

SHARPS REDMORE

ACOUSTIC CONSULTANTS ▪ Established 1990



Report

**Deliveroo Editions, Finchley
Road, Swiss Cottage**

Assessment of noise from
fixed plant equipment

Prepared by

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Project No: 1818025

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DISCLAIMER

This report has been prepared with all reasonable skill, care and diligence commensurate with an acoustic consultancy practice under the terms and brief agreed with our client at that time. Sharps Redmore provides no duty or responsibility whatsoever to any third party who relies upon its content, recommendations or conclusions.

1.0 Introduction

- 1.1 Sharps Redmore (SR) has been instructed to provide an updated noise assessment of fixed plant equipment associated with the Deliveroo Editions site at Finchley Road, Swiss Cottage.
- 1.2 In September 2019 Deliveroo (Roofoods Limited) were granted temporary planning permission for the Deliveroo Editions unit at land to rear of 115-119 Finchley Road, London, by the Planning Inspectorate following an appeal against an enforcement notice issued by the London Borough of Camden (the appeal decision notice is reproduced at Appendix A).
- 1.3 A Proof of Evidence was presented to the enforcement appeal to assess noise from fixed plant equipment (this Proof is reproduced at Appendix B). The technical aspects of the plant noise assessment Proof of Evidence were agreed with the Environmental Health Officer at London Borough of Camden prior to the appeal hearing, and remained unchallenged by any party during the appeal.
- 1.4 This noise assessment report is presented to accompany a planning application seeking the permanent use of the site for Deliveroo Editions.
- 1.5 In allowing the appeal, the Planning Inspector imposed two planning conditions relating to the control of noise from fixed plant equipment. These planning conditions are presented at section 2 of this report.
- 1.6 Section 3 of this report provides an update/confirmation of the plant noise assessment contained in the SR Proof of Evidence.
- 1.7 The assessment conclusions are contained in section 4 of this report.
- 1.8 A guide to the acoustic terminology used in this report is shown in Appendix C.

2.0 Plant noise planning conditions

- 2.1 Temporary planning permission was granted on appeal by the Planning Inspector on 17th September 2019 subject to compliance with a number of planning conditions.
- 2.2 Planning conditions 6 and 7 of the consent (reference APP/X5210/C/18/3206954) secure control in relation to plant noise levels. Planning condition 6 states:

“6) Other than the Optyma condenser unit to the chilled room, within fourteen days of the date of this decision automatic time clocks shall be fitted to all external plant and equipment at the premises to ensure that the equipment does not operate outside the following times: 0800 to 0000 hours.

During the final hour of operation (2300 to 0000) all kitchen extract and air supply equipment shall operate at no more than half operational speed (as defined in the table below)

<i>Fan</i>	<i>Operational speed (Hz)</i>
<i>Extract Fan EF1</i>	<i>36.80Hz</i>
<i>Extract Fan EF2</i>	<i>38Hz</i>
<i>Extract Fan EF3</i>	<i>39Hz</i>
<i>Supply Fan SF1</i>	<i>25Hz</i>
<i>Supply Fan SF2</i>	<i>26Hz</i>
<i>Supply Fan SF3</i>	<i>30Hz</i>

The timer equipment shall thereafter be permanently retained and maintained in accordance with the manufacturer’s recommendations”.

Planning condition 7 states:

“7) The level of noise emitted from all fixed plant on the site shall not exceed a value which is 10 dB below the background noise level at 1 metre from the façade of any dwelling or premises used for residential purposes or an alternative representative location approved in writing by the local planning authority. Background noise level is 50 dB, L_{A90} during the day (between 0700 and 2300 hours) and is 45 dB, L_{A90} at night (between 2300 and 0700 hours). The assessment period shall be 1 hour during day time periods and 15 minutes during night time periods. If the plant hereby approved has a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps) the level shall be 15 dB below the background noise level instead of 10 dB below.”

- 2.3 It would be entirely reasonable for the above planning conditions, imposed on the temporary planning permission, to be imposed on any future permanent planning permission.

3.0 Plant noise assessment - update

- 3.1 There have been no changes to the plant equipment in terms of the unit type, location or operational settings since the enforcement appeal in July/August 2019.
- 3.2 Deliveroo has confirmed that the plant equipment is operating in accordance with the operational conditions, as presented in the SR Proof of Evidence (PoE) for the enforcement appeal hearing. Therefore the plant noise assessment presented in the SR PoE entirely reflects the noise levels associated with the plant equipment operating at this Deliveroo Editions site.
- 3.3 A site visit by SR has confirmed that the external refrigeration condenser units (Toshiba AC units and the Danfoss Optyma refrigeration condenser) are the same as those assessed within the SR PoE.
- 3.4 The noise levels of the Toshiba and Optyma units were measured/confirmed during a recent site visit. Noise measurements were taken using a Norsonic 140 sound level meter, which was calibrated before and after each set of measurements.

FIGURE 1: Toshiba AC units, Deliveroo Swiss Cottage

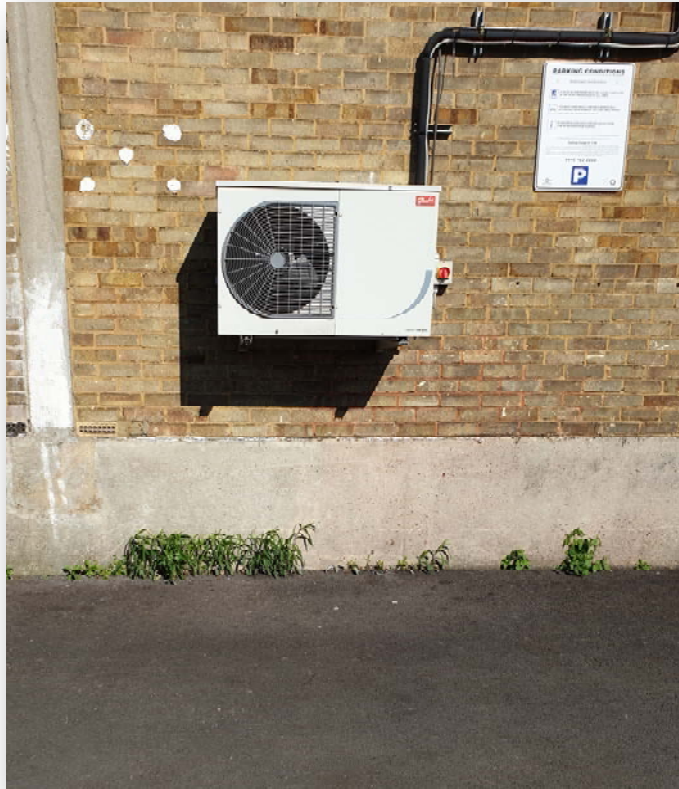


- 3.5 Measurements were taken at a distance of 1 metre from the front of the three Toshiba AC units (plant specification Toshiba Air conditioner unit RAV-SM1404ATP-E) operating simultaneously, with a resultant noise level of 55 dB. In order to calculate the noise level from each Toshiba AC unit, 5 dB ($10 \cdot \log[3]$) is subtracted from the overall noise level (55 dB) with three units operating, and a correction of minus 3 dB applied to account for

reflections of adjacent surfaces. The overall resultant free field noise level at 1m per Toshiba AC unit is therefore 47 dBA. This is the same source noise level that was measured in 2019 and is included in the 2019 plant noise assessment (see Appendix C of the SR plant assessment PoE).

- 3.6 Noise measurements were also made of the external Optyma refrigeration condenser, that serves the fridge room.

FIGURE 2: Optyma condenser unit, Deliveroo Swiss Cottage



- 3.7 Measurements of the Optyma condenser unit indicated a source noise level of 61 dB (at 1 metre). To compare the source noise level at 1 metre with that used in the 2019 SR PoE plant assessment (of 38 dB at 10 metres), a correction of $20 \cdot \log[1/10]$ (-20 dB) and a further correction of -3 dB to account for reflections should be applied. The resultant noise level at 10 metres based on direct measurement of the Optyma unit is 38 dB at 10 metres; this matches the source level used for this plant item in the 2019 SR plant noise assessment.
- 3.8 Neither the Toshiba or Optyma condenser units were observed to exhibit any acoustic feature characteristics that may require the addition of a rating level correction, in accordance with BS 4142:2014+A1:2019.
- 3.9 Due to the locations of the ventilation equipment at the Deliveroo Editions site, and extraneous noise sources at the site, it is not readily possible to directly measure noise levels from these sources. This point was explained to and accepted by the EHO at London Borough of Camden during the preparation of evidence for the appeal last year; for this reason manufacturers source noise level information was used.
- 3.10 It was further agreed with the EHO that, due to the requirement of London Borough of Camden in requiring plant rating noise levels to not exceed a level 10 dB below the

background noise climate, it would not be possible to objectively establish compliance with this requirement by direct measurement. This is because when a noise source is 10 dB below the background noise climate, generally, it may not be heard. It is for this reason that the SR plant noise assessment/PoE (reproduced at Appendix B of this report) uses noise prediction as the basis for demonstrating compliance with noise limits at the closest residential properties.

4.0 Assessment conclusions

- 4.1 This report provides an update to the plant noise assessment associated with the fixed plant equipment at the Deliveroo Editions site at Finchley Road, Swiss Cottage.
- 4.2 This assessment, and the plant noise assessment/PoE reproduced at Appendix B, demonstrates that the predicted rating noise levels from the operation of the current installed fixed plant equipment comply with LBC requirement for plant rating noise levels to be 10 dB below the existing background noise climate.
- 4.3 There have been no changes to the plant equipment in terms of the unit type, location or operational settings since the enforcement appeal in July/August 2019.
- 4.4 The principal noise reduction measures at this site are the use of atmospheric side attenuators to the extract and supply fan systems, and the selection of intrinsically quiet refrigeration plant equipment.
- 4.5 This assessment objectively demonstrates that predicted Deliveroo Editions plant equipment operates such as to meet the local authority noise level requirements, and in doing so would comply with the requirements of the NPPF to avoid significant adverse impact.

