonstrates noise levels from the proposed plant to be compliant with the Council's criterion of 10dB below background, at all times i.e. (07:00hrs - 23:00hrs & 23:00hrs – 07:00hrs). Following mitigation which is also proposed (e.g. housed within acoustic enclosures, silencers, dampers and anti-vibration mounts), the report illustrates during day and night time hours, noise levels from the proposed plant will have a Green Impact (in terms of Camden's Planning Thresholds for Noise) which correlates to a *NOEL* – No Observed Effect Level as plant noise levels are more than 10dBA below measured background levels. Conditions would be attached requiring the proposed sound attenuation measures to be installed as approved (condition 6), the plant not to operate outside of the opening hours (condition 7), and requiring compliance with the appropriate noise levels (condition 8).

Plant – Odour

- 9.19 The submission includes an Odour Risk Assessment, which has been assessed by the Council's Environmental Health Team against Defra Guidance and is considered acceptable subject to suitable conditions.
- 9.20 The assessment identified a score of 34, illustrating a very high level of odour control is required, particularly given the close proximity of neighbouring odour

sensitive receptors to the commercial kitchen extraction system, the size of kitchen and the type of cooking (pizza) being proposed. Odour complaints from commercial kitchen extraction systems in Camden typically result when operators fail to maintain cleaning and maintenance protocols. The Council's proactive approach is to request Odour Management Plans at the planning stage, seeking clarification when cleaning, filter replacements and servicing programs in accordance with manufactures recommendations will be undertaken. Additionally, the Odour Management Plan should offer a servicing commitment which has provisions for a written log confirming when work is to be undertaken and the date of the next scheduled cleaning/maintenance/service requirement. This should be kept on the premises at all times and be made available upon request by a visiting officer for the Council. The submitted information set out in the Specification and Defra Report, the Annex B and C documents, and the preventative maintenance contract, demonstrates that the installation and regular maintenance (every three months) would comply with policy and mitigate impacts on amenity. A condition will be attached requiring compliance with the appropriate documents (condition 9).

Conclusion

- 9.21 Within this context, it is acknowledged the development will have an impact upon the neighbouring properties, however this impact would not be detrimental with mitigation, which can be secured by a number of relevant conditions and matters secured in the legal agreement. This will ensure that significant noise and odour impacts are avoided at the nearest sensitive receptors, namely the flats above the unit. The associated activity generated by customers of the application site within the proposed times would not be intrusive to those neighbouring residents.

10. IMPACT ON TRANSPORT AND WASTE INFRASTRUCTURE

Policy Review

- 10.1 Camden Local Plan policies T1, T2, T3 and T4 and CPG7 (Transport) are relevant with regards to transport issues. Camden Local Plan policy CC5 is relevant with regards waste and recycling storage and seek to ensure that appropriate storage for waste and recyclables is provided in all developments.
- 10.2 Policy T4 states that the Council aims to minimise the impact that movement of goods and materials by road has on the environment and to the residents in terms of noise, disturbance and its contribution to road congestion and air pollution, by promoting sustainable movement of goods and materials. This is specifically relevant when the development is in relation to large premises which require significant amount of movement of goods.

Delivery and Servicing

- 10.3 The submission included a Delivery and Servicing Plan to ensure that the servicing activity associated with the takeaway use can take place in a safe, efficient and sustainable manner. As such, the servicing for the proposed operation will take place using the available kerbside area along Pratt Street,

within the permitted parking hours, in addition a motorcycle bay is available on the other side of the road. The applicant has indicated the majority of delivery drivers will own their vehicles and will not therefore be parked outside of operational hours. Some associated mopeds may be stored within the store itself during closing hours. This is of key importance in regard to security also. Details of the delivery operations will need to be included within the Delivery and Servicing Plan, demonstrating not only how transport impacts will be mitigated, but also how the potential amenity impacts for local residents will be minimised (see 9.14).

- 10.4 The yard to the rear is fully enclosed and would not be accessible or appropriate to use for delivery/servicing purposes via the alley entrance to St Martin's Gardens.

Waste / Refuse

- 10.5 The refuse collection would occur on-street, with bins transported from the basement floor level to the refuse collection vehicle.

11. MAYOR OF LONDON'S CROSSRAIL CIL AND CAMDEN CIL

- 11.1 The proposal would not be liable for the Mayor of London's Community Infrastructure Levy (CIL) and Camden CIL.

12. CONCLUSION

- 12.1 The provision of a hot food takeaway and resultant loss of a restaurant would not cause harm to the character, function, vitality and viability of a centre.
- 12.2 The provision of a hot food takeaway would not result in a harmful the concentration of hot food takeaways, in proximity with schools that would result in detrimental exposure to unhealthy food.
- 12.3 The proposed alterations to the shopfront and plant additions are considered appropriate in the context, in terms of scale, materials and design.
- 12.4 The proposed development would not materially impact on amenity of any neighbouring properties, subject to conditions and section 106 obligations.
- 12.5 The proposal is acceptable in transport and waste terms subject to conditions and section 106 obligations.

13. Recommendation: Planning Permission is recommended subject to a S106 Legal Agreement covering the following Heads of Terms:-

- Delivery and Servicing Management Plan
- Waste and Recycling Plan, including litter picking programme

14. LEGAL COMMENTS

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

15. Conditions

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture, those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans [B10413-AEW-PJ003029-XX-DR-0005-[A]_Location Plan; B10413-AEW-PJ003029-ZZ-DR-0001-[B]_Existing GA Plan; B10413-AEW-PJ003029-XX-DR-0002-[B]_Existing Elevations; B10413-AEW-PJ003029-XX-DR-0006-[H]_Block Plan; B10413-AEW-PJ003029-ZZ-DR-0003-[F]_Proposed GA Plan; B10413-AEW-PJ003029-XX-DR-0004-[F]_Proposed Elevations; Plant Noise Assessment (Report 18/0393/R01) prepared by Cole Jarman, dated 28/08/2018; BB10336-AEW-PJ003192-XX-SP-0002 - PROPOSED VENTILATION SYSTEM ANNEX C DOCUMENT, Date 02.08.2018; B10413-AEW-PJ0023755-XX-SP-0001-[B] - PROPOSED VENTILATION SYSTEM dated 22.11.2018; B10413-PJ003029-ME-RM23755-9438_Preventative Maintenance Contract, dated 13th November 2018.]

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 **No other equipment fixed to building**

No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails, other than those hereby permitted, shall be fixed or installed on the external face of the building.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 5 **Hours of operation**

The use hereby permitted shall not be carried out outside the following times: 11:00 hours - 23:00 hours, Mondays to Sundays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of

Camden Local Plan 2017.

6 Noise attenuation – air conditioning and extract plant

Before the use commences, the air conditioning and extract plant shall be provided with acoustic isolation, sound attenuation and anti-vibration measures in accordance with the scheme hereby approved. All such measures shall thereafter be retained and maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

7 Operational hours – air conditioning and extract plant

Notwithstanding the cold room compressor, the air conditioning and extract plant hereby approved shall only be operational between the hours of 11:00 hours - 23:00 hours, Mondays to Sundays.

Reason: To safeguard the amenity of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

8 Noise levels

Noise levels at a point 1 metre external to sensitive facades shall be at least 10dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 15dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

9 Odour Management Plan

The use shall not proceed other than in complete accordance with the Odour Management Plan (OMP), as set out in the details provided in the Specification and Defra Report dated 02.08.2018, including Annex B (SP-0001-[B]) dated 22.11.2018, and Annex C (SP-0002) dated 02.08.2018, and the Preventative Maintenance Contract, and all other approved documents setting out cleaning, maintenance, filter replacements and servicing commitments, in accordance with manufactures recommendations hereby approved. The consolidated Odour Management Plan should be kept on the premises at all times and be made available upon request by visiting inspecting officers for the Council.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, A1 and TC4 of the London Borough of Camden Local Plan 2017.

10 Remove redundant plant

All existing redundant plant equipment shall be removed off the existing building, prior to the implementation of the hereby approved scheme.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

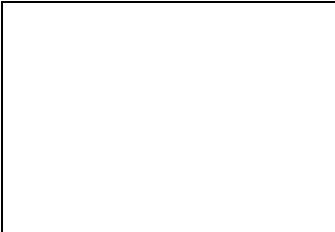
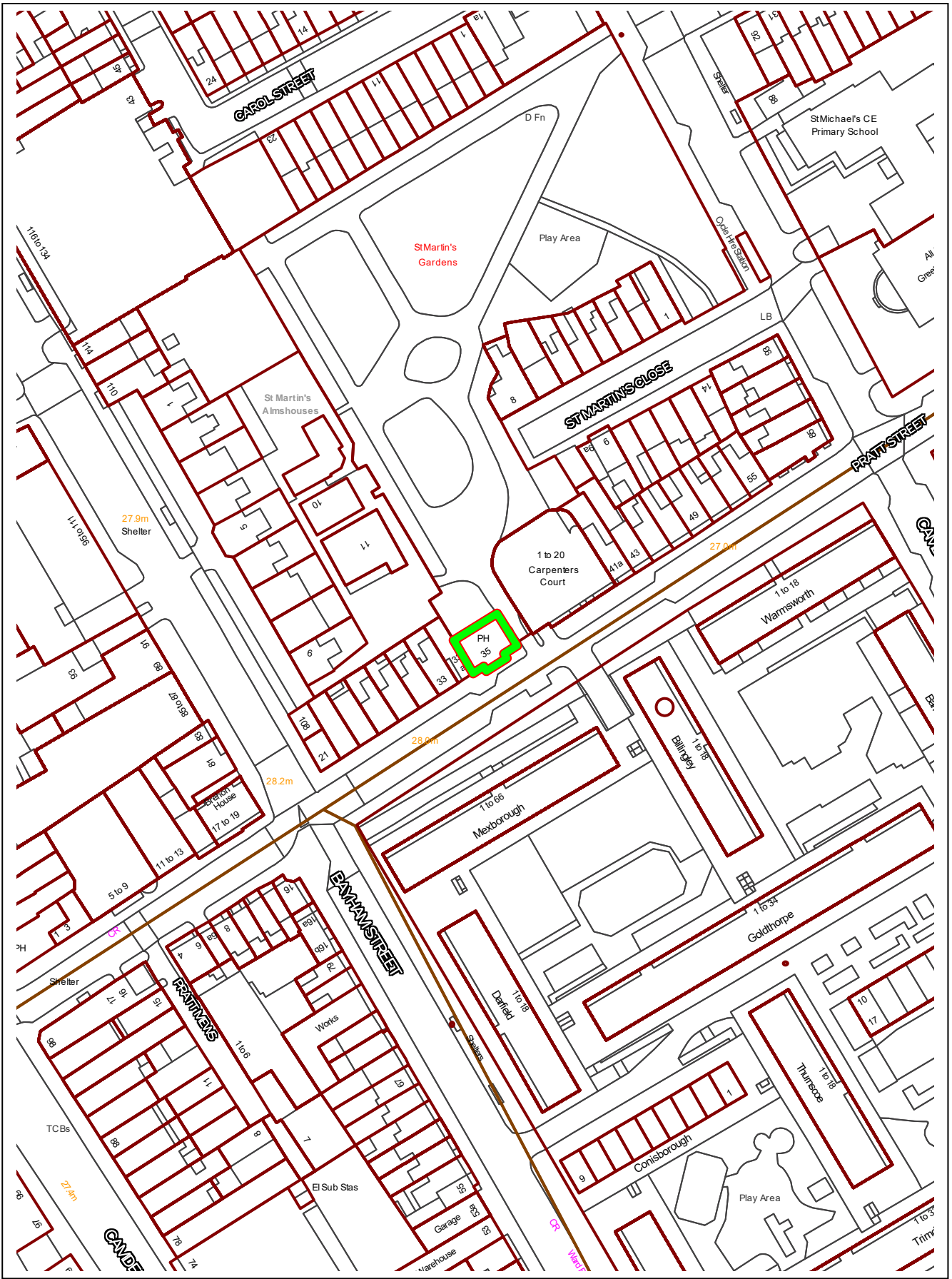
16. Informatives

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 This consent is without prejudice to, and shall not be construed as derogating from, any of the rights, powers, and duties of the Council pursuant to any of its statutory functions or in any other capacity and, in particular, shall not restrict the Council from exercising any of its powers or duties under the Highways Act 1980 (as amended). In particular your attention is drawn to the need to obtain permission for any part of the structure which overhangs the public highway (including footway). Permission should be sought from the Council's Engineering Service Network Management Team, Town Hall, Argyle Street WC1H 8EQ, (tel: 020 7974 2410) or email highwayengineering@camden.gov.uk.
- 4 Your attention is drawn to the need for compliance with the requirements of the Environmental Health regulations, Compliance and Enforcement team, [Regulatory Services] Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 4444) particularly in respect of arrangements for ventilation and the extraction of cooking fumes and smells.
- 5 This permission is granted without prejudice to the necessity of obtaining consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Application forms may be obtained from the Council's website, www.camden.gov.uk/planning or the Camden Contact Centre on Tel: 020 7974 4444 or email env.devcon@camden.gov.uk.
- 6 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's

Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.

