

Delegated Report		Analysis sheet	Expiry Date:	20/08/2019	
		N/A	Consultation Expiry Date:	26/08/2019	
Officer		Application Number(s)			
Patrick Marfleet		2019/3007/P			
Application Address		Drawing Numbers			
167 - 169 Kentish Town Road London NW1 8PD		Please refer to draft decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Subdivision of existing retail unit (Class A1) and change of use to create separate retail and hot food takeaway (Class A5) uses with associated external alterations.					
Recommendation(s):		Refuse Planning Permission			
Application Type:		Full Planning Permission			
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice			
Informatives:					
Consultations					
Adjoining Occupiers:		No. of responses	11	No. of objections	11
Summary of consultation responses:		<p>Site notice: displayed from 02/09/2019 - 26/08/2019</p> <p>Three objections were received from neighbouring residents/interested parties and the following concerns raised:</p> <ol style="list-style-type: none"> 1. There are already an excessive number of takeaways in the immediate vicinity and we have to put up with a lot of anti-social behaviour and discarded rubbish from the existing takeaways both on Rochester Road and in Rochester Terrace Gardens. 2. No front elevation submitted so cannot comment on the design. 3. Takeaway would add to issues of litter, noise and anti-social behaviour currently caused by similar uses in the area 			
Local Groups		<p>The Inkerman Area Residents Association, Kelly Street Residents Association, Kentish Town Road Action and Kentish Town Neighbourhood Forum objected to the application on the following grounds:</p>			

1. The applicant has not provided evidence to demonstrate that this site is not viable for retail; nor does the road need any more takeaway businesses, which tend to generate social and environmental nuisance to nearby residents.
2. Kentish Town Neighbourhood Plan Policy SW2 states “Change of use proposals that result in less than 60% of the premises being in A1 retail usage in Secondary Shopping Frontages will be resisted.” If A5 use was approved, this frontage would fall below 60% A1 – it would become 50% A1, contrary to Kentish Town Neighbourhood Plan Policy SW2.
3. No financial viability assessment has been submitted to demonstrate there is no reasonable prospect that the existing A1 use is viable.
4. The application does not mention how ventilation and extraction issues will be dealt with, nor are there any plans available for the redesign of the façade.

Cllr Apak objected on the following grounds:

1. Application is contrary to sections 4.49 to 4.57 of the Town Centres CPG which provides guidance specifically for Kentish Town and sets out how planning policy is designed to protect A1 retail premises in areas such as this, and the negative and harmful impact of A5 Hot Food Takeaway premises on neighbouring properties.

Cllr Headlam-Wells objected on the following grounds:

1. I wish to support and endorse the objection to this planning application from Kentish Town Road Action, for the reasons given in the letter below from Caroline Hill, which I quote in its entirety.
 - *The applicant has not provided evidence to demonstrate that this site is not viable for retail; nor does the road need any more takeaway businesses, which tend to generate social and environmental nuisance to nearby residents.*
 - *Kentish Town Neighbourhood Plan Policy SW2 states “Change of use proposals that result in less than 60% of the premises being in A1 retail usage in Secondary Shopping Frontages will be resisted.” If A5 use was approved, this frontage would fall below 60% A1 – it would become 50% A1, contrary to Kentish Town Neighbourhood Plan Policy SW2.*
 - *No financial viability assessment has been submitted to demonstrate there is no reasonable prospect that the existing A1 use is viable.*
 - *The application does not mention how ventilation and extraction issues will be dealt with, nor are there any plans available for the redesign of the façade.*

Site Description

The site is located on the western side of Kentish Town Road, close to the junction with Prince of Wales Road, and is currently occupied by a mini supermarket with flats above. The existing retail unit is located within a designated secondary shopping frontage comprising 8 commercial units at ground floor level. The building is not listed and whilst not located within a conservation area it is located within the Kentish Town Neighbourhood Area.

Relevant History

No relevant planning history.