APPENDIX A

APPEAL DECISION NOTICE APP/X5210/C/18/3206954



Appeal Decision

Inquiry held on 30 July to 1 August 2019

Site visit made on 1 August 2019

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/X5210/C/18/3206954

Land at rear of 115-119 Finchley Road, London NW3 6HY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Roofoods Limited against an enforcement notice issued by the Council of the London Borough of Camden.
- The enforcement notice, numbered EN17/1005, was issued on 1 June 2018.
- The breach of planning control as alleged in the notice is Without planning permission: Change of use from light industrial use (Class B1) to Commercial Kitchens and Delivery Centre (Sui Generis); and installation of external plant, including three (3) extract ducts, four (4) flues, three (3) air intake louvres, one (1) rooftop extract and three (3) air condenser units.
- The requirements of the notice are:
 1. Permanently cease the use of the premises as a Commercial Kitchens and Delivery Centre;
 2. Permanently remove the three (3) extract ducts from the west-facing elevation of the Property;
 3. Permanently remove the four (4) flues from: the south-facing elevation (3 flues); and the north-facing elevation (1 flue) of the Property;
 4. Permanently remove the three (3) air intake louvres from: the north-facing elevation (2 air intake louvres); and the south elevation (1 intake louver) of the Property;
 5. Permanently remove the three (3) air condenser units from the west-facing elevation of the Property;
 6. Permanently remove the one (1) air extract from the rooftop of the Property;
 7. Permanently remove any brackets and cabling associated with the flues, louvres and condenser units from the elevations of the Property;
 8. Permanently remove any other associated items of air handling equipment from the exterior of the Property and return the exterior of the Property to the layout shown on "Existing elevation" drawings 2017-075-101-A and 2017-075-102A attached to this notice.
 9. Reinstate the brick flank wall by closing the unauthorised openings with bricks to match the nearby areas of wall in terms of colour, texture, bond and mortar;
 10. Make good the exterior of the Property following the completion of the above works.
- The period for compliance with the requirements is within four months of the Notice taking effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. The appeal on ground (c) was withdrawn by the appellant on 9 July 2019.

Summary of Decision: The appeal is allowed, the enforcement notice as corrected is quashed and planning permission is granted in the terms

set out in the Formal Decision.

PRELIMINARY MATTERS

The Inquiry

1. In its opening statement the Council confirmed its view that it would not be proportionate to resist the ground (a) appeal, provided properly framed, enforceable environmental controls are offered by way of section 106 obligation or imposed by way of planning condition. During the course of the inquiry discussions took place between the Council and the appellant towards establishing such a position.
2. The Local Residents Group represents residents whose homes are near to the appeal site, including residents of Dobson Close, Cresta House, Belsize Road and flats alongside the access road to the site. The Local Residents Group was granted Rule 6 status and took a full part in the proceedings at the inquiry.
3. The inquiry was closed in writing on 2 September 2019 after the receipt of the outstanding documents, including the completed section 106 agreement dated 16 August 2019.

The Enforcement Notice

4. When alleging a material change of use it is not essential to recite the previous use. However, it is better to do so in order that it will be more obvious why the Local Planning Authority considers there has been a material change. Where the notice does recite the previous use, this should be accurate. However, case law has indicated that an enforcement notice is not invalid if it alleges a material change of use and recites the base use incorrectly. It is for the appellant to establish that there has been no material change of use, whatever the nature, character or status of the base use¹. The notice is open to correction on appeal, including omission where there is uncertainty.
5. Having fully researched the planning history, the Council no longer considered that the previous use of the property was light industrial and prior to the inquiry requested a correction to the description of the alleged breach to omit the reference to past use. The appellant has not put forward evidence on the previous use of the premises to contradict the position taken by the Council and has withdrawn the appeal on ground (c). I am satisfied that deletion of the previous use from the allegation would not cause injustice to either the local planning authority or the appellant.
6. At the inquiry additional corrections to the enforcement notice were agreed. The installation of external plant facilitated the change of use. The alleged breach identifies one rooftop extract, which the appellant confirmed did not serve its premises. This element of plant should therefore be deleted from paragraph 3 of the notice and the requirements. This amendment would ensure the text is consistent with elevation plans attached to the notice.
7. The appellant and the Council agreed that there was no necessity to extend the area of Land to which the notice relates to include the rear yard and the side access way. However, the site visit confirmed that the appellant occupies the

¹ *Ferris v SSE & Doncaster MBC* [1998] JPL 777

ground floor of the building only. Amended plans have been submitted in order to make this position clear in the description of the Land.

8. As there would be no injustice, I intend to correct the enforcement notice to take account of all these matters.

APPEAL ON GROUND (A) / DEEMED PLANNING APPLICATION

9. The development at issue is derived directly from the description of the breach of planning control as corrected, namely a material change of use of the property to use as commercial kitchens and delivery centre (sui generis) and the installation of external plant to facilitate the use.

Main issues

10. The main issues are:

- a. the effect of the development on the quality of life of neighbouring occupiers and the amenity of the surrounding area, having particular regard to:
 - noise and disturbance;
 - odour;
 - highway safety, particularly for pedestrians in the vicinity of the site;
 - the character and appearance of the premises and the surrounding area.
- b. The effect of the development on local employment, businesses and the economy.
- c. Whether any harm can be overcome by planning conditions or planning obligations.

11. The conclusions on these issues will inform whether the use is acceptable for the property and is appropriately located, taking into account the site characteristics and the character of the area, the surrounding highway network and the operation of the business.

Policy

12. The development plan for the area in which the site is situated includes the London Plan (2016), the Camden Local Plan (2017) (the CLP) and the Site Allocations Plan (2013).
13. Material considerations include the National Planning Policy Framework, Planning Practice Guidance, the Noise Policy Statement for England and Camden Planning Guidance. The preparation of the draft London Plan is approaching an advanced stage with the completion of public examination hearings in May 2019 and the publication in July 2019 of a consolidation version incorporating all the suggested changes. The Panel's report containing recommendations is expected to be submitted to the Mayor in September 2019. I have had regard to the relevant draft policies identified in the statement of common ground. However, in the absence of information from the

parties on whether these policies are subject to objection I attach limited weight to them.

REASONS

The site and the development

14. Finchley Road/Swiss Cottage is the third largest town centre in the Borough and it is designated as a district centre in the London Plan. The linear centre runs either side of the A41 Finchley Road, largely confined to the frontage properties and contains a concentration of food, drink and entertainment uses.
15. The aim of the CLP is to deliver sustainable growth while continuing to preserve and enhance the Borough. Finchley Road/Swiss Cottage town centre is identified as a highly accessible location by Policy G1 and is one of the locations where the most significant growth is expected to be delivered. The CLP considers the centre to be generally suitable for a range of uses, including those that attract a large number of journeys. The CLP also recognises that these other highly accessible areas promoted for growth often include or are adjacent to residential communities. Development must take into account the full range of Plan policies and objectives, in particular those on amenity, design and heritage, sustainability, community safety, open spaces and transport. This policy direction is consistent with Policy 2.15 of the London Plan.
16. The appeal site is located towards the southern end of the town centre. The boundary defining the centre follows the southern edge of the site access way and the rear boundary of the service yard. Immediately to the north, the town centre area includes Cresta House, a tall block with commercial uses at the lower level and residential flats above. Residential development (part of the Hilgrove Estate) lies to the west and south of the site, outside the defined centre and comprises a mix of flats and houses in and around Dobson Close.
17. At the rear of 215-219 Finchley Road the land slopes gently down to the west. The appellant occupies the lower ground floor of the two storey building, with direct access from the service yard. The information available on the planning history indicates that the lower ground floor was used for ancillary storage in conjunction with the use of the frontage units. The change to the current use involved the creation of a new planning unit and a new chapter in the planning history.
18. 'Deliveroo Editions' is the term used by the appellant for the current use of the site as commercial kitchens and delivery centre. The building is laid out to provide nine equipped micro kitchen pods, which are staffed and operated by individual restaurant partners. The food prepared and cooked within the kitchens is delivered to customers using Deliveroo's fleet of riders. There is no ability for customers to visit the site to place or collect an order. Instead the transaction is done online and is completed via the online app.
19. The Swiss Cottage area was identified as a target location because of the large residential population that was under-served by the existing restaurant selection. The catchment area for an Editions site is typically about 3 kilometres with a maximum riding time of about 15 minutes for the delivery of orders. The catchment area of the appeal site extends to parts of Hampstead, Kilburn, St John's Wood, Camden and Kentish Town.

20. Data from the appellant provides an indication of the amount of activity generated. A traffic survey in June 2018 showed that the busiest peak hour occurred between 1900 and 2000 hours on Thursday night with 164 scooter movements, equating to approximately 2.7 scooter movements per minute. Data from the past year illustrated that during any 15 minute period the maximum number of pickups from the site was 24, giving a maximum of 96 per hour and a total of 192 scooter movements per hour². The highest density of orders comes from the south, in the St John's Wood, South Hampstead, Regents Park areas.
21. The use commenced on site in October 2017. In the period after the issue of the enforcement notice the appellant has made changes to the operation of the use and most recently the use of motorised scooters for customer deliveries has ceased. As from 3 July 2019 all deliveries are to be done by bicycle, electric two-wheeled vehicle or by foot. I am satisfied that the use has not materially changed and the operational changes are able to be taken into account in determining the deemed planning application.
22. The Camden Planning Guidance: Employment sites and business premises acknowledges the growth in industrial scale kitchens with a delivery service to customers, usually by scooter. Existing industrial areas are considered the most appropriate for such uses. Nevertheless, this direction as to location is within local guidance and no policy in the development plan requires an industrial area location for these types of uses. The approach set out in the Guidance is to consider the impact of the development based on the criteria in CLP Policy A1 Managing the impact of development, and other relevant policies.

Quality of life

23. CLP Policy TC4 seeks to ensure that the development of town centre uses does not cause harm to the local area or the amenity of neighbours. Matters for consideration identified by the policy include the impact on nearby residential uses; 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 the site; fumes likely to be generated and the potential for effective and unobtrusive ventilation. Similar factors are identified in Policy A1 that aims to protect the quality of life of occupiers and neighbours. The policy expectation is that development would not cause unacceptable harm to amenity.
24. CLP Policy A4 is specific to the control of noise and vibration. The London Plan Policy 7.15 identifies ways development proposals should seek to manage noise. Significant adverse noise impacts on health and the quality of life should be avoided.

Noise and disturbance

25. Planning Practice Guidance advises on when noise is likely to be of concern. Noise above the 'lowest observed adverse effect level' boundary (LOAEL) starts to cause small changes in behaviour and/or attitude. Consideration needs to be given to mitigating and minimising those effects, taking account of the economic and social benefits being derived from the activity causing the noise. Noise above the 'significant observed adverse effect level' boundary (SOAEL) causes material changes in behaviour and/or attitude and should be avoided.

² Document 24 in appellant's response on peak kitchen capacity

26. The potential sources of noise and disturbance are the fixed plant and equipment installed to facilitate the use, delivery and service vehicles and the riders. The sensitive receptors are the residents of the nearest dwellings to the site in Dobson Close (to the south and west) and Cresta House and the flats above 115-121 Finchley Road.