- 7 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at www.camden.gov.uk/cil for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.

- 8 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.



Application No: 2018/3951/P

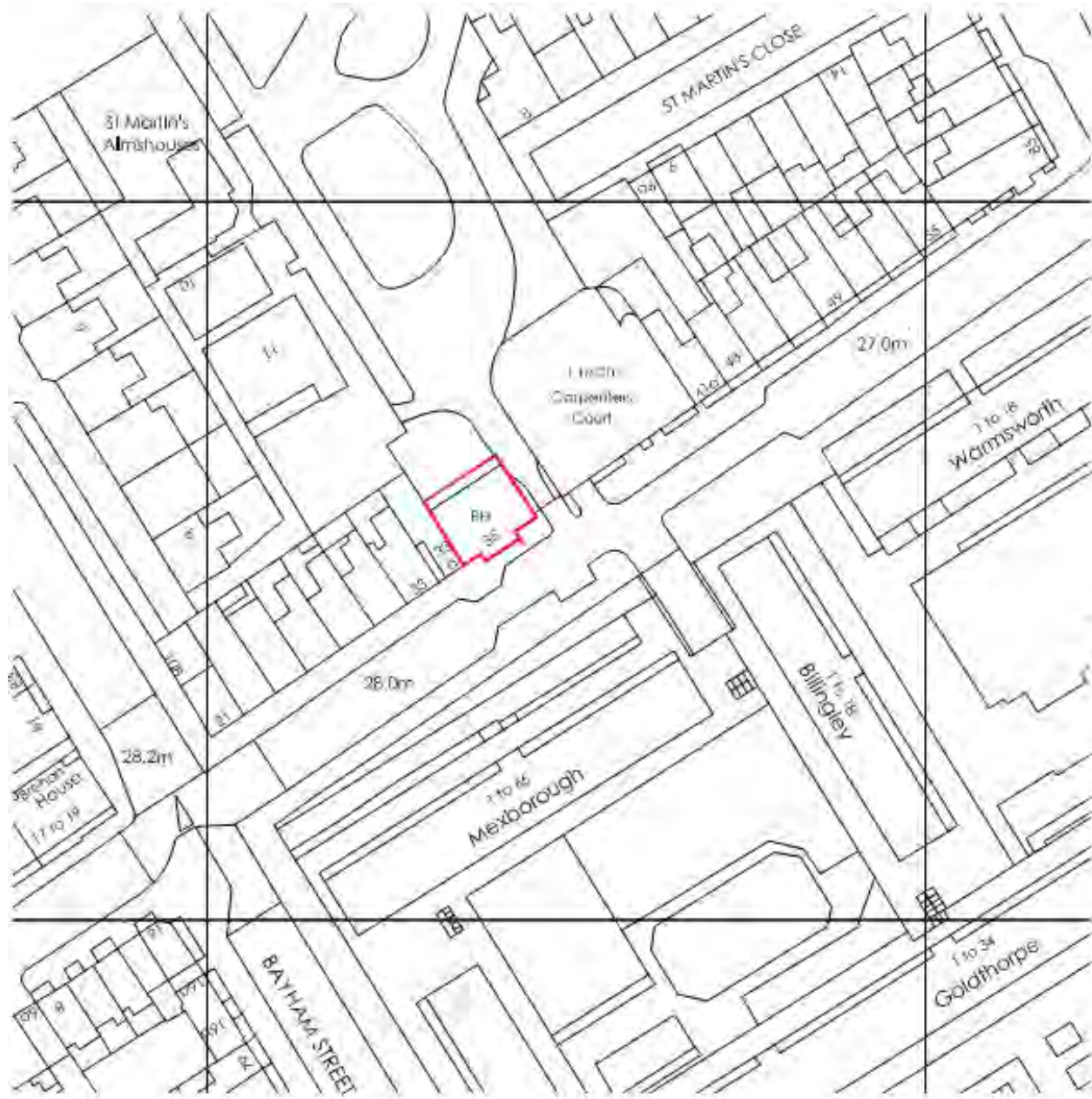
35 Pratt Street
London, NW1 0BG

Scale:
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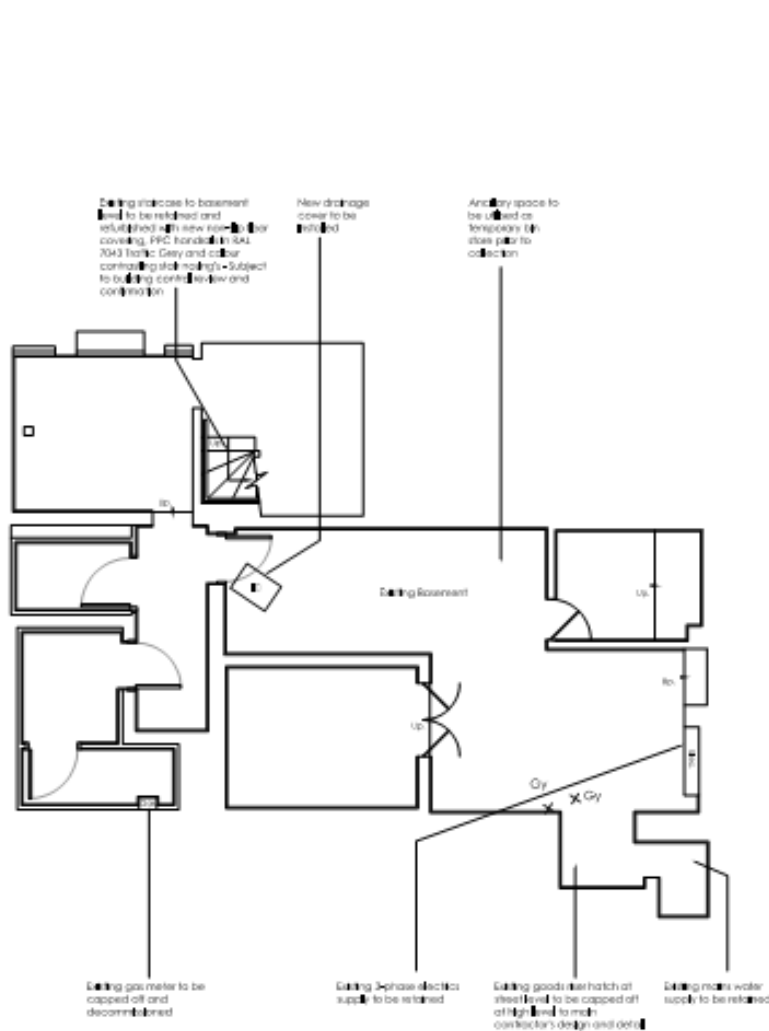
Date:
3-Mar-19



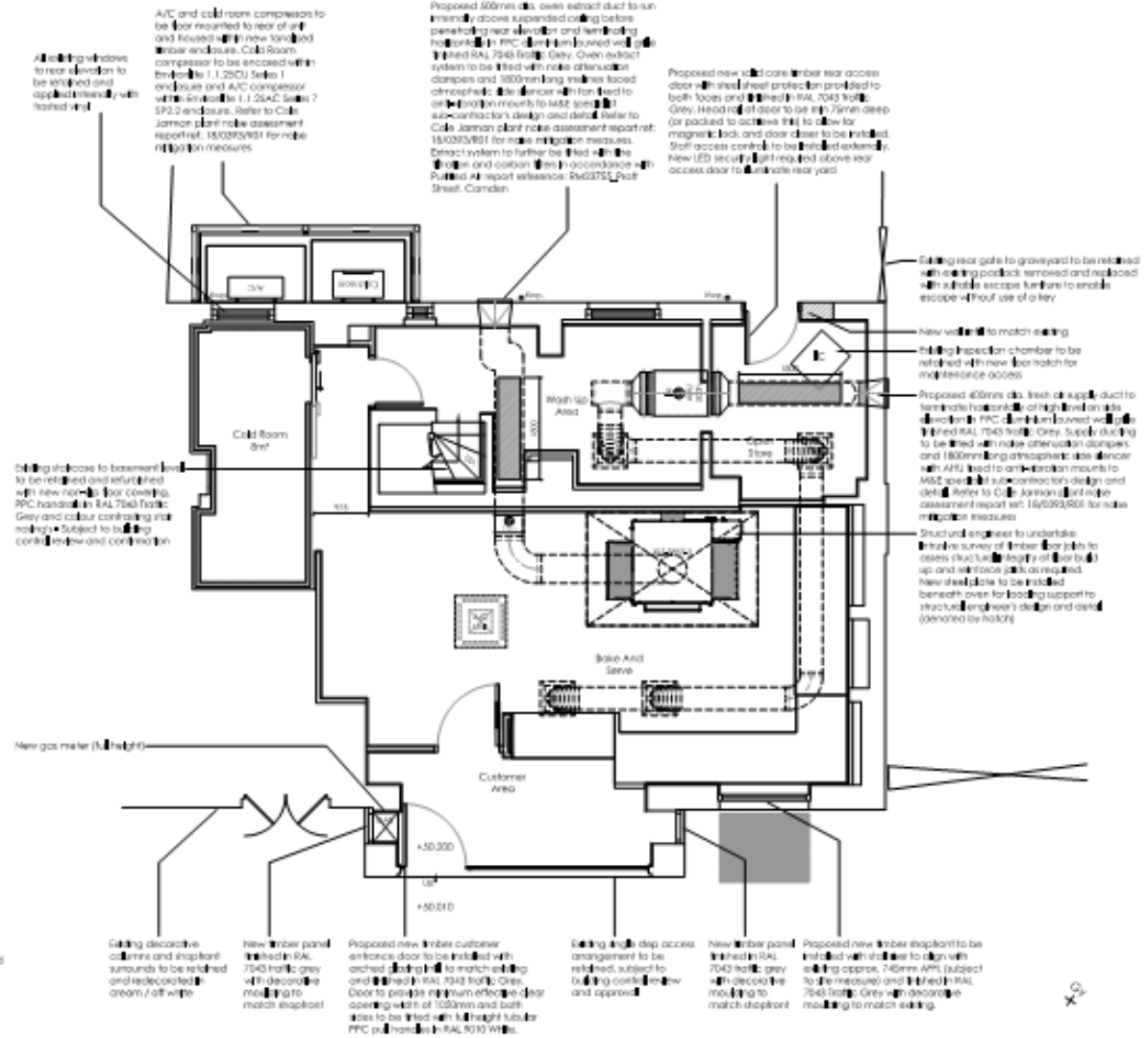
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Proposed Floor Plans



Basement floor



Ground floor

Existing Elevation Plans



All existing facade signs and rough lights to shopfront to be removed (indicated dashed)

Existing timber shopfront, indicated dashed to be removed and replaced with new

Existing projecting sign to be removed (indicated dashed)



