

Delegated Report		Analysis sheet	Expiry Date:	01/11/2019
		N/A / attached	Consultation Expiry Date:	28/10/2019
Officer		Application Number(s)		
John Diver		i) 2019/4545/P ii) 2019/5369/A		
Application Address		Drawing Numbers		
Kiosk adj. 19 Chalk Farm Road London NW1 8AG		<i>See draft decision notices</i>		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposals				
i) Erection of single storey hot foods takeaway kiosk (use class A5) retrospective ii) Display of 3x non-illuminated fascia signs over retail kiosk as well as applied vinyl signage				
Recommendations:		i) Refused and Warning of Enforcement Action to be taken ii) Refused advertisement consent		
Application Types:		i) Full Planning Permission ii) Advertisement consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notices					
Informatives:						
Consultations						
Summary of consultation:	For the planning application (i), two site notices were erected near to the unit on the 04 October 2019 (expiring 28 October 2019). Both these applications were also advertised via the Council's e-alert system.					
Adjoining Occupiers:			No. of responses	04	No. of objections	04
Summary of consultation responses:	<p>Letters of objection were received from the owners/occupiers of the following properties:</p> <ul style="list-style-type: none"> • 12 Jeffrey's Place, NW1 • 129 South End Close, NW3 • 104 Regents Park Road, NW3 • 76 Harmood Street, NW1 <p>The objection comments they raise can be summarised as follows:</p> <ul style="list-style-type: none"> • Development will worsen issues of litter in surrounding streets, worsening existing issues with pests such as rats as well as lowering quality of local environment; • No provision of customer seating or bins will mean that customers rely and pollute local open space or pavements; • Increased noise and disturbances from use and servicing requirements; • There are a multitude of food outlets along this stretch of road and there is no reason to approve this kiosk; • It is an ugly addition to an existing wall lacking in any design merit whatsoever; • It does not contribute in any manner to the urban quality of the public space; • If approved it would set a precedent for further tacky sheds to be added to the flank walls; • Creates a bottle-neck on a busy transit corridor around Camden market by creating a potential customer 'crush' around the pavement on Hawley road complicating access for disabled persons. • Risk that complementary tables to aid customers will be deployed if demand increases further challenging access and transit. • Nature of the business described is a departure from the existing onsite business which holds the tenancy and conflicts with a consistent look and feel for the area. • At a time when the market itself is being redeveloped, likely generating increased footfall in this specific area it is wise to ensure clean ways of access on all impacted roadways. • Lack of environmental assessment 					
Harmood Clarence Hartland Residents' Association (HCHRA)	<p>A letter of objection was received on behalf of the Harmood Clarence Hartland Residents' Association (HCHRA). Their objection comments may be summarised as follows:</p> <ul style="list-style-type: none"> • This kiosk is out of keeping with the residential street. • We had hoped that planning would not allow commercial interests to intrude into these streets, which already suffer from the noise and litter of Chalk Farm Road and the Markets. • The kiosk is an intrusion in itself and would be a precedent for similar kiosks in other streets. 					

<p>Castlehaven Community Association</p>	<p>A letter of objection was received on behalf of the Castlehaven Community Association (CCA). Their objection comments may be summarised as follows:</p> <ul style="list-style-type: none"> • We, at The Castlehaven Community Association, strongly believe that this retrospective application should not be granted. • There are already too many take-away food outlets on Chalk Farm road and in the Stables Market. • The only provision for seating and waste collection in the immediate surroundings of the kiosk is on the Castlehaven Open Space. • This open space already suffers from the vast amount of littered food waste generated by the take-away food outlets in the immediate area. • The kiosk is sited on a residential Street, Hawley Street and backs onto another residential street, Leybourne Street. • The kiosk is totally inappropriate for this location
<p>Tenants Residents Associations Camden Town (TRACT)</p>	<p>A letter of objection was received on behalf of the Tenants Residents Associations Camden Town (TRACT). Their objection comments may be summarised as follows:</p> <ul style="list-style-type: none"> • We strongly object to this kiosk being given retrospective permission. It will set an unacceptable precedent that would encourage others to follow. • Camden Town centre, and specifically in this area, has a huge number of take-away food outlets and indeed has a significant number more due to open in Hawley Wharf. • Having kiosks on our residential side streets just adds to the spread of rubbish and smells. • If the business wants to run a food stall it should be looking for a site within the market or within one of the retail units that exists. There are a number of vacant units nearby • Request for kiosk to be removed
<p>Transport for London (TfL)</p>	<p>As the site sits within a TfL 'Zone of influence' due to underground infrastructure, they were consulted as part of this application. A letter was received to confirm that they did not wish to raise comment.</p>