Fixed plant and equipment

27. The kitchen pods have associated ventilation and refrigeration plant equipment. In accordance with CLP (appendix 3) the design criterion is that noise from the fixed plant equipment should not exceed a rating level of 10 dB below background noise levels (15 dB if tonal components are present). The background noise levels considered to be representative of the typical noise climate at the properties in Dobson Close are 50 dB L_{A90} daytime (0700 to 2300 hours) and 45 dB L_{A90} night time (2300 to 0700 hours).
28. The appellant carried out a plant noise assessment to support the deemed planning application. The assessment demonstrates that the predicted rating noise levels from the Deliveroo fixed plant equipment comply with the CLP design criterion. It is explained that the principal noise reduction measures at the site are the use of atmospheric side attenuators to the extract and supply fan systems and the selection of intrinsically quiet refrigeration plant equipment.
29. The Council confirmed that the baseline noise survey to establish the background noise climate complied with the Council's requirements and also accepted the conclusions of the noise assessment. The monitoring exercise conducted by the Council over a 4 week period in March/April 2019 did not identify a problem of noise from ventilation and refrigeration plant. Disturbance from plant noise was raised in objections to the appellant's planning application and the application for a lawful development certificate submitted before the enforcement notice was issued³. However, the Rule 6 Party did not dispute the appellant's technical evidence. The accounts and records submitted by residents for this appeal made little mention of noise from plant and extraction equipment.
30. On unaccompanied site visits to the area I heard plant noise in Dobson Close. The investigations by the noise experts for the appellant and the Council found that the noise was likely to have been from plant unconnected to Deliveroo Editions, referring to other ventilation equipment at high level at the rear of the building. On the accompanied site visit we visited Cresta House and according to later information from the Rule 6 Party a statutory noise nuisance was found by the Council investigating noise from Deliveroo's external extractor fan. This report has not been accepted by the appellant who maintained that investigations found that the noise source did not service the appeal premises.
31. I conclude that it is very important that at all times the installed equipment achieves the design criterion to avoid disturbance to residents. If that standard is attained, and the technical evidence indicates that it would be, the development is unlikely to generate unacceptable noise impacts from ventilation and refrigeration plant equipment required in association with the use. A suitably worded planning condition(s) is the means to secure this

³ Applications ref 2017/4737/P and 2018/0865/P

requirement. Subject to these provisos the development complies with Policy A4 in relation to this matter.

Noise from vehicles and riders

32. Motorised scooters provided the primary delivery method, supported by cycles and delivery on foot. Scooters were not allowed to go down the access ramp into the service yard but had to wait and park at the top of the ramp by the footway along Finchley Road.
33. The appellant acknowledged that scooter noise is recognised as having a character that makes it more annoying than general road traffic noise. As a result of noise survey work by the appellant in January 2019 levels of noise at the facades of a few of the nearby flats in Dobson Close were estimated to be above SOAEL. As mitigation, screening was installed enclosing the site railings along the southern site boundary and marshalling of the area was modified to reduce the numbers of scooters parking, starting up and pulling away on the access slope.
34. As a result some improvement took place but the appellant accepted that during busier periods noise levels from scooters on the access way were above LOAEL at some noise sensitive receptors in Dobson Close. Council officers when monitoring the use in April 2019 noted a number of instances when noise from delivery bikes was audible in the vicinity of the site. Deliveroo's decision to switch operations at the site to use only bicycles and electric two-wheeled vehicles would overcome this impact. To secure this improvement a mechanism has to be in place to ensure motorised scooters are not used as one of the delivery methods in the future.
35. As part of the overall arrangements the appellant proposed to provide bicycle racks and parking space for electric scooters in the service yard near the despatch room and pick-up point. The parking would be in close proximity to dwellings and gardens in Dobson Close, in an area where the background noise level is significantly lower than on Finchley Road. Consequently the switch in mode of delivery would lead to a potential source of noise intrusion from voices of riders, other delivery personnel and marshals.
36. There was common ground between the appellant and the Council that with the switch in the mode of operation all sensitive noise receptors would experience noise below the LOAEL and therefore require no specific noise control measures. Relevant factors included the location where riders would wait and communicate, sound attenuation due to distance and screening and the noise levels from the continuous road traffic in the area.
37. Residents submitted records of instances of noise disturbance in 2018 of shouting, use of mobile phones by marshals and drivers when parking occurred on the slip road. The Local Residents Group also felt strongly that Deliveroo should adhere to its earlier promise that drivers would not be allowed to park in the rear yard.
38. I found Dobson Close has a quiet environment in the evenings and unexpected sudden noises were intrusive. A small number of dwellings back onto the rear yard, with first floor rear windows and a few dormers above the level of boundary screening. There is a significant difference between the agreed day and night time background noise levels. The objective evidence indicates that

noise from loud voices occasionally could be above the night time background level. Because of their intrusive sounding nature such noises would result in disturbance to nearby residents, including sleep disturbance.

39. In such circumstances the guidance indicates mitigation is required to protect quality of life for residents. With reference to Policy A4, the CLP states that planning conditions restricting opening hours will be imposed to prevent adverse impact on nearby noise sensitive users. In the operational management plan measures also are proposed to control behaviour and noise from voices on site. I will return to consider these forms of mitigation below.

Odour

40. The CLP (paragraph 6.22) requires all development likely to generate nuisance odours to install appropriate extraction equipment and other mitigation measures. The commercial kitchens fall into this category.
41. Based on the experience of residents living in Cresta House and Dobson Close, cooking smells became noticeable when Deliveroo started its operations. They reported that the smells were particularly objectional around June 2018 when they opened windows in the warmer weather. After August 2018 an improvement was noticed. In 2019 smells were logged during April and later in June. The Council recorded cooking smells within the locality of the site on three evenings during the monitoring period in March/April 2019.
42. There are three extract ducts on the rear elevation of the building that lead from the internal plant room. One duct serves three kitchens. The individual operators have produced a range of different food types, including food types that result in the highest odour releases. A high level of odour control is required.
43. The probability is that the system installed at the outset did not provide the necessary degree of control. In August 2018 the system was upgraded with the addition of bag and panel filters for particulate removal, a UV Ozone unit and carbon filters. The upgraded system should provide a very high level of odour control, sufficient to mitigate a risk of odour nuisance from the site when measured against an accepted risk assessment methodology. The Council agreed that results of the dispersion modelling, carried out by the appellant, indicate that even if odours were emitted from the site they normally would be carried over nearby housing and would not be detectable by the occupants. Furthermore, the level of plume rise would not be sufficient to affect the upper level of nearby flats. The odour sniff testing, one of a range of recommended assessment techniques, did not detect any strong odours or identify the Deliveroo site as the source of any cooking odour that was detected.
44. The reported experience of residents is not totally consistent with such conclusions. I recognise that not all reports of cooking smells are able to be directly linked to the commercial kitchens on the site. The appellant's evidence, comparing reported instances of odour with Met Office data on wind direction and speed, concludes that the site is not a plausible source of odours in many of the cases. Nevertheless, the urban fabric could influence wind direction at a very local level around the site. More significantly there were no other similar sized commercial kitchens so close to the affected dwellings that could have caused odour from cooking. The sniff testing was carried out on three visits

between 1700 and 1745 hours but was restricted to Belsize Road, Hilgrove Road and Finchley Road. It is not conclusive either way.

45. I conclude that harm was caused to residential amenity by the change of use. A system providing a high level of odour control is necessary. The installed measures should now provide the required standard of odour control. Regular maintenance would be essential to ensure the effective operation of the odour control system at all times. Planning conditions would be an appropriate mechanism to ensure policy compliance.

Highway safety

46. CLP Policy A1 resists development that fails to adequately address transport impacts affecting communities, occupiers and neighbours and the existing transport network and requires mitigation measures where necessary. The Framework requires safe and suitable access to be achieved for all users. Applications for development should minimise the scope for conflicts between pedestrians, cycles and vehicles. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
47. The site is accessed via an existing vehicular crossover with the A41 Finchley Road, which forms part of the Transport for London Road Network (TLRN). The footway is approximately 3 metres wide at the point of access. Immediately to the south of the site access is a pedestrian route providing a short cut linking Finchley Road with the Hilgrove Estate. There are bus stops to the north and south within close proximity of the access. Finchley Road is one way northbound where it passes the site, with four running lanes and a designated bus lane. The highway forms part of the one-way system around Swiss Cottage. Traffic signalled controlled junctions regulate the flow of traffic and provide pedestrian crossing facilities.
48. The delivery operation has raised issues related to the parking of scooters and their use of the footway, the high volume of riders accessing and egressing onto and using the local highway network and the use of the access by delivery vehicles servicing the commercial kitchens.

Scooters and pedestrians

49. Until the beginning of July 2019 scooters provided the primary delivery method and they parked in the limited space at the top of the access road. The appellant acknowledged that this scooter parking frequently caused congestion around the site access. The Council in issuing the enforcement notice cited the harmful impact on highway safety and the difficulties caused for vulnerable users and neighbouring occupiers. The monitoring in April 2019 identified numerous conflicts between pedestrians and scooters, including incidents when riders had to brake sharply and pedestrians had to move around the vehicle. The photographic evidence and the personal accounts from local residents demonstrated conflict between scooters and pedestrians. Attention was drawn to the increased risk for those with mobility issues and more vulnerable highway users. Transport for London (TfL), the highway authority for the TLRN, expressed concern about the access to the site being blocked by scooters and bikes. In addition to the obstruction of the footway, TfL had safety concerns arising from pedestrians having to step into the road, which increases the

potential for collisions. These types of incidents are demonstrated in the residents' photographic evidence.

50. The footway at the site access is a busy pedestrian route throughout the day because of the town centre location and the proximity to bus stops, the underground station, pedestrian crossing facilities and the residential area. A survey in June 2018 showed that 155 pedestrians passed the access between 1900 and 2000 hours on a Friday evening. No personal injury accident has been recorded at this location (records up until December 2018). However, there is strong evidence that the parking of scooters at the top of the site access caused unacceptable obstruction and increased the risk to personal safety, especially for pedestrians. The switch in delivery mode and more especially the provision of parking space for bicycles and e-scooters within the site should ease difficulties related to congestion and obstruction but not necessarily overcome the conflict between delivery bikes/scooters and pedestrians.
51. The pavement along the western side of Finchley Road is not designated as a shared cycle/pedestrian way. Residents and Council officers reported incidents of scooters being driven along the footways, as well as cyclists using the footway. My observations on site confirmed that delivery riders cycled along the footways. Operational factors are likely to be a contributory reason because riders are under pressure to deliver the orders within 15-20 minutes and therefore are likely to look to use the shortest/quickest route. I noticed that riders heading south or west avoided going round the one-way system by using the footway. This practice would increase the risk of conflict with pedestrians and would be contrary to the Policy TC4 objective of encouraging ease of movement on the footpath.