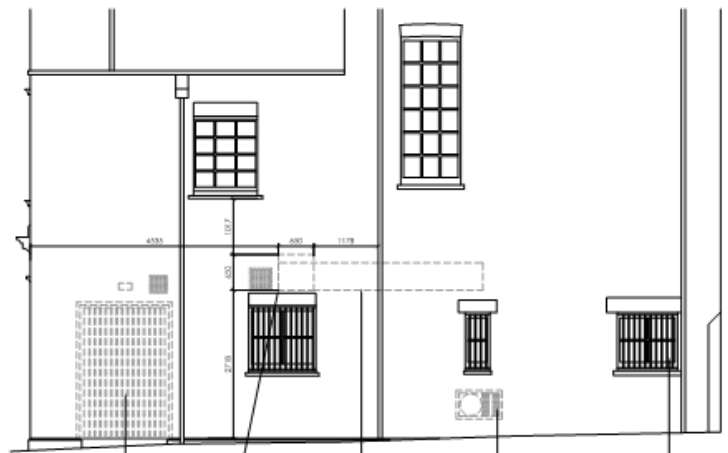
All existing facade signs and rough lights to shopfront to be removed (indicated dashed)

Existing timber shopfront to be removed (indicated dashed)

New penetration to be formed in this elevation wall at high level

Existing Elevation A

Existing Elevation B



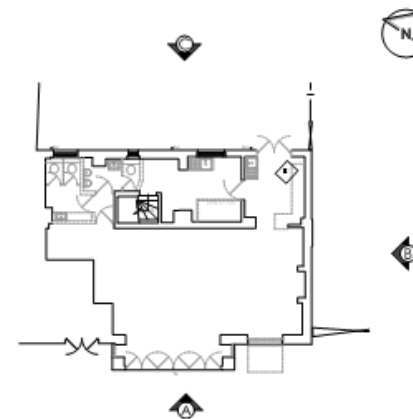
Existing double doors to be removed (indicated dashed)

Existing external partition on rear elevation to be retained and opening repaired for reuse

Existing external ducting, indicated dashed, to be removed

Existing wall mounted compressor on rear elevation, indicated dashed, to be disconnected and removed

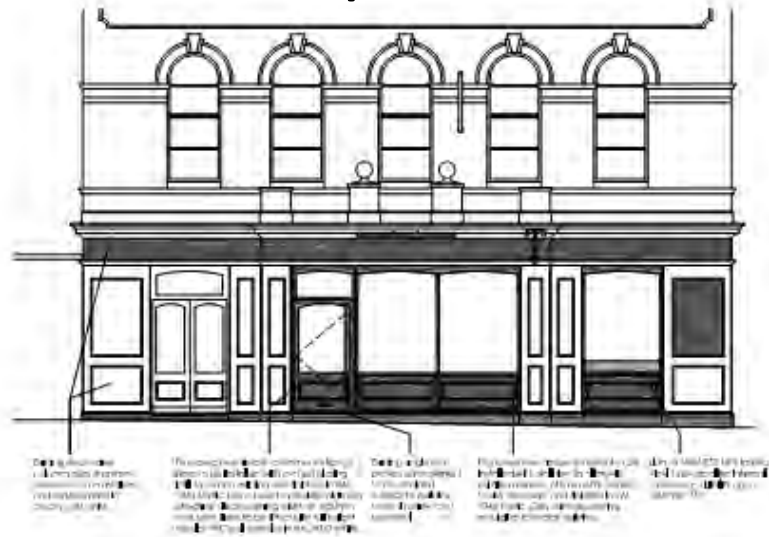
All existing windows to rear elevation to be retained



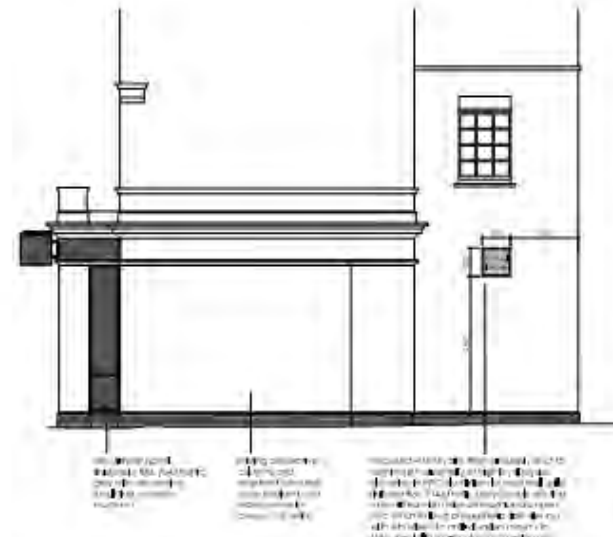
Key Plan - NTS

Existing Elevation C

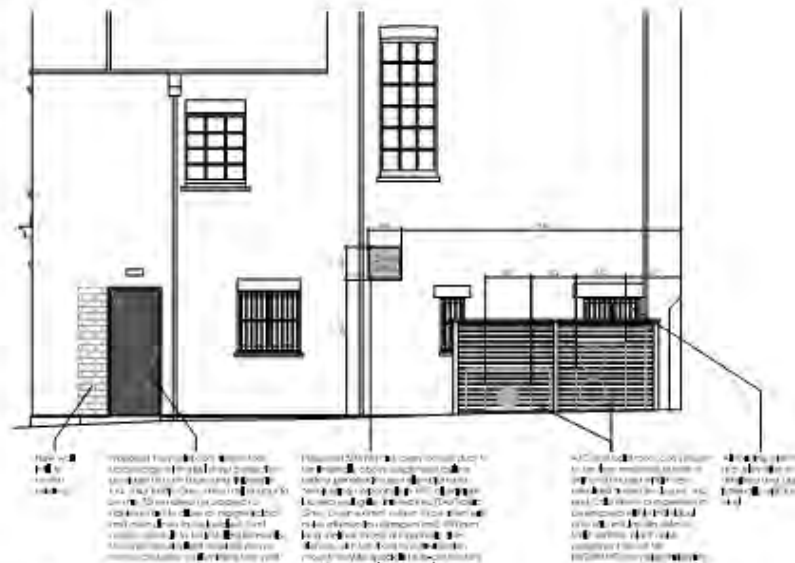
Proposed Elevation Plans



Proposed Elevation A



Proposed Elevation B



Proposed Elevation C



Key Plan - NTS

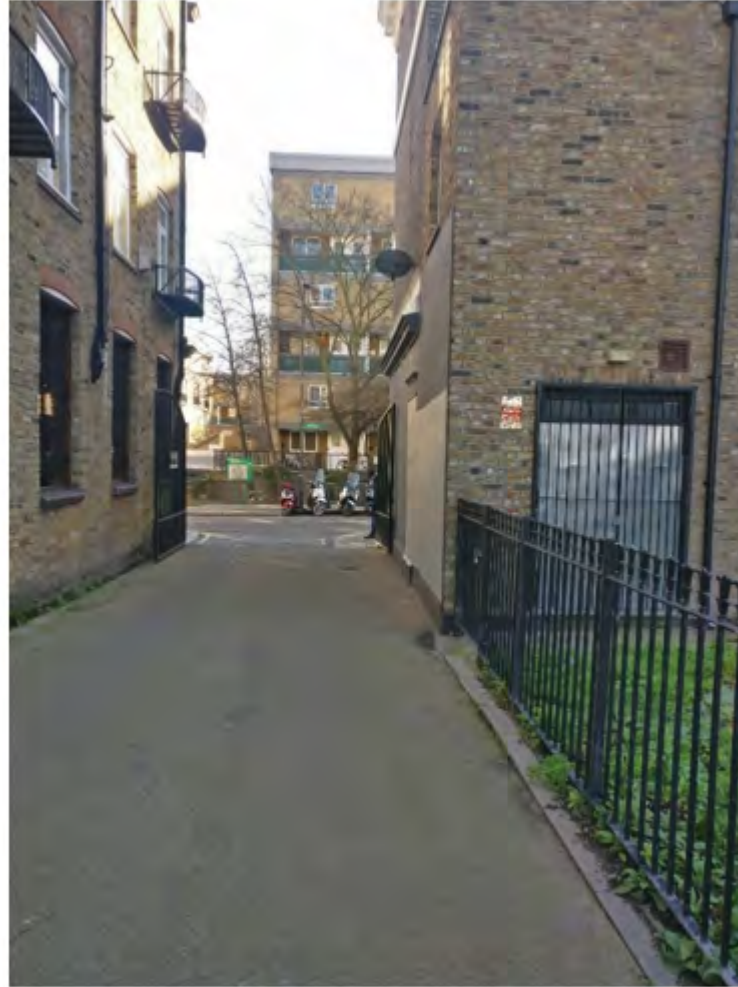
Aerial View



Front Elevation



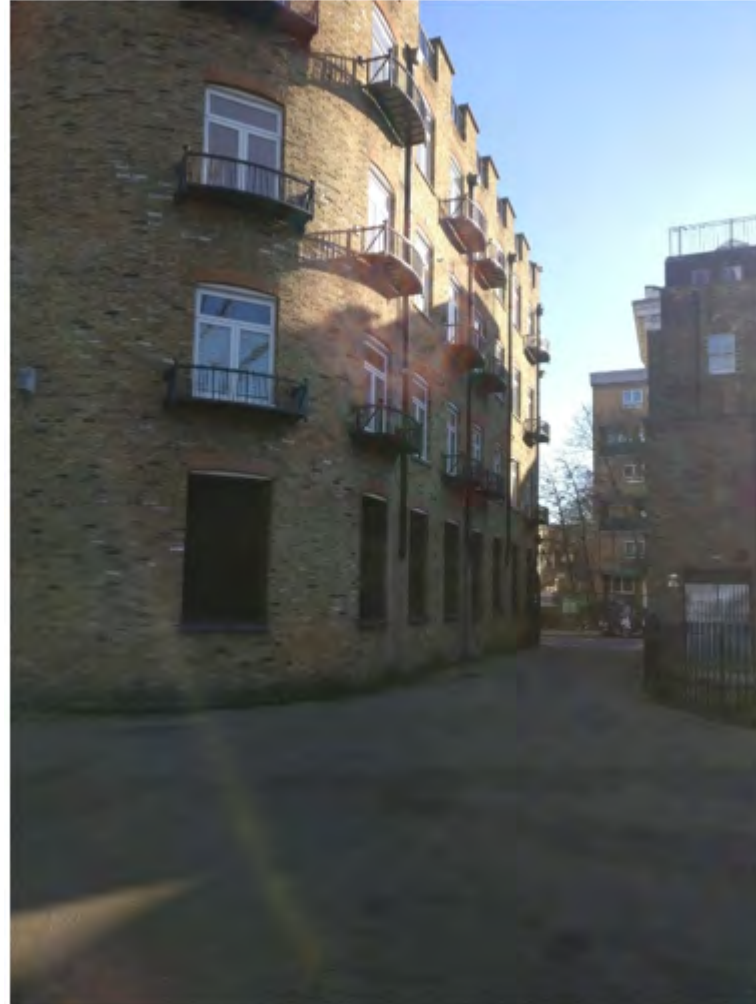
Rear and flank elevation – showing entrance to St Martin's Gardens







Rear Elevations – showing existing plant and rear enclosed garden (also entrance to St Martin's Gardens)



Rear Elevation – showing neighbouring residential block (also entrance to St Martin's Gardens)





	Site
	Town Centre
	Primary frontage
	Secondary frontage

APPENDIX 2

DECISION NOTICE REF: 2018/3951/P

Application ref: 2018/3951/P
Contact: Gideon Whittingham
Tel: 020 7974 5180
Date: 30 April 2019

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Pegasus Planning Group Ltd
First Floor,
South Wing Equinox North,
Great Park Road
Almondsbury
Bristol
BS32 4QL

Dear Sir/Madam

soDECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Refused

Address:

**35 Pratt Street
London
NW1 0BG**

Proposal:

Change of use from a restaurant (Use Class A3) to a hot food takeaway (Use Class A5), installation of extraction and ventilation equipment and associated works.