Relevant policies

National Planning Policy Framework 2019

The London Plan March 2016

Intend to Publish London Plan 2019

Camden Local Plan 2017

A1 Managing the impact of development

A4 Noise and vibration

D1 Design

TC2 Camden's centres and other shopping areas

TC4 Town Centres

Camden Planning Guidance 2018/2019

CPG Design

CPG Amenity

CPG Town Centres and Retail

Kentish Town Neighbourhood Plan 2016

Assessment

1 PROPOSAL

1.1 Planning permission is sought for the change of use of the existing retail unit (Class A1) at 167-169 Kentish Town Road to a part hot food takeaway (Class A5), part retail use (Class A1). The proposals include the subdivision of the existing shop to create two separate units, one at 167 and one at 169 with their own independent access to front and rear. The proposed unit at No.167 would accommodate the takeaway use with the unit at No.169 remaining in retail use.

1.2 Permission is also sought for the installation of an extract flue to the rear of the site, associated with the proposed takeaway use, as well as alterations to the existing shop frontage and the installation of a rear door.

2 ASSESSMENT

2.1 The material considerations for this application are as follows:

- Design
- Land use
- Amenity of neighbouring residential occupants

2.2 Design

2.2.1 Policy D1 of the Camden Local Plan requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area and comprises details and materials that are of a high quality and complement the local character.

2.2.2 The size and scale of the proposed extract flue to the rear of the site is not considered to cause unacceptable harm to character and appearance of the host property. Similarly, the proposed flue would be located to the rear of the site and would have very limited visibility from the public realm. Therefore, the proposed extract equipment is not considered to cause harm to the appearance of the surrounding area, particularly given the existing extract flue to the neighbouring property at No.171 and the telephone exchange building to the rear.

2.2.3 It is clear from the submitted floor plans that some works are proposed to the front façade of the building at ground floor level. These include the installation of an additional doorway associated with the sub-division of the unit as well as recessing the shopfront behind the established building line to incorporate security shutters. These are alterations that are unlikely to be considered acceptable in design terms however, no front elevation drawings have been submitted as part of the application and so officers are unable to make a proper assessment of the impact these works would have on the appearance of the buildings.

2.2.4 Therefore, in the absence of sufficient plans to demonstrate the impact of the proposed works to the front of the site, the proposals are considered to have an unacceptable impact on the character and appearance of the host property and surrounding area, contrary to Policy D1 of the Camden Local Plan (2017).

2.3 Land use

2.3.1 Policy TC2 of the Local Plan seeks to protect designated secondary frontages as locations for shops (A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre.

2.3.2 Policy TC4 of the Local Plan states that Council will ensure 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 will consider the effect of development on shopping provision and the character of the centre in which it is located.

2.3.3 In support of Policy TC4, paragraph 4.51 the Council's planning guidance document *Town Centres and Retail (2018)* states: The Council will not grant planning permission for development which results in the proportion of ground floor premises falling below 50% in a secondary frontage and will seek to resist more than 3 consecutive premises being in non-retail use.

2.3.4 Policy SW3 of the Kentish Town Neighbourhood Plan (KTNP) goes further in its protection of secondary frontages and seeks to resist proposals that would result in less than 60% of premises being in retail use or more than two consecutive frontages being in non-A1 Retail usage.

2.3.5 The current application would sub-divide the existing shop back into two separate commercial units (one below 167 and one below 169) which would have been how the site was originally laid out, thus creating 9 units within the shopping frontage. Therefore, taking into account the existing non-retail uses in the frontage, the proposed change of use would result in 4 ground floor premises being in non-retail use. Approximately 66% of the frontage would be retained for retail purposes which complies with the minimum percentages stipulated in both the KTNP and the Local Plan.

2.3.6 Notwithstanding the above, the proposed take-away is still considered to be a use that would harm the retail function of this particular shopping parade as well as the overall vitality of the town centre. Due to the nature of their offer, hot food takeaways make little contribution to the day to day function of a traditional retail frontage such as the application site. Whilst the use would attract some daytime trade, the majority of customers are likely to visit the site in the evening hours, which is demonstrated by the proposed late night operating hours.