Site Description

The application site relates to an area of land that sits between the flank elevation of no.19 Chalk Farm Road and the public footway that runs along Hawley Road within the Camden Town ward. No.19 marks the end of a terrace of three storey properties that front Chalk Farm road and feature commercial units at ground floor level (no.10-19). This row of buildings sits within a designated 'primary frontage' within the Camden Town town centre (northern section) as set out in the adopted policies map 2017.

The site is not inside a conservation area or adjacent to any listed building, however, the Camden Stables market on the opposite side of Chalk Farm road is Grade II Listed and marks the edge of the Regent's Canal conservation area. Approximately 40m north east of the site sits the Hawley Street open space.

Relevant History

There is no planning history of relevance at the application site or adjacent commercial unit (no.19).

Relevant policies

National Planning Policy Framework 2019

Town and Country Planning (Control of Advertisements) Regulations 2007

The London Plan March 2016

New London Plan (Intend to Publish Version) Dec 2019

Camden Local Plan 2017

The following policies are of relevance to the application:

- G1 - Delivery and location of growth
- C1 - Health and well-being
- C5 - Safety and security
- A1 - Managing the impact of development
- A4 - Noise and vibration
- D1 - Design
- D2 - Heritage
- D3 - Shopfronts
- D4 - Advertisements
- CC4 - Air quality
- CC5 - Waste
- TC2 - Camden's centres and other shopping areas
- TC4 - Town centres uses
- T1 - Prioritising walking, cycling and public transport

Camden Planning Guidance (SPDs)

Adverts CPG (March 2018)

Amenity (March 2018)

Town centres and retail (March 2018)

Planning for health and wellbeing (March 2018)

Design (March 2019)

Transport (March 2019)

Assessment

1. The proposal

- 1.1. (Application i): Retrospective planning permission is sought for the installation of a single storey kiosk for use as a hot foods takeaway (use class A5). The kiosk is a metal, prefabricated structure with painted finish and a flat roof with retractable awning. The structure measures 3.5m long and 1.55m deep, its roof has a height of 2.7m (excluding signage). Inside the kiosk is space for fryers, a sink and a length of worktop with serving hatch. Submitted plans also show an area to the rear of no.19 accessed from Hawley Road is used as ancillary storage.
- 1.2. (Application ii): Advertisement consent is sought for the display of 3x non-illuminated fascia signs over the retail kiosk as well as applied vinyl signage. One larger fascia board faces Hawley road and has a height of 0.45m and a length of 3.4m. Two smaller fascia signs would sit at either end of the roof and would have lengths of 1.3m and heights of 0.34m. The signs are metal with applied acrylic board and fret cut vinyl lettering (up to 18cm tall).

2. Revisions

- 2.1. It should be noted that the submitted application form described the existing use occurring on site as a 'retail kiosk' within use class A1. After a review of the submitted information officers wrote to the agents to dispute this classification, instead considering the existing use as a hot foods takeaway (use class A5). This was based on the fact that the primary operation taking place on site was the sale of hot foods for the consumption offsite. An email response from the planning agent confirmed this to be true and that the change in description was agreed; the description was duly amended.

3. Assessment

- 3.1. The principal considerations material to the determination of this application are as follows:
- Land use (Full planning (i));
 - The impact upon the amenities of nearby residential occupiers (Full planning (i));
 - Impact on the character and appearance of the streetscene and wider area (Full Planning and Advertisement Consent (i and ii));
 - Transport, servicing, waste and deliveries (Full planning (i)).