Access to and use of the highway network

52. The use also has generated a high volume of movements at the site access and required delivery riders to negotiate the major flows of traffic on the immediately surrounding the highway network. Residents reported riders cutting across streams of traffic and personal experiences of having to brake sharply. Council monitoring reports support these observations.
53. The site access has good visibility to the south. There have been two reviews of personal injury accident data, one covering a five year period to December 2016 and the second a five year period to December 2018. The earlier data set predated the commencement of the use, although the records of accidents involving cyclists and motorcyclists do not indicate a particular inherent safety issue. Details of the later data set have not been provided by the appellant. As a matter of fact it is reported that there was no record of a traffic incident involving a pedestrian at or immediately adjacent to the access and the one motorcycle/scooter related incident was recorded in January 2017.
54. The available highway safety data is not conclusive evidence that the site is able to operate safely, bearing in mind that the use commenced from October 2017 and the switch in mode of delivery only occurred at the beginning of July 2019. Nevertheless, it is significant that the concern of TfL has been confined to the obstruction of the footway and no objection was raised in relation to safety on the A41 and the related links in the one-way system. The A41 carries a very high volume of traffic across multiple lanes. The series of traffic signals regulate the flow of traffic on the one-way system and has the effect of

creating breaks in traffic flow past the site entrance that enables riders to join the carriageway safely. Even so the volume and flows of traffic is such that delays do occur for riders waiting at the site entrance, which in turn may increase risks and encourage hazardous turning and weaving movements. At peak delivery times, when several riders are waiting for a break in the traffic, the footway becomes obstructed as shown in photographic evidence from the Local Residents Group⁴.

Servicing

55. The planning history indicates that the rear yard has been used for parking and servicing of the block of properties. The development has created an additional planning unit and separate use, independent of the frontage buildings. The service yard remains available for use by other occupiers of the block.
56. The Rule 6 Party has provided evidence that indicated inadequate servicing space or access for vehicles making deliveries of food for the kitchens. Delivery vans have been observed parked in the residents' car parks in Dobson Close and obstructing the footway and vehicle flow at the site access. Pedestrian movement was impeded and inconvenience caused to other highway users.
57. The appellant demonstrated through swept path analysis that a 7.5 t (7.2 m long) vehicle would be able to enter and leave the site in forward gear. On the accompanied site visit a delivery van arrived and, although the manoeuvre was carried out eventually, space was very tight and guidance by a marshal was essential. A high degree of management on timing and use of vehicles would be required.

Conclusions

58. The development did not achieve a safe and suitable access for all users of the highway and in particular it created conflict between pedestrians, cycles and vehicles. The acceptability of the use rests on whether the change in delivery mode and the additional management measures would provide appropriate mitigation to overcome the inherent difficulties of the site access in order to secure compliance with development plan and national policy requirements.

Character and appearance

External plant

59. CLP Policy D1 (criterion o) requires development to carefully integrate building services equipment, supporting the expectation expressed in the justification to Policy A1 in relation to odour control and mitigation. In the Camden Planning Guidance on Design a key message is that building services equipment should be incorporated into the host building aesthetically. In relation to refurbished development external plant should be avoided but if unavoidable it should be positioned to minimise its visual impact.
60. As I have already described when considering odour, there are three external extract ducts on the rear elevation of the building that exit from the internal plant room. The appellant stated that this plant was not accommodated within the building because the mechanical and electrical consultants recommended that all extraction ducts be placed above eaves height to improve air

⁴ For example Inquiry Document 5 photo dated 21.07.19; Document 7 photo dated 07.07.19.

dispersion. However, this does not explain adequately why the stacks could not be accommodated inside the building. It could be relevant that the appellant does not occupy the upper floor of the building.

61. The result is that the three external stacks extend a storey in height and visually dominate the rear elevation of the building. The visual impact on Finchley Road has been minimised. In contrast the plant is directly opposite the back of the residential terrace on Dobson Close and is visible from nearby residential streets and spaces. The building was largely neutral in its appearance in its surroundings, whereas now it has taken on an industrial appearance and is out of character.
62. The other pieces of external plant are of a smaller scale and are more discreetly located on the side and rear of the building. Limited visual harm results.
63. In conclusion, the installation of the extract ducts to facilitate the development is harmful to the character and appearance of the surroundings and fails to comply with CLP Policies A1 and D1 and the relevant Camden Planning Guidance on Design.

Amenity

64. The Framework expects developments will function well and add to the overall quality of the area. An aim is to ensure places are safe, inclusive and accessible with a high standard of amenity. CLP Policy D1 requires development to integrate well with the surrounding streets, improving movement through the site and wider area. The supporting text emphasises the importance of making roads, pavements and spaces between buildings fully accessible. The aim is to ensure good quality access and circulation arrangements, including improvements to existing routes and footways. Policy T1 promotes walking in the Borough and seeks to ensure developments improve the pedestrian environment.
65. With reference to the Camden Planning Guidance, Finchley Road/Swiss Cottage generally serves the local population by reason of the nature of the retail offer. Loss of retail uses are controlled to protect the retail function and character. The scale and number of food, drink and entertainment uses are also managed to avoid cumulative impacts on the amenity of residents and to maintain the distinctive character of this town centre.
66. With these considerations in mind the Rule 6 Party has drawn attention to the dominance of the Deliveroo riders within the centre, well beyond the confines of the premises. Local residents are no longer able to park and shop because either parking spaces have been used for motorcycle parking or parked cars in short term spaces have become hemmed in by motor bikes. Riders have also congregated in front of the Odeon Cinema and become an intimidating presence. Fast food restaurants have become rest areas for riders. The presence of riders waiting in the residential area, such as in Belsize Road and near the children's playground off Hilgrove Road, in turn has introduced noise and additional traffic. Other unwelcome effects have included the parking of delivery vans in the residential area and the use of Belsize Road and the Cresta House car park as a means of access for the collection of waste from the premises. The obstruction of the footway around the site access and the riding

- of bikes on the footway are additional effects that residents have found to be detrimental to the amenity of the public realm and the local area character.
67. Residents have supported their experiences by photographic evidence and when I visited the area several of these occurrences were evident. They are significant considerations in assessing the effect of the use on the character and quality of the locality.
68. Some understanding of these impacts may be gained by reference to details of the operation. The focus of the model is 'last mile' delivery, where the appellant uses the latest technology to ensure the food is delivered to the customer in the most efficient way. Delivery of prepared food to customers is undertaken using riders individually contracted to Deliveroo. When the food is nearly ready, the rider is notified to come to the site and pick it up. For the collecting rider to be allocated an order, s/he has to be logged onto the Deliveroo app and be located within range of the site. The Deliveroo real time despatch algorithm 'FRANK' constantly looks at available riders and orders and every two seconds evaluates the most efficient way to dispatch them. The decision process includes which rider is best placed to fulfil the specific order based on distance, type of location and other factors, such as vehicle type. The technology enables prediction of when a rider should arrive at the site, minimising dwell time and the customer should have a more precise indication of when the order will arrive. The rider is expected to deliver the food to the customer in about 15-20 minutes and progress of the delivery can be monitored on the app.
69. It appears that the delivery process and securing the delivery of an order is affected by the distance the rider is to the site. Consequently, riders are encouraged to wait around and near the premises, across the road, in the adjacent residential streets or in cafes in the town centre. Whilst this may not bother some people, I find it understandable that residents are concerned when it impacts on their ability to park close to shops, to walk around the town centre without intimidation and to feel at ease in their home environment.
70. The appellant informed the inquiry that a review of the town centre showed there were 39 food outlets of which 28 offer a food delivery service and that of the 28 outlets 14 offer a Deliveroo service. This information indicates that not all riders waiting around or parking in the town centre will be serving the appeal site. However, the probability is that the riders nearest the site, such as outside the Odeon, in Dobson Close and Belsize Road, would be involved in the delivery operation. The introduction of the new use has exacerbated a deterioration in the amenity of town centre and the way it functions.
71. The introduction of the use has been harmful to amenity, the pedestrian environment and the overall quality of the area, resulting in conflict with CLP Policies D1 and T1. The changes in operation, by excluding the use of motorbikes and allowing riders to park and wait within the site, would be likely to reduce the harmful impacts. The proposed on-site parking space has been shown to be numerically adequate for the current level of use and capacity of the nine kitchens. The despatch area inside the building is very small. Even with the change in layout its ability to comfortably accommodate some 24 riders is very doubtful, when account is taken of the need for circulation room to collect the orders and to maintain safe access into and out of the room⁵.

⁵ Document 5

Space in the rear yard has been reserved for the storage of waste and refuse, although access for waste collections would still be via the Cresta House car park. The operational management plan is proposed as a measure to improve how the development functions and minimise the adverse effects on the locality. The likelihood of doing so is assessed below.

Local employment, businesses and the economy

72. The development enables a range of restaurant businesses to become established, to grow and diversify, as demonstrated by the case studies of occupiers of the premises and individual representations from businesses there. An advantage of the Deliveroo Editions concept for businesses is that they can set up on site without significant up-front costs and investment because the kitchen units are fully equipped and support services are provided. Experience and techniques may be shared between occupiers. This model is in accordance with objectives of the CLP set out in Policy E1 to support businesses of all sizes, in particular start-ups, small and medium-sized enterprises. The development also offers and contributes to a stock of premises suitable for firms of differing sizes and which are available for firms with differing resources, consistent with Policy E1.
73. The development has brought back into use part of a vacant building, which involved an initial significant capital investment and resulted in a short term positive economic effect in terms of employment, provision of building services and supplies. In the order of 29 people are employed at the site, including 6 employees of Deliveroo. In 2018, a total of 1,340 riders made deliveries from the site, 780 of whom are registered as residing in Camden. Additional economic benefits for the area are derived from the spending by employees on goods and services and stimulation of spending in the supply chain. The estimation of revenue generated and the delivery figures indicate that the service has been successful and fulfils a consumer demand.
74. In so far as the scope of the evidence demonstrates, the development is consistent with national and development plan policy that encourages the creation of conditions in which businesses can invest, expand and adapt, albeit on a small and localised scale. There is anecdotal evidence that existing town centre businesses have lost trade but without more specific evidence this consideration has little weight.

Initial conclusions

75. The change of use has economic benefits but it has resulted in a harmful and unacceptable impact on the quality of life of neighbouring occupiers and the character and amenity of the surrounding area.
76. The appellant has sought to address the adverse effects. The upgrade to the ventilation equipment has resulted in an improvement in the control of odour. Very recent changes to the delivery operation have reduced congestion at the site access. The use of planning conditions and planning obligations is essential to the acceptability of the development.

Planning conditions and planning obligations

77. Planning Practice Guidance states that when properly used conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by

mitigating the adverse effects. Referring to the Framework, planning conditions must only be used where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests). Planning obligations must only be sought where they are (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development, and (iii) fairly and reasonably related in scale and kind to the development.