Drawing Nos: B10413-AEW-PJ003029-XX-DR-0005-[A]_Location Plan; B10413-AEW-PJ003029-ZZ-DR-0001-[B]_Existing GA Plan; B10413-AEW-PJ003029-XX-DR-0002-[B]_Existing Elevations; B10413-AEW-PJ003029-XX-DR-0006-[H]_Block Plan; B10413-AEW-PJ003029-ZZ-DR-0003-[F]_Proposed GA Plan; B10413-AEW-PJ003029-XX-DR-0004-[F]_Proposed Elevations; Plant Noise Assessment (Report 18/0393/R01) prepared by Cole Jarman, dated 28/08/2018; BB10336-AEW-PJ003192-XX-SP-0002 - PROPOSED VENTILATION SYSTEM ANNEX C DOCUMENT, Date 02.08.2018; B10413-AEW-PJ0023755-XX-SP-0001-[B] - PROPOSED VENTILATION SYSTEM dated 22.11.2018; B10413-PJ003029-ME-RM23755-9438_Preventative Maintenance Contract, dated 13th November 2018.

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

Reason(s) for Refusal

- 1 The proposed development, by reason of its size, operation and close proximity to

schools and other hot food takeaways, would result in an overconcentration of A5 hot food takeaway uses that would have a harmful cumulative impact on public health, contrary to policy TC4 (Town centre uses) of the Camden Local Plan 2017, and policy E9 (Retail, markets and hot food takeaways) of the Draft London Plan, and relevant planning guidance.

- 2 The proposed development, by reason of customer activity and delivery and servicing, would have a harmful impact on local residential amenity and the local environment, including impacts on noise, disturbance, air-quality and anti-social parking, contrary to A1 (Managing the impact of development), A4 (Noise and vibration), and TC4 (Town centre uses) of the Camden Local Plan 2017, and relevant planning guidance.
- 3 The proposed development, in the absence of a legal agreement to secure a delivery and servicing plan would be likely to have a harmful impact on local residential amenity and the local environment, including impacts on noise, disturbance, air-quality and anti-social parking, contrary to A1 (Managing the impact of development), A4 (Noise and vibration), and TC4 (Town centre uses) of the Camden Local Plan 2017, and relevant planning guidance.
- 4 The proposed development, in the absence of a legal agreement to secure a waste and recycling plan including litter picking programme would have a harmful impact on local residential amenity and the local environment, contrary to A1 (Managing the impact of development), CC5 (Waste) and TC4 (Town centre uses) of the Camden Local Plan 2017, and relevant planning guidance.

Informative(s):

- 1 Without prejudice to any future application or appeal, the applicant is advised that reasons for refusal 3 and 4 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope
Chief Planning Officer

APPENDIX 3

WESTBURY HILL APPEAL DECISION REF: 3145036

Appeal Decision

Site visit made on 16 May 2016

by Rory Cridland LLB (Hons)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 June 2016

Appeal Ref: APP/Z0116/W/16/3145036
68 Westbury Hill, Westbury, Bristol BS9 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by **Second State Pizza Company Ltd t/a Domino's** against the decision of Bristol City Council.
 - The application Ref 15/04143/F, dated 11 August 2015, was refused by notice dated 25 November 2015.
 - The development proposed is change of use from a vacant retail unit (Class A1) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and external alterations.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use from a vacant retail unit (Class A1) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and external alterations at 68 Westbury Hill Westbury, Bristol BS9 3AA in accordance with the terms of the application, Ref 15/04143/F, dated 11 August 2015, subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are the effect of the proposed takeaway on:
 - (i) the health of young people; and
 - (ii) the effect of the proposed development on highway safety, with particular regard to parking provision.

Reasons

Highway Safety

3. The appeal property is vacant having formerly traded as a dry cleaners. It is located in the Town Centre which forms part of the Westbury-on-Trym Conservation Area and is within the defined Primary Shopping Area. Although surrounded by other commercial premises, the majority of these are within Use Class A1 and there are no Class A5 units in the immediate vicinity. It is located on a busy road, close to the Grade II Listed War Memorial roundabout and directly alongside a pedestrian crossing. There are white zigzag road markings directly outside with double yellow lines further along the road.

4. The National Planning Policy Framework (“**the Framework**”) advises that development should only be refused on transport grounds where the residual cumulative impacts of development are severe.
5. The proposed development would be located within easy walking distance of the surrounding residential area. The Council appears to accept that the proposal would not result in illegal parking by customers and acknowledges that the existing on street parking restrictions are enforceable outside of the planning process. However, it is concerned that a lack of parking for delivery drivers would, at peak times, result in unauthorised parking to the front which would be detrimental to highway safety. I find this unlikely. As with customers, delivery drivers who arrive and find the sole parking space to the rear occupied are unlikely to seek to park at the front with its associated traffic restrictions and the safety issues which would be likely to arise. Instead they are more likely to find alternative legal parking in the immediate area while waiting for the available space to become free. In any event, as with customer parking, the restrictions in place are enforceable outside of the planning process.
6. Furthermore, I noted during my site visit that parking appeared in high demand as would be expected during normal business hours. Nevertheless, it was clear that there were spaces available in close proximity to the unit which could accommodate delivery vehicles should the need arise.
7. The proposed HFT would operate during the day and the evening. However, its delivery service is likely to be at its peak in the evening when other commercial premises are closed. As such the demand for parking will have significantly reduced. While I accept that the demand from local residents will have increased, it appears to me that there is sufficient parking capacity to accommodate the requirements of both local residents and the delivery vehicles without either having to resort to illegal parking.
8. While I note the Council’s concerns that a high number of pizza delivery vehicles utilising the car park could impact on the amenity of the occupiers of nearby Priory Dene, no robust evidence has been submitted which establishes that the number of vehicle movements would be so great that it would materially affect the living conditions of occupiers of these properties. Accordingly, I do not regard this as sufficient to warrant a refusal of planning permission in this instance.
9. On the whole, the evidence before me does not establish that the change of use proposed would result in unsafe or illegal parking on the road outside it. Furthermore, while I note the concerns of local residents that the additional vehicle movements associated with the change of use would result in highway safety issues along Priory Dene, these movements would be at their highest outside peak times and when vehicular use of that street was significantly lower. It would therefore be unlikely to result in sufficiently serious highways safety issues to justify a refusal of planning permission.
10. Consequently, for the above reasons, I conclude that the development would not be detrimental to highway safety. Accordingly, I find no conflict with Policy BCS10 of the Bristol Core Strategy¹ or Policies DM10 & DM23 SADMP which

¹ Bristol Development Framework Core Strategy (2011)

seek to ensure, amongst other things, that new A5 development does not prejudice highway safety.

Health of young people

11. Policy DM10 of the Site Allocations and Development Management Policies² ("**SADMP**") restricts development which would result in a harmful concentration of food and drink uses. In assessing the impact of proposals, it sets out a number of matters which are to be taken into account including the number, distribution and proximity of such units. It also seeks to limit the number of takeaways situated in close proximity to schools and youth facilities.
12. The appeal site is situated around 60m from the Westbury-on-Trym Methodist Church. The Council argues that in view of the number of youth activities which take place there, this should be regarded as a youth facility. Although not its primary purpose, from the evidence before me it appears that a considerable number of young people attend the site on a regular basis. Accordingly, I am satisfied that it is the type of youth facility envisaged by Policy DM10.
13. The explanatory text of Policy DM10 provides a definition of close proximity as being up to 400m of a school or youth facility, while also recognising that the point at which a harmful concentration is reached will vary from place to place. As such, the 400m figure is only a starting point and it is necessary to consider **the site's location and the number of existing units and assess whether the proposal would result in a harmful overconcentration.**
14. In this case, the proposed development would be a pizza delivery business located in the town centre, an area where such uses are to be expected. The imposition of a 400m exclusion zone around youth facilities in this location would exclude large parts of the town centre and would severely restrict class A5 development in that area. This would be detrimental to the overall vitality and viability of the town centre, contrary to the advice set out in paragraph 23 of the National Planning Policy Framework.
15. Although there are other hot food takeaways nearby, their numbers are small. Similarly, there is a sufficient degree of separation to ensure that there is no overconcentration of such uses. Although they are situated within a short distance of the appeal site and the church, their limited number and degree of separation help ensure that any impact on young people is likely to be limited. The Council has provided little in the way of robust evidence to show that children attending the church to undertake youth activities will be influenced by **the presence of an additional Hot Food Takeaway ("HFT") in this location.** In the absence of such evidence, I regard the addition of a further unit selling takeaway pizza as unlikely to materially alter the present position.
16. Whilst I have had regard to the concerns of neighbouring occupiers and other third parties, particularly those of Centre which relate to the potential contradictory messages to their clients, I accept that different types of takeaway will have different health impacts and that fast food does not necessarily equate to unhealthy eating. I am therefore satisfied that any resultant harm would not be significant and as such would be insufficient to justify a refusal of planning permission.

² Adopted July 2014

17. Accordingly, I find that the proposal would not be harmful to health or to the promotion of healthy lifestyles and as such find no conflict with Policy DM10 of the SADMP.

Other matters

18. The proposal includes a new shop front and other physical works. However, the Council raises no objection to the proposal on this basis and I see no reason to come to a contrary view. Accordingly, I conclude that the Westbury-on-Trym Conservation Area, within which the appeal property lies, would be preserved as would the setting of the Grade II Listed War Memorial.
19. I have taken into account the concerns of nearby residents and the objections made both at application stage and as part of this appeal. Those which relate to highway safety and unhealthy eating have been considered in my reasoning above. Those which relate to odours, noise, air quality, waste, vermin and litter were considered by the Council at application stage. I note that they do not form a reason for refusal and where necessary, could, where appropriate, be adequately dealt with by means of a condition. Accordingly, I do not regard them as sufficient, either individually or cumulatively, to justify a refusal of planning permission in this instance.

Conditions

20. I have had regard to the conditions suggested by the Council. In addition to the standard time condition, I regard a condition requiring compliance with the approved plans as necessary for the avoidance of doubt. Likewise, a condition requiring the submission of further details of the extraction/ventilation system is necessary in the interests of adjoining properties and for general environmental protection as are those which relate to refuse and recycling facilities. A condition restricting noise levels of the plant and equipment is necessary in the interest of neighbouring amenity.
21. **I have considered the Council's suggested restriction on opening hours.** However, no robust reasoning has been provided which would justify limiting the operating hours of the proposed takeaway to those suggested. Furthermore, I note that the other nearby takeaways have similar opening times to those proposed by the appellant. In view of its town centre location, such a restriction would not be appropriate and I have amended the suggested condition accordingly.
22. I do not however regard a condition requiring an Odour Management Plan as necessary. As the appellant has pointed out, this information is included in the submitted documentation.
23. Although I have found that the number of vehicle movements associated with the delivery of pizzas would not have any material impact on the residents of Priory Dene, when coupled with additional deliveries to the premises, the cumulative impact has the potential to create unacceptable levels of disturbance, particularly later in the evening. As such, I regard the imposition of a condition restricting deliveries to the premises to be reasonable and necessary in order to protect the amenity of neighbouring occupiers.
24. A number of these conditions need to be discharged before work commences on site as these relate to matters which need to be resolved on a fully coordinated basis.