4. Land use (Full Planning (i))

Policy context

- 4.1. As aforementioned, the application site is located within the designated town centre of Camden Town. The kiosk sits within the curtilage of no.19, which marks the end of a terrace of 10 properties (nos.10-19) which are also designated as a primary frontage (North) within this centre. On the opposite side of Hawley Street, a new frontage that runs between nos.20-28 is also designated as a primary frontage.
- 4.2. Para.85 of the NPPF seeks to ensure that planning policies and decisions support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It also seeks to retain and enhance existing markets.
- 4.3. Local Plan policy TC2 seeks to promote successful and vibrant centres throughout the Borough to serve the needs of residents, workers and visitors. To do so, it includes a number of policy aims including specific aims for each individual centre (set out in Local Plan appendix 4) as well as overarching aims such as to:
- “c) make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area and focusing such uses in [centres]; and*
 - d) support and protect Camden’s Neighbourhood Centres, markets and areas of specialist shopping, local shops”*
- 4.4. In relation to protected frontages, policy TC2 notes that the Council will seek to retain a high proportion of shop uses (A1) in order to maintain the retail function of the centre, a position supported by emerging New

London Plan policy SD6 (Town Centres and High Streets). This position is also supported by Local Plan policy TC4, which seeks to 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. To do so, a number of specific considerations for any future town centre use are set out (a – k) as well as a range of potential mitigation requirements (l – s).

4.5. For the Camden Town centre, the Local Plan appendix 4 includes the following maximum permissible proportions of units within any given frontage:

Centre	Frontage type	A1 shops	A3 A4 A5 food, drink, and entertainment uses	A3 A4 A5 food, drink, and entertainment uses and other non retail uses
	Displayed on the Policies Map	Minimum proportion of A1 shops in each individual frontage	Maximum proportion of A3, A4, and A5 uses combined in each individual frontage	Other restrictions
Town Centres				
Camden Town	Primary (north)	Min 50%	Max 20%	No more than 2 consecutive non retail uses

Local Plan appendix 4 extract

4.6. In addition to the above, emerging New London Plan policy E9 (Retail, markets and hot food takeaways) includes a stipulation that (d) ‘new A5 hot food takeaway uses should not be permitted within 400 metres walking distance from the entrances and exits of schools’; and that ‘Boroughs should also carefully manage the over-concentration of A5 hot food takeaway uses within town centres’. This policy also states that where such uses are to be permitted, operators should be encouraged to comply with the Healthier Catering Commitment standards. Finally, in relation to markets within the Borough, policy TC6 seeks to promote and protect markets in Camden.

Assessment

4.7. The kiosk sits between two designated primary frontages within the centre and close to the entrance to the Camden Stables markets. During the site visit it was noted that both of these primary frontages already feature a proportion of food, drink and entertainment uses above the maximum 20% allowance.

4.8. Within the 10 units that form the nos.10-19 frontage, 3 (33%) are in restaurant use and 1 (10%) is in a sui generis use (tattoo parlour). Whilst the proportion of units in retail use therefore remains acceptable (66%), it is considered that there is already an over provision of food, drink or entertainment uses within this frontage given the thresholds set out in the Local Plan (see above). The development to install an A5 hot food takeaway kiosk has acted to exacerbate this provision, meaning that 4 out of a total of 11 units are now in a food, drink or entertainment use.

4.9. Within the frontage containing nos.20-28, the original 9 ground floor commercial units has been reduced to 7 via the combination of units to form large restaurants at nos.21-22 and 27-28. These two restaurants therefore make up a proportion of 29% (2/7), which also remains above the policy target. In addition, these two food, drink or entertainment units remain by far the largest units within the frontage. This increases their presence and alters the character and function of the frontage. The proposal to install an A5 hot food takeaway kiosk adjacent to this frontage has therefore also acted to exacerbate this over provision of food, drink or entertainment use within this frontage.