78. The statutory tests set out of Regulation 122 of the Community Infrastructure Levy Regulations 2010 do not apply where a deemed application has been made under section 174(2)(a) because the definition of 'relevant determination' in Regulation 122(3) does not refer to enforcement provisions. I have taken the view that the caveat contained in clause 3.7 of the section 106 agreement in effect does not apply and the obligations are enforceable.
79. Policy DM1 of the CLP provides for the use of planning obligations and other suitable mechanisms to support sustainable development, secure the infrastructure, facilities and services to meet needs generated by the development and mitigate the impact of development. The primary purpose of planning conditions and planning obligations in this case would be to mitigate the adverse impacts of the development that have been identified. Policy TC4 also allows for use of planning conditions and obligations in appropriate cases to address issues including (i) hours of operation, (ii) noise, vibration, fumes and the siting of plant and machinery, (iii) the storage of waste and refuse and (iv) community safety. The Camden Planning Guidance on town centres contains a useful table on impacts and controls.
80. The appellant and the Council have submitted an agreed list of planning conditions as part of the statement of common ground, which follows on from a discussion on planning conditions at the inquiry. A section 106 agreement has also been completed which requires the appellant to establish a community working group and to ensure the unit is occupied and managed in accordance with an Operational Management Plan. The Council confirmed that on the basis of the conditions and the obligations there are no grounds for objection to the deemed planning application in respect of technical issues on odour, plant noise and other noise associated with the operation of the site including but not limited to deliveries. The Rule 6 Party maintained its opposition to the development.

Planning conditions

81. The use of motor scooters as the primary mode of delivery has been shown to cause unacceptable obstruction of the footway. Restricting the mode of transport to foot, bicycle or electric two wheeled vehicle would be necessary to address this issue in conjunction with revised parking and waiting arrangements. It would reduce but not overcome the potential for conflict with pedestrians at the site access.
82. Restricting the time in which deliveries to customers can take place would be necessary because of the location of the site close to residential development. A tighter restriction on trading hours than the 2300 hours proposed would not be reasonable to the operator having regard to the town centre location and the purpose of the use. The proposed delivery period to customers (1200 to 2300 hours) strikes the right balance and is consistent with Camden Planning Guidance: Town centres and retail. No collection of orders by customers takes

place from the premises and this feature of the operation should be confirmed by condition to protect residential and general amenity and to ensure consistency with the proposed management measures. An additional condition to limit the number of kitchens to nine would be a means of controlling the number of movements at the site access.

83. Control of noise from all fixed plant on the site would be necessary to safeguard living conditions of residents and protect the amenity of the area. Two conditions are proposed, one would place a control on hours of operation of the external plant and the second would limit the levels of noise. I consider both conditions would be necessary because of the proximity of the equipment and plant to residential properties. The specified level(s) of noise emissions is in accordance with the policy requirement of the CLP and is more stringent than that stated in British Standard 4142:2014. The statement of common ground confirmed that the values could be achieved, based on the evidence of the plant noise assessment.
84. The detail of the wording of the condition on noise levels⁶ would benefit from minor changes, having had regard to the further comments of the parties and the requirements within the CLP and Camden Planning Guidance on Amenity regarding control of noise and acoustic reports. To date reliance has been placed on noise modelling to demonstrate the ability to comply with the stated noise levels. Given that the equipment is installed and operational, an assessment to demonstrate compliance with the condition could reasonably be expected to measure actual operational noise levels.
85. The odour control equipment would be required to provide a very high level of control. To ensure enforceability, the proposal is to define this level by reference to an accepted technical source in the absence of government guidance on the matter⁷. A plant management plan provides the detailed requirements for operation and maintenance of the odour filtration and ventilation systems. On this basis there should be no harmful impact on living conditions as a result of odour from cooking on the premises.
86. Experience has demonstrated that servicing of the premises has caused obstruction to traffic flow and pedestrian movement on the adjacent highway. To date, not all servicing has taken place either from within the site or dedicated loading bays, resulting in a loss of residential amenity. The proposed restriction on the period of time for servicing and delivery vehicles to be on site, 0800 to 1600 hours, would avoid peak delivery times to customers and is necessary and reasonable. Access to the site would be under the control of the appellant/occupier as would ensuring that parking, turning and circulation space is available within the site. However, where delivery vehicles park is not necessarily under the control of the operator of the site. Consequently, a condition requiring delivery vehicles to park within the curtilage of the building or marked loading bays is not reasonable or enforceable. This matter is more appropriately dealt with through the Operational Management Plan (OMP) secured through a planning obligation.
87. The installation and continued provision of cycle parking and e-charging standings is a reasonable and enforceable condition. This provision would encourage riders to park within the site, rather than obstruct the footway.

⁶ Condition 4 in Appendix 1 to the statement of common ground dated 2 August 2019

⁷ The Defra Guidance was withdrawn in September 2017.

Linked to the required modes of delivery, such measures would be consistent with policies to reduce carbon emissions.

Planning obligations

88. The intention is that the planning conditions and obligations are complementary and work alongside each other.
89. The OMP covers a number of matters, including operating hours of the site, conduct, training and responsibilities of staff and riders, servicing arrangements and communication. Provision is made for its monitoring and review and a dispute resolution procedure is included in the document. The obligation is necessary because the OMP seeks to control operations and procedures that extend beyond the site boundary that are unable to be dealt with by planning condition. The element of duplication with planning conditions, as with control of site trading hours and operation of the kitchen ventilation system and of all plant and equipment, is acceptable when placed in the context of the overall management arrangements secured through the obligation.
90. The success of the OMP relies to a considerable extent on the individual members of staff and visitors, including riders, complying with the Code of Conduct controlling behaviour, the ability of marshals to carry out all their responsibilities and the effectiveness of deterrents and sanctions. The appellant accepted that it would be quite hard to control how people behave but considered that the prospect of the termination of contract would be a sufficient deterrent. However, identifying riders who did not comply with site policy and procedure would not be easy, whether because of the need for accurate information or the constraints on using the Deliveroo app. Also the appeal site does not have a dedicated fleet of riders because Deliveroo riders are contracted to provide services within the zone.
91. The marshal positioned at the site entrance would have a long list of responsibilities and at busy times it is doubtful that all could be effectively carried out. Traffic marshals have been employed at the site since about July 2018. Past experience, albeit pre-dating the OMP, does not encourage confidence. By way of illustration, the Council found during monitoring in April 2019 that despite marshals being present pedestrian safety was being undermined by Deliveroo motorbike riders.
92. The purpose of the proposed Community Working Group is to facilitate consultation between the appellant and the local community with a view to minimising disruption to amenity and the environmental harm arising from operations taking place at the site. Success would depend on the continuing involvement of residents and accountability of the appellant. The likelihood is that it would be most productive during the initial bedding-in period of the proposed management practices. Whilst potentially a useful forum for enabling dialogue between parties, the Council would remain the primary body for enforcing the planning conditions and obligations through statutory powers.

Conclusions

93. Subject to certain amendments, a set of conditions based on those proposed is capable of meeting the six tests. The planning obligations satisfy the policy tests set out in the Framework and I am able to take them into account as a

reason for granting planning permission. They are necessary in order to make the development acceptable.

94. The conditions and obligations would enhance the quality of development and offer mitigation for adverse effects caused by the development. The effectiveness of certain of the proposed measures, which rely heavily on controlling human behaviour and marshalling, is uncertain. Measures introduced before have not provided the necessary degree of control and have had to be reviewed, most notably in relation to the mode of delivery and rider parking and waiting facilities.

Planning Balance and Conclusions

95. The town centre is a focus for growth and the appeal site is well located for the operator because of the proximity and accessibility to a large customer catchment. Balanced against those locational advantages the premises and the associated operational plant are adjacent to and surrounded by housing. The site access crosses a very well used pedestrian route and is onto a major traffic route.
96. The following section draws together my conclusions on the main issues in terms of compliance with the development plan and national policy, taking account of the proposed planning conditions and the planning obligations.

Development plan

Quality of life

97. The fixed plant and equipment are predicted to be operated without causing harm to amenity with the safeguards that have been put in place. Vehicle noise would be unlikely to cause undue disturbance primarily because the switch in mode of delivery effectively resolves vehicle noise from delivery scooters. In addition, servicing would be during the working day and numbers of deliveries to the premises would be small in number. On all these issues the proposal complies with CLP Policy A4 and Policy 7.15 of the London Plan.
98. Within the permitted hours of use the control of noise from voices of riders, staff and marshals would be largely reliant on individual responsibility and behaviour. I have reservations about the ability to secure adherence to good practice and the capacity of the waiting area to accommodate riders. Noise disturbance to nearby residents is a possibility, especially during the evenings and into the early part of the night when residents are trying to sleep. I am not able to conclude that the development can be operated without harm to amenity, a test in Policy A4 for granting permission.
99. Comprehensive measures have been put in place to control odour and so protect amenity to achieve compliance with Policy A1.
100. The location of the site and the means of access to serve the use are not conducive to highway safety, taking account of the high volume of rider movements generated at peak delivery times, the pedestrian flows past the site entrance and the delivery time requirements essential to the concept. Policy 2.15 of the London Plan requires development proposals to contribute towards an enhanced environment and public realm in the town centre. Ease of movement on the footway is identified as a specific consideration by Policy TC4. The CLP focuses on vulnerable road users in the consideration of highway

safety in applying Policy A1. It has not been demonstrated to date that the proposed marshalling arrangements, code of conduct and sanctions would be effective in preventing conflicts, overcoming the serious harm that occurred prior to July 2019 and ensuring policy compliance.

101. TfL has not objected to the increased use of the A41 one-way system and local highway network by electric scooters and bicycles. This advice from the highway authority for the TLRN is the key factor in my conclusion that there are no highway safety grounds related to the highway network for resisting permission. The comprehensive arrangements proposed for servicing through the OMP, which rely primarily on management of the servicing operation rather than behaviour, offer the prospect of adequately addressing the highway safety implications in this regard.
102. Overall, I am unable to conclude that the development has adequately addressed the transport impact on the community and neighbours and the direction of Policy A1 is that the development should be resisted.
103. The installation of the three extract ducts is essential to ensure adequate ventilation to the kitchens. The three steel vents fitted on the rear of the building are harmful to the character and appearance of the residential surroundings. This element of plant fails to comply with CLP Policies A1 and D1 and the relevant Camden Planning Guidance on Design.
104. The remaining amenity considerations relate to the character of the town centre and adjacent residential area and focus on the quality of streets and spaces, ease of movement and a feeling of community safety. Successfully integrating the use into the urban fabric, respecting patterns of movement and for many their familiar and valued home environment, relies primarily on the operational management plan. Improvements on the initial impacts of the new use can reasonably be expected from the revised delivery, parking and rider waiting arrangements, regulation of servicing times and delivery vehicles, the increased level of marshalling and site management of waste storage and collection. However, I have already highlighted concern on the ability of marshals to effectively carry out their many responsibilities, especially at the critical peak times. The probability is that riders associated with the premises would continue to spill out into the nearby residential streets, although to a lesser degree. All matters considered the use would cause moderate harm to area character, more particularly related to ease of movement and the objective of ensuring streets and spaces are pleasant and safe.

Economic considerations

105. The development is supported by CLP Policy E1, particularly because of the provision of serviced accommodation for start-ups and small businesses and the small contribution to local employment. The development of e-tailing and more efficient delivery systems is supported by Policy 4.8 of the London Plan.