Conclusion

25. For the reasons set out above I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except where these conditions require otherwise, the development hereby permitted shall be carried out in accordance with the following approved plans:
 - DB146 -EL-05 - Proposed Front and Rear Elevations
 - DB146 -EL-06 - Proposed Side Elevation,
 - DB146 -EX-01 - Existing Layout Plan,
 - DB146 -EX-02 - Existing Front and Rear Elevations
 - DB146 -EX-03 - Existing Side Elevation
 - DB146-BP09A - Block Plan
 - DB146 -GA-04A - Proposed Layout Plan
 - DB146-LP, Revision B - Site Location Plan
- 3) No development shall take place until details of ventilation system for the extraction and dispersal of cooking odours including details of the flue, its location and the method of odour control, noise levels and noise attenuation measures have been submitted to and approved in writing by the local planning authority

The approved scheme shall be implemented prior to the commencement of the use, be permanently retained thereafter, be used for its intended purpose during opening times and maintained in accordance with the details set out in Para 5.9 of the Supporting Annex B Document for Proposed Ventilation System.
- 4) No building or use hereby permitted shall be occupied or the use commenced until the refuse store, and area/facilities allocated for storing of recyclable materials, have been completed in accordance with the approved plans. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area or internally within the building that forms part of the application site. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.
- 5) The rating level of any noise generated by plant & equipment as part of the development shall be at least 5 dB below the pre-existing background level as set out in Paragraph 3.2.2 of the Noise Report.
- 6) Activities relating to the collection of refuse and recyclables and the tipping of empty bottles into external receptacles shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.
- 7) Activities relating to deliveries to the premises (excluding activities involving the delivery of cooked **pizza's to customers**) shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.

- 8) The use hereby permitted shall not be open to customers outside the following times:

11:00 to 23:00 Monday to Sunday.

APPENDIX 4

FOREST HALL APPEAL DECISION REF: 3154960

Appeal Decision

Site visit made on 18 October 2016

by David Cross BA (Hons), PGDip, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 November 2016

Appeal Ref: APP/W4515/W/16/3154960

33 Station Road North, North Tyneside, Forest Hall NE12 7AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Domino's Pizza UK & Ireland Plc against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref 16/00536/FUL, dated 30 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is change of use from a café (Class A3) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from a café (Class A3) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations at 33 Station Road North, North Tyneside, Forest Hall NE12 7AR in accordance with the terms of the application, Ref 16/00536/FUL, dated 30 March 2016, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue is the effect of the proposal on the health of the local community.

Reasons

3. The appeal site consists of a ground floor commercial unit located within the district centre of Forest Hall. There are residential properties located to the rear of the site. At the time of my site visit the unit was vacant but was previously occupied by a cafe i.e. a Class A3 use. It is proposed to change the use of the premises to a Class A5 hot food takeaway with associated external alterations.
 4. Saved Policy S12 of the North Tyneside Council Unitary Development Plan 2002 (UDP) states that proposals for hot food takeaways (HFTs) will be permitted in existing shopping centres and other locations subject to criteria in relation to the amenity of nearby residents. Development Control Policy Statement No 16 (DCPS 16) of the UDP provides further detailed criteria to be taken into account when considering individual proposals. These policies are broadly consistent with the aims of the National Planning Policy Framework (the Framework) with
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- regards to promoting sustainable economic development and protecting the amenity of occupants of land and buildings.
5. The proposal is located within a District Centre and therefore complies with the locational requirement of Policy S12. In terms of the criteria to be applied when assessing individual proposals, I am mindful that an objection to the proposal has been received expressing concerns including potential noise and disturbance. However, I note that the Council does not object to the proposal on the basis of these criteria subject to conditions. I am of the opinion that concerns relating to the living conditions of nearby residents and the amenity of the wider area can be addressed through the use of suitable conditions. I conclude that the proposal would therefore comply with Policy S12 and DCPS 16 of the UDP.
 6. **The Council's decision refers to Policy DM3.7 of the North Tyneside Local Plan – Pre-submission Draft 2015 (LPPD).** In comparison to the UDP, this emerging plan proposes a significant change in approach to assessing proposals for HFTs due to an emphasis on public health and the use of criteria based on levels of obesity and proximity to schools, parks etc.
 7. Whilst the aim of Policy DM3.7 in relation to promoting healthy communities is broadly consistent with the Framework, I am aware that the LPPD has not been subject to an Examination in Public albeit I note that the Council state that no objections to Policy DM3.7 have been received. Notwithstanding this, and with regard to Paragraph 216 of the Framework, it is possible that the policy could be amended or deleted as a result of the examination into the overall soundness of the plan. As a consequence I can afford the policy only moderate weight as a material consideration in this matter at this time.
 8. The reason for refusal refers to specific criteria based on Policy DM3.7 and I will address these in turn.
 9. First, the proposed HFT would be within 400m of Forest Hall Primary School. I assume that a distance of 400m has been specified to represent a suitable walking distance from the school. However, due to the age of pupils at a primary school, I consider that children would be likely to be under the supervision of a parent or carer when travelling to and from the school and at lunchtimes. Consequently, children from the primary school would not have unsupervised access to the proposed HFT and it would therefore be unlikely to encourage unhealthy eating habits.
 10. Second, the proposal would also be located within 400m of Springfield Park and it was apparent at my site visit that it would be the closest HFT to the park. The supporting text for Policy DM3.7 refers to the proximity of HFTs to schools, but does not elaborate on the reasons for including parks and other uses within the Policy.
 11. Third, the proposed use would also be located in a ward where more than 10% **of Year 6 pupils are classed as obese i.e. the Council Officer's report states that** the appeal site is within Benton Ward where the obesity levels for year 6 pupils is 13.9%.
 12. I conclude that the proposal therefore conflicts with criteria (i) and (ii) of Policy DM3.7 as it is located within 400m of a park and within a ward where more than 10% of the year 6 pupils are classified as obese.

13. The appellant has referred to the existing permitted use of the site, which as a Class A3 use could operate as a café or restaurant selling a similar range of food to the proposed use. In response, the Council has stated that the proposal should be determined on its own merits. However, I consider that the fallback position of the existing use is a material consideration and should be given considerable weight. The premises could continue to be used for a Class A3 use and the Council has not provided substantive evidence to demonstrate how the proposal would lead to a significant impact on the health of the community compared to the lawful use of the site.
14. The Council has referred to Appeal Decisions in Gateshead where proposals for HFTs were dismissed in areas with high levels of childhood obesity. However, I note that these decisions were based on an adopted Supplementary Planning Document (SPD) rather than emerging policy. I do not have the full details of the evidence in support of the adoption of the SPD or of the circumstances of the particular appeals. I cannot therefore be sure that they represent a direct parallel to the emerging policy or to the appeal proposal. In any case I have determined the appeal on its own merits.
15. I have found the proposal is contrary to Policy DM3.7. This is an emerging policy which I have already decided should be afforded only moderate weight. However, the appellant points out that it effectively prevents any HFT application from being permitted for all wards where obesity is over 10% and it would appear at present that this is every ward in the Borough. Such a blanket ban on HFTs for the whole or even substantial parts of the Borough does not, on the evidence before me, appear to be in accordance with the principles of the Framework and such an approach may be found to fail to balance the three strands of sustainability described in Paragraph 7. Consequently, this does at least cast doubt on whether the currently submitted policy will eventually be adopted wholesale and further reduces the weight I shall attach to it. In conclusion therefore I find the harm to the emerging policy insufficient to outweigh the requirements of the Framework to support a growing economy and the positive, albeit small, contribution the proposal would make to local job creation, especially as the fallback position suggests an A3 use could well operate from the site in any event.

Other Matters

16. An objection has been received expressing concern about the proposal bringing young adults to loiter in the area, litter and making the area feel unsafe and unkempt. However, there is no evidence that the proposal would give rise to antisocial behaviour in the area and these matters would not justify withholding planning permission. Furthermore, the proposal would bring a vacant unit back into a productive use which would potentially improve the appearance of the area.

Conditions

17. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, I have amended some of them for clarity.
18. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance

with the submitted plans. Conditions in relation to cooking equipment, ventilation, noise, hours of opening and deliveries are necessary in the interests of living conditions of nearby residents.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg. No. 15149-XX-DR-0005, Block Plan (Drg. No. 15149-XX-DR-0006), Existing Elevations (Drg. No. 15149-ZZ-DR-0002); Existing General Arrangement Plan (Drg. No. 15149-00-DR-0001); Proposed Elevations (Drg. No. 15149-ZZ-DR-0004); and Proposed General Arrangement Plan (Drg. 15149-00-DR-0003).
- 3) There shall be no frying or deep frying equipment used on the premises, unless full details have been submitted to, and agreed in writing by the Local Planning Authority. Thereafter any cooking equipment shall not be installed or used other than in accordance with the approved details.
- 4) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 5) Before the use hereby permitted takes place, a scheme which specifies the provision to be made for the control of noise emanating from the building shall be submitted to and approved in writing by the local planning authority. The approved scheme (including any noise insulation) shall be fully implemented prior to the commencement of the use and thereafter be retained in accordance with that approval and retained for so long as the use continues.
- 6) The premises shall only be open for business between the hours of 1100 – 2300 on any day.
- 7) Collections/deliveries to the premises shall only take place between the hours of 1100 – 2100 on any day, except for the delivery of food to customers.

APPENDIX 5

NEWHAM APPEAL DECISION REF: 2199826

Appeal Decision

Site visit made on 12 November 2013

by M C J Nunn BA BPL LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 December 2013

Appeal Ref: APP/G5750/A/13/2199826

Eastern Curry House, 50 Romford Road, London, E15 4BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dominos Pizza Group Ltd against the decision of the Council of the London Borough of Newham.
 - The application Ref: 13/00475/FUL, dated 21 March 2013, was refused by notice dated 21 May 2013.
 - The development proposed is 'change of use from A3 with ancillary take-away to A5, erection of new shopfront, extract duct and air compressors'.
-

Decision

1. The appeal is allowed and planning permission granted for a change of use from A3 with ancillary take-away to A5, erection of new shopfront, extract duct and air compressors at Eastern Curry House, 50 Romford Road, London, E15 4BZ in accordance with the terms of the application, Ref: 13/0475/FUL, dated 21 March 2013, subject to the conditions at Annex A.

Preliminary Matter

2. The Council has confirmed that it no longer wishes to pursue its third ground for refusal. I have assessed the appeal accordingly.

Main Issues

3. The main issues in this case are:
 - i. whether the proposal is appropriate in this location, having regard to the Council's policies on town and local centres; and,
 - ii. whether the proposal would comply with the Council's strategy of promoting healthy lifestyles in the borough.

Reasons

4. The appeal site comprises a ground floor commercial unit. Formerly an Indian restaurant, it is now vacant. The unit is located within a three storey building on the corner of Romford Road and Vernon Road. It forms part of a terrace, dating from the Victorian era, which includes other ground floor commercial units, comprising a variety of uses, including amongst other things, a food /
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grocery shop, and property / lettings agent. The surrounding area is urbanised, comprising commercial and residential properties, and Romford Road is a busy traffic route.

5. The Council is concerned that the proposal would fail to consolidate existing defined local and town centres, and local shopping parades. However, although this site may not fall within a 'defined' town or local centre, it clearly forms part of a long established parade of commercial premises. In such circumstances, it is hard to see how the re-use of this vacant former restaurant would be inappropriate in this location, particularly as it already has a lawful A3 use. Nor can I see how its re-use would result in any harm to existing town or local centres, or harm their vitality or viability.
6. Indeed, the empty appeal property, and the rubbish and general detritus that has accumulated within the front enclosed timber decked area, currently creates an air of neglect within the local scene. The productive use of the premises would assist in ameliorating this effect, and significantly improve the local area's appearance. It would also contribute to the variety of facilities within the existing commercial parade, and provide a service that local residents may find useful, as well as creating local employment.
7. The Council's delegated report makes reference to the building being a 'former family house' and suggests possible 'de-conversion' to provide family housing. However, from my observations at my visit, I noted that the shop front retains its original Victorian ornate cornicing above the fascia, as well as its corbels (along with some other units in the parade). This strongly suggests that the ground floor was originally constructed as a commercial unit rather than a dwelling, and has always been so used. No evidence has been provided by the Council regarding its purported residential use.
8. In fact, in my judgement, its use as a residential unit would be at odds with the other commercial units in the parade, and undermine the parade's retail and service function. A residential use would also be inappropriate, failing to provide satisfactory living conditions, given the other adjacent commercial premises, especially the neighbouring grocery / supermarket, which utilises its front forecourt area for the display and sale of goods.
9. In support of its stance on the first issue, the Council has referred to two appeal decisions. The first at, 506 Green Street, London, E13 9DA (APP/G5750/A/12/2168507) concerned a conversion of a ground floor residential flat to office use. The second at 'The Wine Bar', 606-608 Barking Road, London E13 9JY (APP/G5750/A/12/2169782) concerned the change of use from a public house to offices. There are significant differences in terms of the existing and proposed uses in those appeals, and they do not replicate the circumstances here. Hence, I am not persuaded that direct or meaningful parallels can be drawn in support of this appeal.
10. I conclude on the first issue that the proposal would be appropriate in this location, having regard to the Council's policies on town and local centres. I see no convincing reasons why it would detract from the retail function and regenerative objectives of the Borough's town centres, or why it would compromise the Council's objectives to deliver quality town centres, and to foster mixed, sustainable and cohesive communities.