4.10. As well as impacting upon individual frontages, it is noted that the Camden Stables market is located only 30m to the south west and that the development has potential to erode the draw of these existing markets and also further contribute towards a local over-provision of food uses. The Stables Market, together with the Lock Market, provide one of the largest and most popular food markets in the Borough. This market acts as a major draw for visitors at a local and regional scale, both for food as well as retail provision and is a major contributor towards the character and function of the northern half of the Camden Town centre. These markets are in fact acknowledged within the emerging new London Plan to remain of ‘strategic importance’ (para.6.9.4). The plan also sets out specific concerns in relation to over-

concentrations of hot food takeaways within town centres, noting that this can: *“give rise to particular concerns regarding the impact on mental and physical health and wellbeing, amenity, vitality, viability and diversity. The proliferation and concentration of [Hot food takeaway] uses should be carefully managed through Development Plans and planning decisions, particularly in town centres... which tend to have higher numbers of these premises (para.6.9.5).*

4.11. Whilst these markets add to the rich mix of uses that define the town centre, it also means that there is already a very significant provision of hot food takeaways (including stalls with a very similar offer to the applications kiosks) within the local area. Not only is it considered that the development has led to an over provision of food, drink and entertainment uses in the adjacent designated frontages and the town centre as a whole, but it is also considered that such close proximity to large and well established markets may act to undermine their character, function and viability.

4.12. Further to the above, in light of the emerging London Plan requirements of policy E9, it is also noted that there are a number of schools within a short walk of the kiosk site. These include:

School	Type	Distance from kiosk
Holy Trinity	Primary	200m
Hawley	Primary	200m
Camden Centre for Learning	Special School (key stage 3)	280m
Haverstock school	Secondary	600m

4.13. The new hot foods takeaway therefore contravenes the emerging requirements for such uses to be positioned at least 400m away from schools. Although the design statement submitted states that the food on sale includes a range of cold salads, the use class sought would allow for a range of less healthy options under such a permission. It is also noted that the main cooking occurring on site remains deep fat frying to cook falafel balls, this type of cooking is still associated with a range of dietary issues.

4.14. In light of the above, the installation of the kiosk is considered to result in an unacceptable over concentration of food, drink and entertainment uses to the detriment of the character and function of the Camden Town centre, contrary to policy TC2. It is also considered that the hot food takeaway kiosk would also undermine the viability of the nearby established markets and would erode their function in acting as the main designation within the centre for food, drink and entertainment uses. The proximity to numerous schools would also raise concerns in accordance with emerging policy requirements.

5. Residential Amenity (Full Planning (i))

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

5.2. In this instance the development involved the installation of a prefabricated metal structure used to sell hot food for the consumption off site. Although submitted documents do not include any specific details, the kiosk includes provisions for primary cooking (deep fat fryer) and therefore has the potential for the generation of odour and fumes. No details of any extract equipment for the kiosk have been provided and so it is understood the kiosk does not include any form of mechanical ventilation. Within the submitted application form, the hours of operation are quoted as 12:00-20:00 daily. Whilst it is noted that the kiosk is of a small scale (approx..5.5sqm), it is still possible for the unit to generate a significant amount of noise and odour. The kiosk is situated just off a very busy high street which features high levels of footfall and is located within a town centre where levels of activity are already elevated.

5.3. Although the kiosk is situated adjacent to the primary frontage of Chalk Farm road, it in fact addresses a section of public footway along Hawley Street and is actually situated closer to a number of residential properties along this road than the rest of the retail frontage. The potential impacts upon these neighbouring residents therefore remains a concern.