Development with mitigation

106. The acceptability of the development rests on appropriate and effective mitigation being secured through the use of planning conditions and the planning obligations in the section 106 agreement. These measures would offer protection to amenity and the quality of life for near neighbours and local residents but for the reasons set out above it is uncertain whether the

substantial harm identified would be mitigated sufficiently to ensure overall compliance with the development plan.

Other considerations

The Framework

107. The development caters for local business needs by providing a platform to support the restaurant industry and by utilising the latest technology. The chosen location meets the requirements of the enterprise and is easily accessible to the customer catchment in the surrounding residential area. The new delivery arrangements to customers promote the use of sustainable transport modes. The effective use of the building in meeting the requirements of the appellant has to be balanced against safeguarding the environment and ensuring safe and healthy living conditions.
108. The development functions well from the point of view of the occupiers of the kitchens and the operator and probably customers too but not necessarily for neighbouring residents and users of the town centre. The safety and suitability of the access relies on a high degree of management that may not be reasonably achievable. The site location and access constraints limit the scope to minimise the conflict between pedestrians and cyclists. Satisfactory resolution of the pedestrian/cycle conflict at the access is an important factor when considering the acceptability of the impact on highway safety.
109. The development has not added to the overall quality of the area in the short term. Over its lifetime the visual harm to neighbouring residents would be a constant and it has been necessary to put in place a community working group to minimise disruption to amenity and the environmental harm on the local community.

The draft London Plan

110. Similar to the development plan and the Framework, there is a tension between the economic and the environmental / social policy objectives.

Conclusion on planning balance

111. The quality of the local environment and ease of movement for all are important policy objectives. The use has been shown to require a high degree of planning and management control. I have reservations for the reasons explained that the measures very recently proposed and put in place will successfully mitigate the identified harm. Consequently, I am unable to conclude that when considered as a whole the development plan supports granting planning permission for the use. The direction provided by the Framework is not clear cut.
112. Nevertheless, the development plan and national policy encourages the use of mitigation to overcome adverse effects to make an unacceptable development acceptable. Very significantly, the Council has concluded that granting planning permission through the deemed planning application would secure the purpose of bringing the development within planning control and making it acceptable. The context is of commercial premises within a town centre location, where optimising the use of brownfield land is a policy objective. The economic advantages of the use and the service it provides are very relevant.

113. A planning permission for a limited period (section 72 of the 1990 Act) offers a way forward. A trial run is needed to assess the effect of the development on the area with all the controls that have been developed in the run up to and during the inquiry. Planning Practice Guidance recognises that a temporary planning permission may be appropriate in the circumstances.
114. Such an outcome would not provide the permanent resolution sought by the appellant and the Rule 6 Party. Monitoring would be essential for the trial period to achieve its purpose but a Community Working Group is an integral part of the planning agreement. There would be limited additional burden on all concerned. Varying time periods were proposed, the appellant suggesting a longer period of two years. In my view a year would be an adequate period to assess the effectiveness of the planning conditions and planning obligations in protecting the amenity of nearby residents and the users of the town centre. My conclusion is that a temporary planning permission for a year is justified and a proportionate outcome in this case. There is no presumption that a temporary grant of planning permission will then be granted permanently.
115. As indicated above, amendments to the detailed wording of the planning conditions put forward by the Council and the appellant are necessary to ensure compliance with the six tests. For the avoidance of doubt short time periods are included where necessary for the implementation of proposed measures. A condition to provide for a time limited permission will have an allowance built into the time period for cessation of the use and removal of external plant at the end of the assessment period.
116. To recap, all conditions are imposed to manage the impact of the development and to safeguard the amenity of neighbours. An additional reason for condition 3 is to safeguard the pedestrian environment and assist ease of pedestrian movement. Control on the time for servicing (condition 10) is required to minimise conflict with peak delivery times to customers. The maintenance of bicycle stands and e-charging installed within the site is to avoid obstruction of the footway and encourage the use of sustainable transport modes. The planning obligations are essential elements of the overall package of environmental controls and management of the use.

Conclusion

117. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted for a time limited period. The appeal on grounds (f) and (g) does not therefore need to be considered.

Decision

118. It is directed that the enforcement notice is corrected:
- In paragraph 2 by the deletion of the description of the Land to which the notice relates and the substitution of the description: Land at Rear of 115-119 Finchley Road, London, NW3 6HY, lower ground floor, as shown outlined in black on the attached location plan and as hatched black on the attached existing elevations drawings 2017-075-101-A and 2017-075-102-A ("the Property").
 - In paragraph 3 by the deletion of the description of the breach of planning control alleged and the substitution of the description: Without planning permission a material change of use of the Property to use as

Commercial Kitchens and Delivery Centre (Sui Generis) and installation of external plant to facilitate that use including three (3) extract ducts, four (4) flues, three (3) air intake louvres and three (3) air condenser units.

- In paragraph 5 requirement 5 by the deletion of "4west-facing" and the substitution of the words "west-facing";
- In paragraph 5 by the deletion of requirement 6 and renumbering the following requirements 6 to 9.
- By the substitution of the two plans annexed to this decision for the existing elevations drawings 2017-075-101-A and 2017-075-102-A attached to the enforcement notice.

119. Subject to the corrections above, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at the rear of 115-119 Finchley Road (lower ground floor), London NW3 6HY, referred to in the notice, for commercial kitchens and delivery centre (sui generis) and the installation of external plant to facilitate that use including three (3) extract ducts, four (4) flues, three (3) air intake louvres and three (3) air condenser units, subject to the following conditions:

- 1) The use hereby permitted shall be for a limited period being the period of 14 months from the date of this decision. The use hereby permitted shall cease on or before that date and all external plant and equipment facilitating the use shall be removed from the site no later than 15 months after the date of this decision.
- 2) The number of kitchens on the premises shall at no time exceed nine.
- 3) Deliveries from the premises to customers shall be carried out by foot, bicycle or electric two wheeled vehicle only and not by any other mode of transport.
- 4) No deliveries from the premises to customers shall be carried out outside the following times: 1200 to 2300 hours.
- 5) No collection of orders from the premises shall take place by customers at any time.
- 6) Other than the Optyma condenser unit to the chilled room, within fourteen days of the date of this decision automatic time clocks shall be fitted to all external plant and equipment at the premises to ensure that the equipment does not operate outside the following times: 0800 to 0000 hours.

During the final hour of operation (2300 to 0000) all kitchen extract and air supply equipment shall operate at no more than half operational speed (as defined in the table below)

Fan	Operational speed (Hz)
Extract Fan EF1	36.80 Hz

Extract Fan EF2	38 Hz
Extract Fan EF3	39 Hz
Supply Fan SF1	25 Hz
Supply Fan SF2	26 Hz
Supply Fan SF3	30 Hz

The timer equipment shall thereafter be permanently retained and maintained in accordance with the manufacturer's recommendations.

- 7) The level of noise emitted from all fixed plant on the site shall not exceed a value which is 10 dB below the background noise level at 1 metre from the façade of any dwelling or premises used for residential purposes or an alternative representative location approved in writing by the local planning authority. Background noise level is 50 dB, L_{A90} during the day (between 0700 and 2300 hours) and is 45 dB, L_{A90} at night (between 2300 and 0700 hours). The assessment period shall be 1 hour during day time periods and 15 minutes during night time periods. If the plant hereby approved has a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps) the level shall be 15 dB below the background noise level instead of 10 dB below.
- 8) For so long as the use continues the odour control equipment shall provide a Very High level of odour control, as defined by 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' by Dr Nigel Gibson dated 5-9-2018.
- 9) The use shall not proceed other than in accordance with the approved scheme for maintenance of the odour filtration and ventilation system dated 31 July 2019 and submitted as part of the enforcement appeal reference APP/X5210/C/18/3206954 (the 'Plant Management Plan'). The Plant Management Plan shall at all times cover cleaning of washable grease filters and frequency of inspection of all filters (grease filters, pre-filters and carbon filters). There shall be no primary cooking or reheating of food on the premises unless the odour filtration and ventilation system is being operated and maintained in full accordance with the Plant Management Plan.
- 10) No deliveries shall be taken at or despatched from the premises and no loading or unloading of goods from servicing vehicles shall take place outside the hours of 0800 to 1600 Monday to Saturday. No servicing/deliveries shall take place on Sundays or on Bank or Public Holidays.
- 11) Within seven days of the date of this decision the cycle parking and e-charging standings shall be installed on site in accordance with plan 2017/075/021 Rev I (forming part of the Operational Management Plan dated 1 August 2019) and shall thereafter be kept available for the parking of bicycles and the charging of electric two wheeled vehicles.

Diane Lewis, Inspector

APPEARANCES

FOR THE APPELLANT:

Simon Bird QC	Instructed by Town Legal LLP
He called	
Nathan Hanks	Director at Transport Planning Associates
Keith Metcalfe BSc(Hons)	Director and Acoustic Consultant, Sharps
MIOA	Redmore
Clive Bentley BSc(Hons)	Associate Acoustic Consultant, Sharps Redmore
CEnv CSci MCIEH MIEEnvSc	
MIOA	
Dr Michael Bull BSc DIC	Director at Ove Arup & Partners Ltd
PhD MChemE MIEEnvSci	
FIAQM CEng CSci CEnv	
Michael Mills BSc(Hons)	Partner at Firstplan
DIPTP MRTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Morag Ellis QC	Instructed by Mistry Pritej, Planning Solicitor
	Council of the London Borough of Camden
She called	
John Sheehy BA MA	Senior Planning Officer, Enforcement, Council of
	the London Borough of Camden

FOR THE LOCAL RESIDENTS GROUP (Rule 6 Party):

Esther Drabkin-Reiter	Instructed by Louise McLaughlan, Council of the
	London Borough of Camden
She called	
Councillor Leo Cassarani	Ward Councillor for Swiss Cottage
Mark Hutchinson	Resident
Edie Raff	Resident

INTERESTED PERSONS:

Jacqueline Prooth	Resident
-------------------	----------

DOCUMENTS submitted at the inquiry

- 1 Bundle of plans for planning application ref 2017/4737/P
- 2 Bundle of plans for planning application ref 2019/3408/P
- 3 Operational Management Plan 25 July 2019
- 4 Rebuttal by Dr Bull
- 5 Photographs submitted by Rule 6 Party (impact after switchover from motorbikes)
- 6 Bundle of Policy documents submitted by Rule 6 Party
- 7 Photographs submitted by Rule 6 Party (shared use of footway)
- 8 Appellant's opening statement
- 8a *Arnold v Secretary of State for Communities and Local*