11. Consequently, I find no conflict with the various policies cited by the Council, including S1 (Spatial Strategy), S6 (Urban Newham), SP1 (Borough Wide Place-making), SP3 (Quality Urban Design within Places), SP6 (Successful Town and Local Centres), SP7 (Quality Movement Corridors and Linear Gateways), INF 5 (Town Centre Hierarchy and Network) and J1 (Investment in the New Economy) of the Core Strategy. Nor would the proposal conflict with the London Plan, or the National Planning Policy Framework ('the Framework'). Indeed, the proposal would accord with the aims of Paragraph 23 of the Framework, which requires planning policies to be positive, support viability and vitality, and to promote competitive town centres that provide customer choice and a diverse retail offer.

Healthy lifestyles

12. Policy SP2 of the Core Strategy seeks to promote healthy lifestyles and reduce health inequalities. Specifically, it seeks to promote healthy eating by taking into account the cumulative impact of A5 (hot food takeaways). However, and importantly, the Policy does not impose a blanket ban on such uses. In this instance, and crucially, the unit already has an A3 use which the Council itself has described as having an ancillary takeaway.¹ This proposal would merely consolidate the takeaway element that already exists at the site. In other words, this is not a 'new' food facility, but a pre-existing one.
13. The Council also objects that the proposed use would provide access to 'cheap and unhealthy food'. However, these terms are somewhat vague and not defined or precisely explained in any meaningful way in the Council's submissions. There is no cogent evidence before me that the proposed use would necessarily sell either 'cheap' or 'unhealthy' food. Nor is there any tangible evidence to support the Council's concern that the appeal scheme would necessarily affect the ability of local people to adopt a healthy lifestyle.
14. The Council refers to the Sarah Bonnell School in Deanery Road. However, no specific evidence has been presented that direct harm would result to the pupils of that school, other than the generalised claim that they would "have access to inexpensive and unhealthy takeaway food". I acknowledge that it is the use class that is being considered in this appeal, rather than the specific operator. However, the appellant states that the proposed occupier mainly operates as a home delivery service, and that around 70% of trade is via telephone or internet orders, rather than over the counter or by passing trade, and that its food is mainly consumed at home rather than 'on the hoof'. This lends support to the contention that the school's pupils are less likely to use this facility.
15. The Council refers to a '400m exclusion zone' for all class A5 uses around secondary schools, but I note this does not form part of Policy SP2. It is merely mentioned in the supporting text to the policy² in the context of a study that suggested such an approach to hot food takeaways "would help to influence young people's access to such food". Indeed, the appellant draws attention to the fact that the Inspector's report on the examination into the Core Strategy explicitly recommended that a policy adopting such an exclusion

¹ Council's description on decision notice Ref 13/00475/FUL

² At paragraph 6.13.

zone would not be proportionate, would be 'unsound' and recommended that part of the policy be deleted to meet legal and statutory requirements.³

16. Moreover, I accept the appellant's point that 'unhealthy' foods can be purchased from a wide range of outlets, including supermarkets, garage forecourts, and so on, not just A5 outlets. Conversely, all such outlets, including A5 premises may sell healthy food, so a blanket ban is inherently problematic. It is notable that no local objections were received in respect of the proposal, including from the school, nor were objections raised by the Council's Environmental Health Officer.
17. In support of its case on the second issue, the Council has referred to an appeal at 2a Station Road, Manor Park, London E12 5BT (APP/G5750/A/12/2182393). However, there are significant differences in that case. Importantly, and unlike this case, it involved the change of use from a retail shop (A1) to a takeaway. In other words, no food outlet previously existed at that site unlike the situation here. Furthermore, the Inspector noted that there was already a proliferation of such uses in the vicinity, whereas the appellant highlights there are no other A5 uses within this parade.⁴ Therefore, I am not persuaded that that appeal provides a precedent for this case.
18. To conclude on the second issue, whilst I appreciate the Council's laudable objective to promote healthy neighbourhoods, having regard to the existing A3 use of the premises, I find that there is no indication that the proposal would have an unacceptable effect on the health of local people. Consequently, the Council's objections are not well founded and I find no conflict with the provisions of Policy SP2 of the Core Strategy.

Conclusion and Conditions

19. I have reviewed the conditions suggested by the Council having regard to the advice in Circular 11/95: '*The Use of Conditions in Planning Permissions*'. In addition to the standard commencement condition, a condition requiring compliance with the submitted plans is necessary for the avoidance of doubt. Conditions controlling opening hours reflecting those suggested by the Council, and requiring details of the extraction equipment and its implementation, retention, maintenance and operation are necessary to protect the living conditions of local residents. I have reworded the conditions for succinctness and to accord with the terms of the Circular.
20. For the reasons given above, and subject to these conditions, I conclude that the appeal should be allowed.

Matthew C J Nunn

INSPECTOR

³ Inspector's Report, January 2012, paragraph 34. The Inspector noted that the policy as originally worded would preclude any type of class A5 outlet, however healthy the type of food being sold.

⁴ I note that there are, however, some A5 uses in the wider area.

Annex A – Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: C4855-A5-01, C4855-A5-02, C4855-A5-03, C4855-A5-04, C4855-A5-05.
- 3) The use hereby permitted shall not be open to customers outside the following times: 0900 hrs to 2300 hrs on Mondays to Sundays.
- 4) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smells from the premises, including details of extract ducts / flue and air compressors, shall be submitted to and approved in writing by the local planning authority. The scheme as approved shall be implemented before the use begins. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

APPENDIX 6

MILL HILL APPEAL DECISION REF: 3207746



Appeal Decision

Site visit made on 4 December 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2019

Appeal Ref: APP/N5090/W/18/3207746

127 The Broadway, Mill Hill, London NW7 3TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by MKJ Property Holdings Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/1288/FUL, dated 27 February 2018, was refused by notice dated 4 July 2018.
 - The development proposed is the change of use from a former bank (Class A2) to a hot food takeaway (Class A5); installation of extraction and ventilation equipment and other minor external alterations.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from a former bank (Class A2) to a hot food takeaway (Class A5); installation of extraction and ventilation equipment and other minor external alterations at 127 The Broadway, Mill Hill, London NW7 3TJ in accordance with the terms of the application, Ref 18/1288/FUL, dated 27 February 2018, subject to the conditions in the schedule to this decision letter.

Application for costs

2. An application for costs was made by MKJ Property Holdings Limited against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural Matter

3. Since the determination of the appeal application, the National Planning Policy Framework published in 2012 has been replaced, with the new version being published in July 2018 (the 2018 Framework). Paragraph 212 of the 2018 Framework outlines that the policies contained within it are material considerations which should be taken into account in dealing with applications from the day of its publication.

Main Issues

4. The main issues are the effect of the development on the living conditions of the occupiers of nearby residential properties with particular regard to noise and smell and the effect of the development on the character and appearance of the area.

Reasons

Living conditions

5. The appeal site is located on the corner of The Broadway and Goodwyn Avenue and close to a busy traffic island. The Broadway has a variety of commercial uses along it including other restaurants and takeaways, whilst Goodwyn Avenue is a residential street.
6. The appeal development includes the installation of ventilation and extraction equipment. However, the only external parts of the equipment would be two louvred wall grills on the rear elevation on the flat roof part of the building together with a cold room and two air conditioning unit compressors at ground level.
7. The application was supported by technical reports relating to potential noise and odour matters and it is noted that the Councils Environmental Health team agreed that the mitigation proposed was acceptable. Notwithstanding that, the Council ultimately determined that the development would give rise to unacceptable odour and noise impacts on the residential properties in the vicinity of the site.
8. The introduction of a hot food takeaway would inevitably have the potential for increased noise and disturbance owing to activity associated with such uses. However, given the busy nature of The Broadway, including other premises which open into the evening, such a use would not necessarily result in a significant impact on noise in the area.
9. Whilst I accept it is difficult to control the noise and disturbance associated with customers arriving at and leaving a hot food takeaway (including talking and noise associated with vehicles), the site is located in an area where a certain degree of noise and disturbance associated with retail and other uses can reasonably be expected to occur.
10. I have also had regard to the cumulative impact of takeaways in the area, together with other late night operations. In this respect, from my site visit, I did not find that there was a concentration of such uses in the immediate vicinity of the site to the extent that it would be likely to cause an unacceptable level of noise or disturbance.
11. The Appellant has provided a delivery management plan which seeks to address concerns relating to noise and disturbance from delivery vehicles. To my mind, this would provide for suitable measures to minimise any such noise and disturbance.
12. Taking all of the above into account, together with the suggested opening hours of the business and a delivery management plan which can be controlled via suitably worded planning conditions, I consider that the occupiers of nearby residential properties would not be subjected to an unacceptable level of noise or disturbance as a result of the development.
13. Turning to potential odours, the proposal details the extraction equipment including the extraction point which would be via a louvred grill located on the rear wall of the single storey projection at the rear of the building facing the rear yard.

14. The location of the grill would ensure that any odours arising from the kitchen would disperse over the service yard and away from the rear of the building, including the first floor flat. To my mind, this would ensure that there would not be any significant effects arising from odours especially given the nature of the intended use together with the suggested condition to prevent deep fat frying.
15. The Council has also referred to the adopted Residential Design Guide in their reason for refusal. However, whilst this does outline certain standards expected for the amenity of the occupiers of residential properties, this document principally relates to new residential development and therefore is not relevant to the appeal proposal.
16. For the above reasons the proposal would not give rise to any significant harm to the living conditions of the occupiers of nearby residential properties and would be in accordance with **Policies CS1 and CS NPPF of Barnet's Local Plan** (Core Strategy) Development Plan Document (2012) (CS) and Policies DM01 and DM04 of the **Barnet's Local Plan (Development Management Policies)** Development Plan Document (2012) (DMP) which amongst other matters seek to create a quality environment where proposals do not generate unacceptable noise levels close to noise sensitive uses and any noise impacts should be mitigated where appropriate.

Character and appearance

17. The appeal building has an attractive frontage which contributes greatly to the streetscene and is clearly of architectural merit. Notwithstanding that, to the rear it has been extended and includes a large single storey flat roofed extension which has been constructed in contrasting brickwork which does not reflect the high standard of design and materials of the original part of the building.
18. The appeal proposal would involve very little alteration to the original part of the building with the main alteration being a replacement door which would not have any significant impact on the character or appearance of the building as a whole.
19. To the rear, alterations would include the blocking up of existing windows on the rear extension and the installation of two louvres and cold room/air conditioning units at ground level. I consider that these alterations would be minimal and would not have any significant impact on the character of the host building or the wider area.
20. In order to facilitate the use of the building as a hot food takeaway, there would also need to be appropriate provision for refuse and recycling facilities. The plans indicate that two bins would be located next to the rear extension within the service yard. Whilst these bins would be visible in the streetscene, they would be seen in the context of the existing building and not be so exposed to warrant the withholding of planning permission on this ground.
21. For the above reasons, the development would not harm the character and appearance of the host building or the wider area and would accord with Policies CS1 and CS NPPF of the CS and Policies DM01 and DM04 of the DMP which amongst other matters seek to ensure that development proposals are of

the highest standard of design and should be based on an understanding of local characteristics and preserve or enhance local character.