2.3.7 Furthermore, officers note the prevalence of existing takeaways surrounding the site, particularly those next door at No.171 and directly opposite the site at No.128 Kentish Town Road. Therefore, the Council have to consider a particularly important issue in the borough which is childhood obesity. Whilst the causes of obesity are complex there is evidence to support that energy dense fast food is one of a number of contributing factors to obesity. The Council will therefore consider the health impacts of the development of new hot food take-away outlets in the borough (Policy TC4).

2.3.8 The proposed use would result in 3 takeaways, plus a café, being located within 20 metres of each other and is therefore considered to lead to an overconcentration of fast food uses that would harm the retail function of the this part of the town centre and the health of local residents. Therefore, whilst the proposed takeaway use would not result in less than 66% of premises being in non-retail use, it is still considered to cause harm to the character, amenity, function, vitality and viability of the town centre.

2.4 Amenity of neighbouring residential occupants

2.4.1 Policies A1 and A4 seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure 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.

Noise and disturbance

2.4.2 Where development that generates noise is proposed, the Council will require an acoustic report to ensure neighbouring amenity is not harmed (Policy A4). Policy A4 as well as Local Plan Appendix 3 (Noise Thresholds) set the parameters for the assessment of proposed sources of noise in areas sensitive to sounds. Given that the proposed development would include the installation of plant equipment at ground floor level (immediately below residential units), these standards would apply in this instance. Appendix 3 of the Local Plan (pg.312) states that a 'Rating Level' of 10 dB below

background noise levels is expected (15dB if tonal components are present).

2.4.3 Due to the proximity of the noise sensitive receptors and concentration of similar uses, a noise survey and assessment is considered essential to ensure that noise from the proposed plant does not impact the amenity of neighbouring residents above and to the rear of the site. Under circumstances where it is demonstrated that appropriate levels could be met, a condition could reasonably be secured to set maximum levels for noise emissions. In this instance, the information provided would not demonstrate that such levels could be met meaning that, in the absence of such evidence, such measures could not be reasonably conditioned. As such, the potential impact of the extract equipment on the residential amenities of adjoining neighbours would form a reason for refusal.

2.4.4 Furthermore, the proposed use of the takeaway late into the evening (12am) would attract people to the premises late at night, when residents would expect to enjoy more peace and quiet, and would cause significantly more noise and disturbance to the residents of neighbouring properties than transient passers-by. The noise generated from customers arriving at and departing from the ground floor premises, talking and congregating in groups on the pavement outside, would cause unacceptable harm to the amenity and safety of the residents above

Odour control

2.4.5 Paragraph 9.13 of the Council's design guidance document (CPG Design) states: Where mechanical or passive ventilation is required to remove odour emissions, the release point for odours must be located above the roofline of the building and, wherever possible, adjacent buildings.

2.4.6 The current proposal seeks to provide a takeaway use, which would include a kitchen equipped with various primary cooking appliances, beneath existing residential dwellings. In order to extract cooking odours and emission from the proposed use the applicant proposed to install an extract flue to the rear of the site. However, the submitted plans demonstrate that the proposed flue would be set below the roofline of the existing building, which is contrary to Council and DEFRA guidance. As a result, the proposed use and discharge point of the extract equipment is likely to cause concentrated levels of cooking odours being discharged in very close proximity to the rear windows of the neighbouring properties above and in the wider terrace. Therefore, in the absence of comprehensive reporting assessing the suitability of the discharge point and evidence of exceptional levels of odour control to avoid the fumes rising up and affecting residents and the amenity of the area, this equipment cannot be found to satisfy the requirements of policy A1.

2.4.7 Given the above, the proposed change of use is considered to have an unacceptable impact on neighbouring amenity in terms of increased noise/disturbance and odour pollution.

3 Recommendation

3.1 Refuse planning permission