- 8b *Government and Guildford Borough Council* [2017] EWCA Civ 231
- Miaris v Secretary of State for Communities and Local Government and Bath and North East Somerset Council* [2016] EWCA Civ 75
- 9 Opening statement on behalf of the Local Planning Authority
- 9a Council's response to Pre-Inquiry Note 3
- 10 Plan of proposed entrance and egress 2017-075-021 H
- 11 Photographs dated 30 July 2019
- 12 Camden Planning Guidance Developer Contributions March 2019
- 13 Swept path analysis plans SP06, SP07, SP08
- 14 Internal layout plan
- 15 Photograph of riders' despatch room
- 16 Representation by Fadi Chafi
- 17 Representation by Andrew Kwok
- 18 Draft s106 agreement (31 July 2019)
- 19 Operational Management Plan 31 July 2019
- 20 Opening statement on behalf of the Local Residents Group
- 20a *Kotegaonkar v Secretary of State for Environment Food and Rural Affairs and Bury Metropolitan Borough Council* [2012] EWHC 1976 (Admin)
- 21 Revised planning conditions 1 August 2019
- 22 Plant management plan 31 July 2019
- 23 Draft s106 agreement (1 August 2019)
- 24 Note of clarification by the appellant
- 25 Closing statement on behalf of the Local Residents Group
- 26 Closing submissions on behalf of the local planning authority
- 27 Closing submissions on behalf of the appellant



Plans

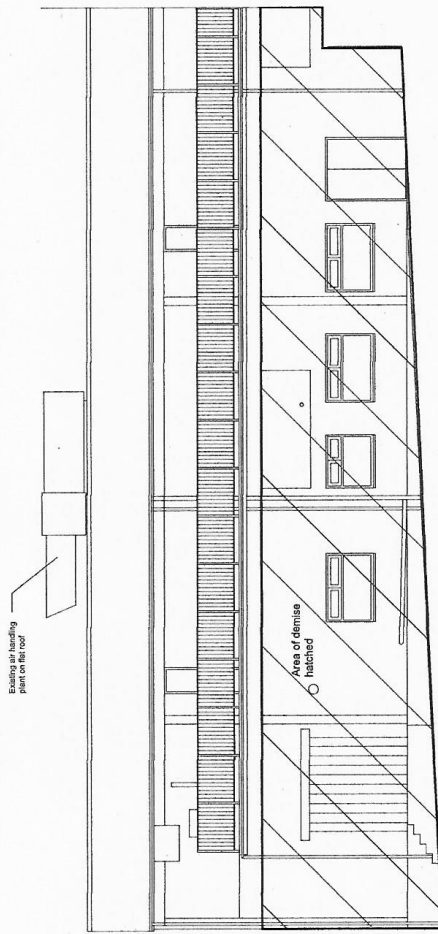
These are the plans 2017-075-101-A and 2017-075-102-A referred to in my decision dated: 17 September 2019

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

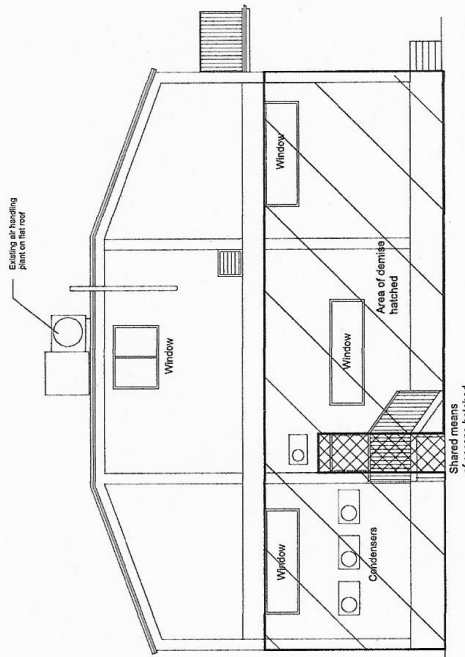
Land at: Rear of 115-119 Finchley Road, London NW3 6HY

Reference: APP/X5210/C/18/3206954

This space is intentionally blank, the plans are on the following two pages.



Existing South Elevation



Existing West Elevation

Rev	Date	Notes
Rev A	02/07/17	Additional info added

PLANNING

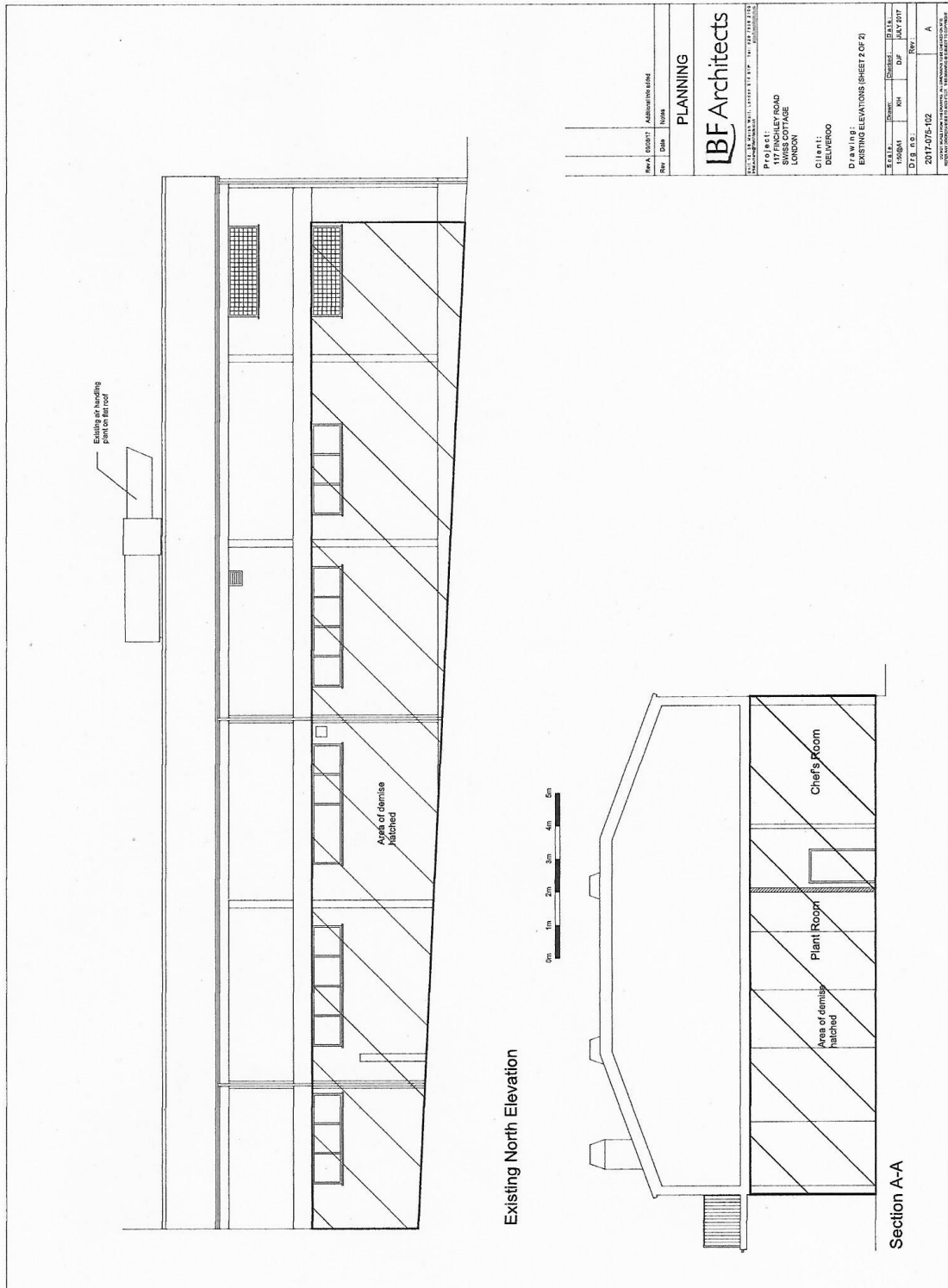
IBF Architects

Project:
177 ROCHESDALE
STATION
LONDON

Client:
GELVENO

Drawn by:
EXISTING ELEVATIONS (SHEET 1 OF 2)

Scale	Drawn	Checked	D.T.S.
1:1000	AKH	EXP	JULY 2017
DWG No.	Rev	Rev	Rev
2017-075-101			A



APPENDIX B

**SR PROOF OF EVIDENCE: PLANT NOISE ASSESSMENT, REFERENCE
1818025, DATED 5TH JULY 2019**

SHARPS REDMORE

ACOUSTIC CONSULTANTS ▪ Established 1990



Proof of Evidence

**Deliveroo Editions, Finchley
Road, Swiss Cottage**

PINS ref:
APP/X5210/C/18/3206954

Council ref: EN17/1005

Assessment of noise from
fixed plant equipment

Prepared by
K J Metcalfe BSc (Hons). MIOA

Date 5th July 2019
Project No: 1818025

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RD Sullivan BA(Hons). PhD. CEng. MIOA. MAAS. MASA;

DE Barke MSc. MIOA;

KJ Metcalfe BSc(Hons). MIOA

Company Consultant

TL Redmore BEng. MSc. PhD. MIOA



Contents

- 1.0 Qualifications and experience
- 2.0 Introduction
- 3.0 Planning Policy and assessment methodology and criteria
- 4.0 Environmental noise survey details
- 5.0 Fixed plant noise assessment
- 6.0 Assessment summary and conclusions

Appendices

- A. Noise Solutions Limited – plant noise assessment dated 4th August 2017
- B. Officers delegated report (application 2017/4737/P)
- C. Manufacturers plant noise source levels
- D. Site location plan and topographical drawings
- E. Baseline noise survey results
- F. Reduced fan speed noise reductions
- G. Kitchen extract fan breakout source noise level calculations
- H. NoysPlot plant noise predictions
- I. Acoustic terminology

1.0 Qualifications and Experience

- 1.1 My name is Keith James Metcalfe, I am a Director and acoustic consultant with Sharps Redmore, a specialist acoustic consultancy based in Ipswich.
- 1.2 I hold a Bachelor of Science (Honours) degree in Environmental Studies and the Institute of Acoustics (IOA) Diploma in Acoustics and Noise Control. I am a Member of the Institute of Acoustics.
- 1.3 I have been employed in my current position since March 2004. Prior to this he worked as an acoustic consultant with Arup Acoustics. I have over 23 years' experience in acoustic consultancy.
- 1.4 I specialise in environmental noise and have undertaken assessments of proposals for industrial, distribution, residential and retail projects. I have presented evidence at planning inquiries, informal hearings and for written representation appeals.
- 1.5 Since joining Sharps Redmore in 2004, my main focus has been assessing noise associated with retail operations; I have personal experience of working on in excess of 500 retail projects. The noise characteristics associated with retail ventilation and refrigeration equipment are very similar to those associated with Deliveroo operations at this site.
- 1.6 The evidence which I have prepared and provide for this appeal reference APP/X5210/C/18/3206954 in this proof of evidence is true and has been prepared and is given in accordance with the guidance of The Institute of Acoustics and I confirm that the opinions expressed are my true and professional opinions.