Odour and fumes

- 5.4. Odours, fumes and dust can be generated from commercial cooking and can have the potential to cause a range of health problems, including respiratory diseases, as well as harm residential amenity. In accordance with policy A1, the Council will expect all development likely to generate nuisance odours to install appropriate extraction equipment and other mitigation measures. These should be incorporated within the building where possible. CPG (Design) states that in order to avoid harm to residential amenity, where mechanical ventilation is required to remove odour emissions, the release point for odours must be located above the roofline of the host and, where possible, adjacent buildings (para.11.10). This is in line with DEFRA guidance relating to the design of kitchen extract systems.
- 5.5. In order for a commercial kitchen to avoid causing disruption to neighbouring occupiers, a mechanical ventilation system with internal canopy, flue, filters and a suitable dispersal point would normally be expected. The level of odour abatement necessary for a commercial kitchen would depend upon a range of factors such as the size of kitchen, location of flue dispersal and type of cooking taking place. Considering the above, and due to the proximity of the closest neighbours, the Council would expect (as a minimum) an assessment in line with Annex C of "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems, Defra (2005)" before accepting that the kitchen extract system proposed is sufficiently designed to avoid a harmful impact.
- 5.6. The above Defra report confirms that for kitchen extract systems, the preferred solution would be to discharge 1m above the roof ridge of any building. If this is not possible, discharge should take place not less than 1m above the roof eaves or dormer window of the building housing the kitchen. If none of the above cannot be complied with, then an exceptional level of odour control will be required. In this instance, the running of a duct up the side of the party wall to no.19 to ridge level is unlikely to be accepted on grounds of its visual impact, meaning that a low level discharge would be needed.
- 5.7. In this instance no such information has been provided and during the site visit no evidence of any kind of abatement measures were recorded. The kitchen remains small, but included fryers for its main cooking function and has the potential to be used intensively in order to provide a high turnover of customers. A discharge point at this lower level is in close proximity to a large number of residential units (the dwellings above commercial units on Chalk Farm Road as well as houses fronting Hawley Road), suggesting that the risk to neighbours remains considerable. In the absence of information relating to the assessment of potential emissions from odour and fumes, as well as any form of odour abatement measures installed, the development is considered to pose a considerable risk to nearby neighbours. Without securing appropriate mitigation measures, the concentration of odour and fumes along Hawley Road remains a real risk. Without some basic evidence to assess the potential sources of odour and fumes, it remains difficult to be sure that such measures could be reasonably secured via condition without contravening other policy objective or resulting in significant visual harm. This lack of information therefore forms a reason for refusal.

Noise and Vibration

- 5.8. Similar to the above, it is an expectation that commercial kitchens will utilise mechanical ventilation to ensure that excess heat, fumes as well as odours associated with the cooking process are effectively drawn up and dispersed at high level with the aid of mechanical fans. This prevents nuisances such as concentrations of strong odours from disrupting residential amenity.
- 5.9. Where development that generates noise is proposed, the Council will require an acoustic report to ensure neighbouring amenity is not harmed (Policy A4). Policy A4 as well as Local Plan Appendix 3 (Noise Thresholds) set the parameters for the assessment of proposed sources of noise in areas sensitive to sounds. Appendix 3 of the Local Plan (pg.312) states that a 'Rating Level' of 10 dB below background noise levels is expected (15dB if tonal components are present). In this instance, the 'Rating Level' of 10 dB below background levels would be considered necessary to remain in accordance with policies A1/A4. In this instance no reporting relating to plant equipment or resulting noise emissions have been provided in support of the application.
- 5.10. Although the kiosk remains of small scale, in this particular case, due to the proximity of the sensitive receivers and the existence of other plant equipment to other surrounding businesses, a noise survey and assessment would have been essential to ensure that the emissions of any plant required for safe operation of the unit does not impact the amenity of local residents. Under circumstances where it is

demonstrated that appropriate levels could be met, a condition could reasonably be secured to set maximum levels for noise emissions. In this instance, no information has been provided that would demonstrate existing conditions or additional noise generated from the operation of the kiosk.

- 5.11. In the absence of such evidence, officers cannot be confident that the resulting mitigation necessary to abate noise to acceptable levels can be provided without leading to additional issues and therefore these details could not be conditioned. As such the potential impact upon the residential amenities of adjoining neighbours would form a reason for refusal. As details of anti-vibration pads for equipment have been included in submitted documents, these could reasonably be secured by condition and as such, harm from vibration would not form a reason for refusal.

Natural light, outlook and privacy

- 5.12. Given the location and scale of the kiosk, it would not result in any harmful losses to natural light, outlook or privacy to any adjoining neighbour.