Other matters

22. I have also had regard to the other matters raised in the representations received on the proposal including traffic and parking issues, health matters, anti-social behaviour, rubbish and the number of fast food takeaways in the area.
23. Whilst all of these are factors in the consideration of the appeal proposal, none of them provide a compelling reason why planning permission should not be granted.

Conditions

24. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have **amended some of the Council's suggested wording.**
25. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. Conditions relating to the external materials of the development and refuse and recycling are necessary in the interests of the character and appearance of the area.
26. In the interests of the living conditions of the occupiers of nearby residential properties conditions are required in relation to the opening hours of the business (including deliveries from the premises), the installation and maintenance of the extraction equipment, the preclusion of deep fat frying, noise insulation measures (as detailed in the Plant Noise Assessment), and in relation to deliveries and servicing of the premises.
27. The Council have suggested a condition restricting the use of the premises to a Class A5 use. However, I do not find that there is any special need to restrict changes of uses away from those within Class A5 and therefore such a condition is not necessary.

Conclusion

28. Taking all matters into consideration, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: B10027-AEW-PJ002011-XX-DR-0005; B10027-AEW-PJ002011-XX-DR-0006 Rev C; B10027-AEW-PJ002011-XX-DR-0004 Rev A; B10027-AEW-PJ002011-XX-DR-0003 Rev A.
- 3) The materials used in the external surfaces of the building shall match those in the parts of the building where the alteration works are located.
- 4) The use hereby permitted shall not be open to members of the public (or any deliveries despatched from the premises) before 11am or after midnight on Thursdays, Fridays and Saturdays or before 11am or after 11pm on Mondays, Tuesdays, Wednesdays, Sundays and Bank and Public Holidays.
- 5) No deliveries to the premises shall be taken at the site on any Sunday, Bank or Public Holiday or before 9am or after 6p.m. on any other day.
- 6) Prior to the first use of the premises as a hot food takeaway, the extraction equipment detailed **in the 'Proposed Ventilation System Document B10027-AEW-PJ002011-XX-SP-0001-[A]'** shall be installed and maintained as such to at least the standards outlined at section 5.8 for the life of the development.
- 7) Prior to the first use of the premises as a hot food takeaway the noise mitigation measures outlined at section 5.4 of the Plant Noise Assessment (18/0120/R1) shall be installed and maintained as such for the life of the development.
- 8) Prior to the first use of the premises as a hot food takeaway, details of refuse storage and collection arrangements, including the storage and disposal of all oils, fats, liquids and food wastes arising out of the cooking premises shall be submitted to and agreed by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.
- 9) Prior to the first use of the premises as a hot food takeaway, full details of a delivery and servicing plan shall be submitted to and approved in writing by the local planning authority. This plan shall include details of the deliveries and servicing to the property, where vehicles will park in making deliveries and the hours/days which this will take place as well as the management and arrangement of deliveries to customers. The development shall only be carried out in accordance with the approved details.
- 10) There shall be no deep fat frying on the premises.

APPENDIX 7

VARIOUS DECISION NOTICES

Mr S C Mistry
Mistry Design
28 Wood End Gardens
Northolt
UB5 4QJ

Application Ref: **2014/6157/P**
Please ask for: **Olivier Nelson**
Telephone: 020 7974 **5142**

31 March 2015

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:

**2c
2d & 2e Maygrove road
London
NW6 2EB**

Proposal:

Change of use from a motorcycle shop (Sui Generis) to a hot food takeaway (Class A5), installation of new entrance door and extract flue.

Drawing Nos: 1489/01 Rev A, MHQ479(1), MHQ479(1), Noise Report ref:11801.PCR.01, Design and Access Statement.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.



Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans 1489/01 Rev A, MHQ479(1), MHQ479(1), Noise Report ref:11801.PCR.01, Design and Access Statement.

Reason:

For the avoidance of doubt and in the interest of proper planning.

- 4 The use hereby permitted shall not be carried out outside the following times 11am to 11pm Mondays to Saturdays and 11am to 5pm on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Before the use commences sound insulation shall be provided for the building in accordance with the scheme approved by the local planning authority in writing. The use shall thereafter not be carried out other than in accordance with the approved scheme.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP12 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6 No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 7 Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment or any part of it is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 8 Prior to use of the development a post installation noise assessment shall be carried out where required to confirm compliance with the noise criteria set out in the submitted report and additional steps to mitigate noise shall be taken, as necessary to ensure that the external noise level emitted from plant, machinery/ equipment will be lower than the lowest existing background noise level by at least 5dBA, by 10dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.. Approved details shall be implemented prior to use and thereafter be permanently retained.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 9 Before the development commences, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service,

Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).

- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 The Mayor of London intends to introduce a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time will need to pay a CIL including those submitted before April. This CIL will be collected by Camden on behalf of the Mayor of London. From April Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable. The proposed charge in Camden will be £50 per m2 on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented and we will issue a CIL demand notice setting out what monies needs to be paid when and how to pay The CIL will be collected from Camden on behalf of the Mayor.
- 4 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.
- 5 You are advised that condition 4 means that no customers shall be on the premises and no noise generating activities associated with the use, including preparation and clearing up, shall be carried out otherwise than within the permitted time.
- 6 Your attention is drawn to the need for compliance with the requirements of the Environmental Health regulations, Compliance and Enforcement team, [Regulatory Services] Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 4444) particularly in respect of arrangements for ventilation and the extraction of cooking fumes and smells.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ed Watson', written in a cursive style.

Ed Watson
Director of Culture & Environment

Application ref: 2016/3975/P
Contact: David Fowler
Tel: 020 7974 2123
Date: 2 October 2018

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

CBRE Ltd.
Henrietta House
Henrietta Place
London
W1G 0NB

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted Subject to a Section 106 Legal Agreement

Address:

**5-17 Haverstock Hill
London
NW3 2BP**

Proposal:

Demolition of existing building and erection of a part-six, part-seven storey development comprising 77 residential units (8 x studio, 18 x 1-Bed, 32 x 2-Bed and 19 x 3-Bed units) (Use Class C3) and retail (Use Class A1-A5) use at ground floor with associated cycle parking, amenity space, refuse and recycling store and associated works.

Drawing Nos: Plans

13491-AP-LXX-03-001 Eton Garage: Location Plan; 13491-AP-LXX-03-102 Eton Garage: Site Plan; 13491-AP-L00 01-180 Eton Garage: Ground Floor Plan; 13491-AP-L01-01-181.00 Eton Garage: Mezzanine Floor Plan; 13491-AP-L01-01-181.01 Eton Garage: First Floor Plan; 13491-AP-L02-01-182 Eton Garage: Second Floor Plan; 13491-AP-L03-01-183 Eton Garage: Third Floor Plan; 13491-AP-L04-01-184 Eton Garage: Fourth Floor Plan; 13491-AP-L05-01-185 Eton Garage: Fifth Floor Plan; 13491-AP-L06-01-186 Eton Garage: Sixth Floor Plan; 13491-AP-L07-01-187 Eton Garage: Seventh Floor Plan; 13491-AP-L08-01-188 Eton Garage: Eighth Floor Plan; 13491-AP-L09-01-189 Eton Garage: Ninth Floor Plan; 13491-AP-L10-01-190 Eton Garage: Roof Plan; 13491-AP-LXX 01-140 Eton Garage: East Elevation; 13491-AP-LXX 01-141 Eton Garage: North and South Elevation; 13491-AP-L00-00-100 Proposed Ground Floor Plan; 13491-AP-L01-00-101) Proposed First Floor Plan; 13491-AP-L02-00-102) Proposed Second Floor Plan; 13491-AP-L03-00-103) Proposed Third Floor Plan; 13491-AP-L04-00-104 Proposed Fourth Floor Plan; 13491-AP-L05-00-104.01 Proposed Affordable Fifth Floor Plan; 13491-AP-L05-00-105 Proposed Fifth Floor Plan;

13491-AP-L06-00-106 Proposed Sixth Floor Plan; 13491-AP-L07-00-107 Proposed Roof Plan; 13491-AP-LXX-04-130 Proposed East Elevation; 13491-AP-LXX-04-131 Proposed North Elevation; 13491-AP-LXX-04-132 Proposed South Elevation; 13491-AP-LXX-04-133 Proposed West Elevation; 13491-AP-LXX-05-150 Proposed Section A-A; 13491-AP-LXX-05-151 Proposed Section B-B; 13491-AP-LXX-05-152 Proposed Section C-C; 13491-AP-LXX-21-300 Haverstock Hill Gable End Window Detail; 13491-AP-LXX-21-301 Haverstock Hill Façade Window Detail; 13491-AP-LXX-21-302 Haverstock Hill Elevation Balcony Detail; 13491-AP-LXX-21-303 Haverstock Hill Gable End Balcony Detail; 6755-LD-PLN-001 Rev B Landscape Master Plan; 6755-LD-PLN-201 Rev B Landscape Proposals Ground Floor; 6755-LD-PLN-202 Rev B Landscape Proposals Level 1; 6755-LD-PLN-204 Rev B Landscape Proposals Level 6; 6755-LD-PLN-203 Rev B Landscape Proposals Level 3,4 & 5; 6755-LD-PLN-002 Rev B Rendered Landscape Master Plan.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 3 years to implement

The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 Plans and drawing number

The development hereby permitted shall be carried out in accordance with the following approved plans:

Plans

13491-AP-LXX-03-001 Eton Garage: Location Plan; 13491-AP-LXX-03-102 Eton Garage: Site Plan; 13491-AP-L00 01-180 Eton Garage: Ground Floor Plan; 13491-AP-L01-01-181.00 Eton Garage: Mezzanine Floor Plan; 13491-AP-L01-01-181.01 Eton Garage: First Floor Plan; 13491-AP-L02-01-182 Eton Garage: Second Floor Plan; 13491-AP-L03-01-183 Eton Garage: Third Floor Plan; 13491-AP-L04-01-184 Eton Garage: Fourth Floor Plan; 13491-AP-L05-01-185 Eton Garage: Fifth Floor Plan; 13491-AP-L06-01-186 Eton Garage: Sixth Floor Plan; 13491-AP-L07-01-187 Eton Garage: Seventh Floor Plan; 13491-AP-L08-01-188 Eton Garage: Eighth Floor Plan; 13491-AP-L09-01-189 Eton Garage: Ninth Floor Plan; 13491-AP-L10-01-190 Eton Garage: Roof Plan; 13491-AP-LXX 01-140 Eton Garage: East Elevation; 13491-AP-LXX 01-141 Eton Garage: North and South Elevation; 13491-AP-L00-00-100 Proposed Ground Floor Plan; 13491-AP-L01-00-101) Proposed First Floor Plan; 13491-AP-L02-00-102) Proposed Second Floor Plan; 13491-AP-L03-00-103) Proposed Third Floor Plan; 13491-AP-L04-00-104 Proposed Fourth Floor Plan; 13491-AP-L05-00-104.01 Proposed Affordable Fifth Floor Plan; 13491-AP-L05-00-105 Proposed Fifth Floor Plan; 13491-AP-L06-00-106 Proposed Sixth Floor Plan; 13491-AP-L07-00-107 Proposed Roof Plan; 13491-AP-LXX-04-130 Proposed East Elevation; 13491-AP-LXX-04-131 Proposed North Elevation; 13491-AP-LXX-04-132 Proposed South Elevation; 13491-AP-LXX-04-133

Proposed West Elevation; 13491-AP-LXX-05-150 Proposed Section A-A; 13491-AP-LXX-05-151 Proposed Section B-B; 13491-AP-LXX-05-152 Proposed Section C-C; 13491-AP-LXX-21-300 Haverstock Hill Gable End Window Detail; 13491-AP-LXX-21-301 Haverstock Hill Façade Window Detail; 13491-AP-LXX-21-302 Haverstock Hill Elevation Balcony Detail; 13491-AP-LXX-21-303 Haverstock Hill Gable End Balcony Detail; 6755-LD-PLN-001 Rev B Landscape Master Plan; 6755-LD-PLN-201 Rev B Landscape Proposals Ground Floor; 6755-LD-PLN-202 Rev B Landscape Proposals Level 1; 6755-LD-PLN-204 Rev B Landscape Proposals Level 6; 6755-LD-PLN-203 Rev B Landscape Proposals Level 3, 4 & 5; and 6755-LD-PLN-002 Rev B Rendered Landscape Master Plan.