Amenity Conclusion

- 5.13. The applicant has failed to demonstrate, by way of a comprehensive acoustic survey & impact assessment and a risk-based odour control & impact assessment, that the kitchen operation, when operating at full capacity, would be capable of doing so without causing harm to local amenity, contrary to policies A1 and A4 of the Camden Local Plan (2017)

6. Design and appearance (Full Planning and Advertisement (i and ii))

- 6.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the application: development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used. Policy D3 (Shopfronts) expects a high standard of design in new and altered shopfronts, canopies, blinds, security measures and other features. Policy D4 (Adverts) states that the Council will require advertisements to preserve or enhance the character of their setting and host building. Advertisements must respect the form, fabric, design and scale of their setting and host building and be of the highest standard of design, material and detail. The policy also seeks to resist advertisements that's contribute to an unsightly proliferation of signage or contribute to clutter in the public realm.

Kiosk structure (i)

- 6.2. The kiosk in question sits adjacent to the flank elevation of the adjacent no.19. The curtilage of this adjacent building contains a small area of hardstanding to the front and side of the unit that falls within its demise. However, the main party wall of this end of terrace building clearly demarks the end of the established building line, a line which is then respected by the buildings that face Hawley road and Leybourne Street to the north east. Generally, there is a desire to resist the proliferation of structures within streets and pavements to keep clutter to a minimum. As such, any installation in such a prominent position, projecting beyond established building lines, would need to be clearly justified with a high standard of design were it to be accepted as a permanent addition within the streetscene.
- 6.3. Although permanent permission is sought, the kiosk that has been installed on site is of an appearance and design that would suggest it is in fact a temporary feature. It features a low quality, utilitarian appearance that might be more akin to the temporary food stalls seen within the nearby street food markets than a well-conceived addition to local townscape and would do little to enhance the streetscene. Instead, the structure appears at odds with its recessed position away from the main thoroughfare of Chalk Farm road and is read within the backdrop of domestic gardens when viewed from the South. Its materials and the quality of applied signage would not age well and would deteriorate quickly and this would likely mean that's its harmful visual impact would be increased further with time.
- 6.4. Overall, the structure is not considered to represent high quality design, failing to respect local context or character or integrate well with the surrounding streetscene. Being situated a way back from the main frontage, back along Hawley Street, the kiosk appears incongruous as it is read in more of a domestic setting than within the wider town centre. The installation represents a proliferation of structures that

impose upon the public realm and erode the boundary of the town centre into adjacent residential streets. The development fails to take the opportunities available for improving the character and quality of an area and the way it functions and so is considered contrary to policy D1.

- 6.5. Given the distance from the listed stables market the installation is not considered to have caused harm to the setting of this designated heritage asset or its significance. Similarly, given that the kiosk is sited well away from the boundary with the Regent's Canal conservation area, the development is also not considered to have materially harmed the setting of the nearby Regent's canal conservation area.

Advertisements (ii)

- 6.6. As well as the kiosk itself, a number of advertisements have been displayed on the structure to promote the food on offer. These adverts include a mixture of printed images and text, applied to the metal cladding of the structure directly as well as the fascia boards above.
- 6.7. As set out above, the kiosk – and therefore the adverts in question – are all positioned away from the main frontages along Chalk Farm, further back along Hawley Street. In this setting the advertisements are read against the backdrop of residential properties and gardens and not the commercial setting of the nearby designated frontages. In this context, the advertisements appear somewhat out-of-keeping and erode the distinction between the commercial character of Chalk Farm road and the more domestic character of Hawley road. Whilst it is accepted that the flank elevation to no.19 has been adorned with street art, this does not include advertisements and adds to the rich and diverse character of Camden Town. Conversely, the adverts displayed cause a proliferation of advertisements away from the main commercial street and into a more domestic setting.
- 6.8. The signs are visible not only in the immediate vicinity but also in longer views from Chalk Farm. In these views, as well as the immediate context, the signage would appear overly disruptive. As such the proposed signage is considered to cause harm to the visual amenity of the local area, contrary to policies D1, D3 and D4.
- 6.9. Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013. Special regard has been attached to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, under s.16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

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

- 7.1. As the takeaway use would require a considerable amount of servicing, generate considerable amounts of waste and would include takeaway deliveries, the resulting transport impacts arising from these issues was of initial concern.
- 7.2. With regard to waste and servicing, no information has been submitted alongside the application. Given the nature of the use, patrons would be expected to queue up along the public footpath along Hawley Road to order their food and wait to collect their order. During the site visit, it was noted that there were no onsite provisions in terms of seating or bins, meaning that all customers would have to stand whilst waiting and then dispose of rubbish using local street bins. The Castlehaven Open Space is located very close to the kiosk and is one of the closest locations for public benches and bins. It therefore follows that customers would be likely to consume their purchases in this location, before depositing rubbish in one of the bins in the park. Concerns about the resulting impacts to this space from litter and loitering were raised in submitted comments from local residents. Were the development otherwise acceptable, conditions would therefore have been necessary to ensure that adequate provision for rubbish disposal would be provided, to ensure that measures were put in place to prevent the congregation of noisy customers close to residential properties, and to limit hours for servicing in order to ensure adherence and to avoiding amenity or transport harm.
- 7.3. With regard to the management of servicing and takeaway delivery, again no information has been provided to demonstrate how this element of the business would be managed to avoid impacts to

residential amenity or the adjacent transport network. Given that many food business now place an increased reliance upon orders made either online or via mobile apps such as Deliveroo, Uber Eats or City Pantry, it would be reasonable to expect the kiosk to generate a portion of its trade in this manner. As takeaway delivery orders tend to be concentrated to evenings and weekends, these peak times also tend to be the times at which local residents are most sensitive to disruption from noise. Whilst this lack of confirmation is of significant concern, it is accepted that if properly managed (with all pick-ups occurring at agreed locations and within agreed hours) this potential harm could be alleviated by securing a relevant management plan by condition. As such this would not form a reason for refusal.

8. Recommendations

8.1. Application i): Refuse and warning of enforcement action to be taken.

8.2. Application ii): Refuse advertisement consent

8.3. That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring the total removal of the single storey kiosk in use as a hot food takeaway and associated fixture and fittings, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

8.4. **The notice shall allege the following breaches of planning control:**

Without planning permission, the erection of single storey kiosk in use as a hot food takeaway (use class A5)

WHAT ARE YOU REQUIRED TO DO:

1. Totally remove the single storey kiosk and any associated fixtures and fittings and adverts; and
2. Make good any damage caused as a result of the above works

PERIOD OF COMPLIANCE: 2 Months

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

Application (i) Full Planning

1. The hot food takeaway kiosk is considered to result in an unacceptable over concentration of food, drink and entertainment uses to the detriment of the character, function and viability of the Camden Town centre and nearby Camden Stables and Lock markets, contrary to Camden Local Plan policies TC2 (Camden's Centres), TC4 (Town Centre Uses) and TC6 (Markets) 2017.

2. The kiosk, being situated within a short walking distance to a number of local schools, would increase opportunities for the consumption of energy-dense food and, as a result, exacerbate associated issues of health and wellbeing, contrary to emerging New London Plan policy E9 (Retail, markets and hot food takeaways) 2019 and Camden Local Plan policies C1 (Health and wellbeing) and TC4 (Town centre uses).

3. In the absence of a comprehensive acoustic survey & impact assessment and a risk-based odour control & impact assessment, the applicant has failed to provide sufficient information to demonstrate that the proposed use would operate in accordance with the Council's minimum noise, vibration and odour standards, and that proposed use of the kiosk for cooking could be operated without causing noise disturbance and harm to the local residential environment, contrary to policies A1 (Managing impact of development) and A4 (Noise and vibration) of the Camden Local Plan (2017)

4. The kiosk, by virtue of its design, materials and siting, represents an incongruous addition within a non-commercial street, adding to the visual cluttering of the public realm and detracting from the character and appearance of the streetscene. The development is therefore contrary to

Camden Local Plan policy D1 (Design) and D3 (Shopfronts) 2017.

Application ii): Advertisement consent

The advertisements, by virtue of their inappropriate siting and design, would result in a proliferation of signage set away from the edge of the defined town centre in into a more domestic setting, resulting in harm to the visual amenity of the local area, contrary to policies D1 (Design) and D4 (Advertisements) of the London Borough of Camden Local Plan 2017.