Supporting Documents

CBRE Covering Letter dated 15/07/2016; Design and Access Statement; Access Statement; Air Quality Assessment Report (No.70016149); Arboricultural Report Addendum; Daylight and Sunlight Report; Draft Construction Management Plan; Energy Statement (No.54359); Flood Risk Assessment and Sustainable Drainage Strategy; Landscape Planning Statement; Nocturnal Emergence Bat Survey; Noise and Vibration Planning Report; Planning Statement; Scheme Internal Daylight Report; Site Investigation and Basement Impact Assessment Report; Statement of Community Involvement; SUDS Pro-Forma; SUDS and Below Ground Drainage Strategy; Sustainability Statement (No.54359) including BREEAM New Construction; Ecological Assessment; Townscape, Heritage and Visual Assessment; and Transport Assessment.

- 3 Reason: For the avoidance of doubt and in the interest of proper planning.
Detailed drawings/samples

Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the Council before the relevant part of the work is begun:

- a) Typical details of new railings at a scale of 1:10 with finials at 1:1, including materials, finish and method of fixing into the plinth.
- b) Plan, elevation and section drawings, including jambs, head and cill, of all external new window and door openings.
- c) Samples and manufacturer's details of new facing materials to be provided on site and retained on site during the course of the works.
- d) A sample panel of all facing brickwork shall be erected on-site and approved by the Council before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approval given. The panel must include facing brickwork demonstrating the proposed colour, texture, face-bond and pointing.

The relevant part of the works shall then be carried in accordance with the approved details.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

4 Cycle storage

Before the development (other than site clearance and preparation, relocation of services, utilities and public infrastructure and demolition) commences, details of secure and covered cycle storage area for 132 long stay and 4 short stay cycle parking spaces shall be submitted to and approved by the local planning authority. The approved storage areas shall be provided in their entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

5 Suitable qualified chartered engineer

The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been

checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the Council prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 of the London Borough of Camden Local Development Framework Development Policies.

6

No additional equipment

No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or man-safe rails shall be fixed or installed on the external face of any of the buildings, without the prior approval in writing of the local planning authority.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

7 Landscaping

No development (other than site clearance and preparation, relocation of services, utilities and public infrastructure and demolition), shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas (including terraces, balconies and green roofs) have been submitted to and approved by the local planning authority in writing. Details shall include a phased programme of works. The relevant part of the works shall not be carried out otherwise than in accordance with the details and programme thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policy CS14 and policy CS15 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

8 Landscaping - planting/replacement planting

Full details of all hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority before the development commences. The works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner.

Any trees or areas of planting which within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policy CS14 & CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

9 Green roof

The green roof hereby approved shall be provided prior to the first occupation of the development in accordance with the approved details and shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of

the London Borough of Camden Local Development Framework Development Policies.

10 Noise levels

Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies

11 Ground investigation

At least 28 days before development commences (other than site clearance & preparation, relocation of services, utilities and public infrastructure, but prior to removal of any soil from the site):

a) a written programme of ground investigation for the presence of soil and groundwater contamination and landfill gas shall be submitted to and approved by the local planning authority in writing; and

b) following the approval detailed in paragraph (a), an investigation shall be carried out in accordance with the approved programme and the results and a written scheme of remediation measures shall be submitted to and approved by the local planning authority in writing.

The remediation measures shall be implemented strictly in accordance with the approved scheme and a written report detailing the remediation shall be submitted to and approved by the local planning authority in writing prior to occupation.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

12 Refuse & recycling storage

Prior to occupation of the development the refuse and recycling storage facilities intended for its occupiers as shown on the drawings hereby approved shall be provided. All refuse and recycling storage facilities shall be permanently maintained and retained thereafter.

Reason: To safeguard the amenities of the adjoining premises and the area

generally in accordance with the requirements of policy CS18 of the London Borough of Camden LDF Core Strategy and DP26 of the London Borough of Camden LDF Development Policies.

13 Refuse stores and cycle stores

Prior to occupation of the development full details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a) Affordable Housing refuse store
- b) Affordable Housing cycle store
- c) Market units refuse stores
- d) Market units cycle store

The relevant part of the development shall then be carried out only in accordance with the approved details and samples.

Reason: To ensure the development provides adequate refuse and cycle parking facilities in accordance with the requirements of policies CS11 and CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP17 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

14 Part M4(2) regulations

All units hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2).

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

15 Part M4(3) regulations

Units 2.06, 2.07, 3.05, 3.06, 4.04, 5.07 and 5.08 as indicated on the plans hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (3) adaptable.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies

16 Noise mitigation measures

The development shall be carried out in accordance with the noise mitigation measures to ensure acceptable internal noise levels within the proposed residential units as set out in the Noise and Vibration Planning Report by Sandy Brown and no unit shall be occupied until the mitigation measures relevant to that unit have been installed.

Reason: To safeguard the amenities of the future occupants of the development in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

17 Photovoltaic cells

Prior to commencement, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 of the London Borough of Camden Local Development Framework Development Policies.

18 Rainwater recycling

Prior to commencement of any development other than site clearance & preparation details of the feasibility of rainwater recycling proposals should be submitted to the local planning authority and approved in writing. The development shall thereafter be constructed in accordance with the approved details.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards), DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Core Strategy.

19 Details of mechanical ventilation

Prior to commencement of development (excluding demolition and site preparation works) on site, full details of the mechanical ventilation including air inlet locations and filters shall be submitted to and approved by the local planning authority in writing. Air inlet locations should be located away from roads and the boiler/ CHP stack to protect internal air quality.

Reason: To protect the amenity of residents in accordance with DP26, London Plan policy 7.14. To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

20 Air quality monitoring

Air quality monitoring should be implemented on site. No development shall take place until full details of the air quality monitors have been submitted to

and approved by the local planning authority in writing. Such details shall include the location, number and specification of the monitors, including evidence of the fact that they have been installed in line with guidance outlined in the GLA's Control of

Dust and Emissions during Construction and Demolition Supplementary Planning Guidance and have been in place for 3 months prior to the proposed implementation date. The monitors shall be retained and maintained on site for the duration of the development in accordance with the details thus approved.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 (Managing the impact of growth and development) and CS16 (Improving Camden's health and wellbeing) of the London Borough of Camden Local Development Framework Core Strategy and policies DP32 (Air quality and Camden's Clear Zone).

21 SUDS

Prior to commencement of the development, full details of the sustainable drainage system shall be submitted to and approved in writing by the local planning authority. Such a system should be designed to accommodate all storms up to and including a 1:100 year storm with a 30% provision for climate change, such that flooding does not occur in any part of a building or in any utility plant susceptible to water, and to achieve 50% reduction in run off (targeting a maximum of 14 l/s run-off in all storm events up to and including the 1 in 100 year 6 hour storm). The system shall include: blue/ green roofs (providing 23m³ of storage) and an attenuation tank (providing 47m³ of storage), and shall thereafter be retained and maintained in accordance with the approved maintenance plan.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CS13 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

22 SUDS - installation

Prior to occupation, evidence that the Sustainable Drainage Strategy has been implemented in accordance with the approved details as part of the development shall be submitted to the Local Authority and approved in writing. The systems shall thereafter be retained and maintained in accordance with the approved maintenance plan.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CS13 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

23 Detailed design and method statements

The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent),

have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures
- accommodate the location of the existing London Underground structures and tunnels
- accommodate ground movement arising from the construction thereof
- and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2015 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

24 Piling

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

25 Commercial units

A minimum of 2 of the 3 approved commercial units shall be in Class A1 retail use.

Reason: To maintain a vibrant street scene and street life, supporting the Camden Town Town Centre.

26 Additional contamination

In the event that additional significant contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Environment Agency's Model Procedures for the Management of Contamination (CLR11), and where mitigation is necessary a scheme of remediation must be designed and implemented to the satisfaction of the local planning authority before any part of the development hereby permitted is occupied.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

27 Overheating assessment

Prior to commencement of development, full details of the overheating assessment should be provided. The applicant should demonstrate that the Mayor's cooling hierarchy has been followed and that active cooling is not proposed unless it can be demonstrated it is required and that all other measures have been considered first. Where active cooling is required, details demonstrating the efficiency of the system should be provided to the Council.

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards) and DP22 (Promoting sustainable design and construction).

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Environmental Health Service, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 2090 or by email env.health@camden.gov.uk or on the website www.camden.gov.uk/pollution) or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning

permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

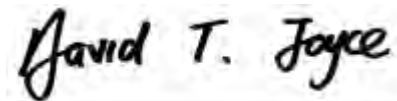
Please send CIL related documents or correspondence to
CIL@Camden.gov.uk

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink that reads "David T. Joyce". The signature is written in a cursive style and is positioned above a thin horizontal line.

David Joyce
Director of Regeneration and Planning

Mr Bhoseok Nam
MZA Planning Ltd.
14 Devonshire Mews
London
W4 2HA

Application Ref: **2013/1804/P**
Please ask for: **Jenna Litherland**
Telephone: 020 7974 **3070**

26 July 2013

Dear Sir/Madam

DECISION

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

Full Planning Permission Granted

Address:
218 Kilburn High Road
London
NW6 4JH

Proposal:
Change of use from retail shop (Class A1) to hot food takeaway (Class A5), installation of new entrance doors and installation of extract duct on rear elevation.

Drawing Nos: 6219-P-01; 6219-P-02-D; Design and Access Statement by MZA Planning ref: YM/Mansoor/0113/hb; Acoustic Report Summary by clement acoustics ref: 8085-130326-L1 dated 26 March 2013; Noise Impact Assessment by Practical Acoustics ref: 5707.NIA.01 dated 24 October 2011.

The Council has considered your application and decided to grant permission subject to the following condition(s):



Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: 6219-P-01; 6219-P-02-D; Design and Access Statement by MZA Planning ref: YM/Mansoor/01113/hb; Acoustic Report Summary by clement acoustics ref: 8085-130326-L1 dated 26 March 2013; Noise Impact Assessment by Practical Acoustics ref: 5707.NIA.01 dated 24 October 2011.

Reason:

For the avoidance of doubt and in the interest of proper planning.

- 4 The approved extract duct and its fittings and fixtures shall be finished in black The duct shall remain in finished in black for as long as it is retained.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 5 The use hereby permitted shall not be carried out outside the following times 11:00- 00:00 Mondays to Sundays including Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 7 Before the development commences, details of the location, design and method of waste storage and removal including recycled materials and servicing, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of the use and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste and servicing has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26, and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 8 No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

- 9 Before the use commences, all plant and ducting shall be provided with acoustic and vibration isolation and sound attenuation measures in accordance with the Acoustic Report Summary by clement acoustics ref: 8085-130326-L1 dated 26 March 2013, the Design and Access Statement by MZA Planning ref: YM/Mansoor/0113/hb and the Noise Impact Assessment by Practical Acoustics ref: 5707.NIA.01 dated 24 October 2011 approved by the Council. All such measures shall thereafter be retained and maintained in accordance with the manufacturers recommendations.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

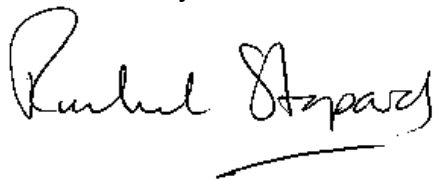
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- 3 You are advised that in order to comply with Condition 5 no customers shall be on the premises and no noise generating activities associated with the use are permitted outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully



Rachel Stopard
Director of Culture & Environment

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our [online planning applicants' survey](#). We will use the information you give us to monitor and improve our services.

pegasusgroup.co.uk

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T 01454 625 945