2.0 Introduction

- 2.1 Sharps Redmore (SR) has been instructed to undertake a noise assessment of fixed plant equipment associated with the Deliveroo Editions site at Finchley Road, Swiss Cottage.
- 2.2 This noise assessment work is intended to provide evidence for an appeal (reference APP/X5210/C/18/3206954) against a planning enforcement notice served by the London Borough of Camden (LBC) on 1st June 2018 (reference EN17/1005) which has been followed by a further enforcement notice served on 23rd April 2019 (reference EN19/0359). Two of the reasons given for the service of enforcement action (the reasons identified in both enforcement notices are identical) relate to noise. They are:

“The high volume of vehicle deliveries serving the Property results in a significant noise nuisance and a harmful loss of amenity to adjacent occupiers contrary to Policy A1 of the Camden Local Plan 2017”

And

“A suitably comprehensive acoustic survey and a risk-based odour control and impact assessment demonstrating that all plant equipment, when operating at full capacity, would be capable of doing so without causing harm to local amenity has not been provided. As a result, the plant and equipment that have been installed at the Property are contrary to Policies A1 and A4 of the Camden Local Plan 2017”

- 2.3 This proof of evidence seeks to address noise associated with the second reason, above, relating to noise from fixed plant equipment. The evidence of my colleague Clive Bentley, is presented in a separate proof of evidence, which seeks to address the first reason for refusal relating to deliveries serving the site.
- 2.4 The Deliveroo Editions site has been operating since November 2017; comprising of nine kitchen ‘pods’ with associated ventilation and refrigeration plant equipment.
- 2.5 A retrospective planning application was made for the Deliveroo plant equipment, which was accompanied by a plant noise assessment report prepared by Noise Solutions Limited (NSL) dated 4th August 2017 (see Appendix A). This assessment was reviewed by Camden Council’s Environmental Health Officer (EHO) who made a number of comments in relation to the NSL report, as outlined in the Delegated Report (application 2017/4737/P – see Appendix B to this report).
- 2.6 With regard to the NSL assessment of plant noise the EHO made a number of observations. The first was to be critical of the duration of the baseline noise survey, which was undertaken over a 22 hour period. Concerns were expressed that the survey should have been carried out over a period sufficiently long to establish any variation in background noise level between weekday and weekend days. A second concern was raised that the NSL noise survey was dominated by plant room noise from the adjacent premises to the Deliveroo site and that this could vary at receptors closer to the Deliveroo unit. A third concern was also made that the noise assessment should consider noise from existing (non Deliveroo) plant equipment installed at roof level of the Deliveroo unit without planning permission.
- 2.7 The concerns detailed above have since been discussed with Mr Camilo Castro-Llach, Noise Officer at Camden Council. To address the first two concerns, it was agreed that a further baseline noise survey should be carried out; this is detailed in this assessment. With regard

to the third concern raised in the delegated report, this has been discussed and agreed that it is not one that Deliveroo should be addressing as part of an assessment of Deliveroo plant noise, rather one for planning enforcement to address, should concerns continue.

- 2.8 It is noted that the 2017 NSL plant noise assessment report only considered noise associated with the kitchen ventilation supply and extract systems. This updated assessment considers noise from both Deliveroo kitchen ventilation plant equipment, and that from the installed refrigeration equipment. Predicted Deliveroo plant noise levels are considered (section 5) in relation to agreed plant noise limits determined following a new background noise survey (section 4).
- 2.9 The closest residential properties to the proposed Deliveroo plant are in Dobson Close to the south and west.
- 2.10 This assessment is based on plant equipment information supplied by Chapman Ventilation Limited, Airedale Group, Leech Group Services and Deliveroo. The plant noise source level information used in this assessment is presented in Appendix C. A full topographical survey of the site has been carried out by Retail Design Solutions, with other technical drawings provided by LBF Architects (reproduced at Appendix D).
- 2.11 Section 3 of this report contains a review of the relevant planning policy and guidance.
- 2.12 Section 4 of this report sets out the findings of an environmental noise survey and section 5 presents an assessment of noise from the Deliveroo fixed plant equipment.
- 2.13 The assessment summary and conclusions are contained in section 6 of this report.
- 2.14 A guide to the acoustic terminology used in this report is shown in Appendix I.

3.0 Planning Policy and assessment methodology and criteria

National Planning Policy, Guidance and Standards

- 3.1 The National Planning Policy Framework (NPPF), February 2019, sets out the Government's planning policies for England and "these policies articulate the Government's vision of sustainable development." In respect of noise, Paragraph 180 of the NPPF states the following:

"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. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation".*

- 3.2 The NPPF reinforces the March 2010 DEFRA publication, "Noise Policy Statement for England" (NPSE), which states three policy aims, as follows:

"Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life."*

- 3.3 Together, the first two aims require that no significant adverse impact should occur and that, where a noise level which falls between a level which represents the lowest observable adverse effect and a level which represents a significant observed adverse effect, then according to the explanatory notes in the statement:

"... all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life whilst also taking into consideration the guiding principles of sustainable development. This does not mean that such effects cannot occur."

- 3.4 Taking an overview of national policy aims and guidance it is clear that when considering the impact of noise, the fact noise can be heard and causes impact, is not a reason to refuse an application as consideration should also be given to the significance of the impact and the mitigation measures available.

- 3.5 It is normal and good practice to apply objective standards to the assessment of noise and the effect produced by the introduction of a certain noise source may be determined by several methods, as follows:

- i) The effect may be determined by reference to guideline noise values, such as those contained in the World Health Organisation (WHO) *“Guidelines for Community Noise”*.
- ii) Alternatively, the impact may be determined by considering the change in noise level that would result from the proposal, in an appropriate noise index for the characteristic of the noise in question. There are various criteria linking change in noise level to effect. This is the method that is suited to, for example, the assessment of noise from road traffic because it is capable of displaying impact to all properties adjacent to a road link irrespective of their distance from the road.
- iii) Another method is described within BS 4142:2014 which focuses on determining the significance of sound impact from sources of industrial and/or commercial nature. The sources that the newly revised standard is intended to assess are sound from industrial and manufacturing processes, sound from fixed plant installations, sound from loading and unloading of goods at industrial and/or commercial premises and the sound from mobile plant and vehicles, such as forklift, train or ship movements.

3.6 The assessment of fixed plant noise is principally undertaken in accordance with the methodology in BS 4142:2014. The scope of this standard states that it is suitable for the assessment of:

- “a) sound from industrial and manufacturing processes;*
- b) sound from fixed installations which comprise mechanical and electrical plant and equipment;*
- c) sound from the loading and unloading of goods and materials at industrial and/or commercial premises; and*
- d) sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes, such as that from forklift trucks, or that from train or ship movements on or around an industrial and/or commercial site.”*

3.7 The significance of sound impact is to be determined according, in summary, to the following process:

- i) Determine the typical background sound levels, in terms of the index L_{A90} , at the receptor locations of interest.
- ii) Determine the specific sound level of the source being assessed, in terms of its L_{AeqT} level ($T = 1$ hour for day or 15 minutes for night), at the receptor location of interest.
- iii) Apply a rating level acoustic feature correction if the source sound has tonal, impulsive, intermittent, or other characteristics which attract attention.
- iv) Compare the rating sound level with the background sound level; the greater the difference between the two, the higher the likelihood of adverse impact.
- v) A difference (rating – background) of around +10 dB is an indication of significant adverse impact, depending on the context; a difference of +5 dB is an indication of an adverse impact, depending on the context. Where the rating level does not

exceed the background sound level, this is an indication of the specific sound source having a low impact, depending upon context.

- 3.8 BS 4142:2014 introduces the concept of 'context' to the process of identifying noise impact. Section 11 of BS 4142:2014 explains *"The significance of sound of an industrial and/or commercial nature depends upon both the margin by which the rating level of the specific sound source exceeds the background sound level and the context in which the sound occurs (our emphasis). An effective assessment cannot be conducted without an understanding of the reason(s) for the assessment and the context in which the sound occurs/will occur. When making assessments and arriving at decisions, therefore, it is essential to place the sound in context" (our emphasis).*
- 3.9 There are many context points to consider when undertaking an assessment of sound impact including:
- The absolute level of sound;
 - The character and level of the specific sound in the context of the existing noise climate; for example is the sound to occur in a location already characterised by similar activities as those proposed?
 - The sensitivity of the receptors;
 - The time and duration that the specific sound is to occur;
 - The conclusions of assessments undertaken using alternative assessment methods, for example WHO guidelines noise values or change in noise level;
- 3.10 It is therefore entirely possible that whilst the numerical outcome of a BS 4142:2014 assessment is indicative of adverse or significant adverse impact, when the proposal is considered in context the significance of the impact is reduced to an acceptable level.

Local Planning Policy, Guidance and criteria

- 3.11 Policy 7.15 of the adopted London Plan (2016) states that planning proposals should:
- "... seek to manage noise by:*
- a. avoiding significant adverse noise impacts on health and quality of life as a result of new development;*
 - b. mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens on existing businesses;*
 - c. improving and enhancing the acoustic environment and promoting appropriate soundscapes (including Quiet Areas and spaces of relative tranquillity);*
 - d. separating new noise sensitive development from major noise sources (such as road, rail, air transport and some types of industrial development) through the use of distance, screening or internal layout – in preference to sole reliance on sound insulation;*
 - e. where it is not possible to achieve separation of noise sensitive development and noise sources, without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through the application of good acoustic design principles;*
 - f. having particular regard to the impact of aviation noise on noise sensitive development;*

- g. *promoting new technologies and improved practices to reduce noise at source, and on the transmission path from source to receiver."*

3.12 The Mayor of London's draft New London Plan (2018) contains Policy D13, which with its suggested minor modifications, has the following relevant policy requirements:

"In order to reduce, manage and mitigate noise to improve health and quality of life, residential and other non-aviation development proposals should manage noise by:

- *avoiding significant adverse noise impacts on health and quality of life ...*
- *mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise generating uses ..."*

3.13 The Camden Local Plan (2017) contains Policy A4 which sets out policy for noise and vibration. This states:

"The Council will seek to ensure that noise and vibration is controlled and managed.

Development should have regard to Camden's Noise and Vibration Thresholds (Appendix 3). We will not grant planning permission for:

- a. *development likely to generate unacceptable noise and vibration impacts; or*
- b. *development sensitive to noise in locations which experience high levels of noise, unless appropriate attenuation measures can be provided and will not harm the continued operation of existing uses.*

We will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity.

We will also seek to minimise the impact on local amenity from deliveries and from the demolition and construction phases of development."

3.14 Appendix 3 of the Camden Local Plan 2017 contains noise thresholds for Industrial and Commercial Noise Sources.

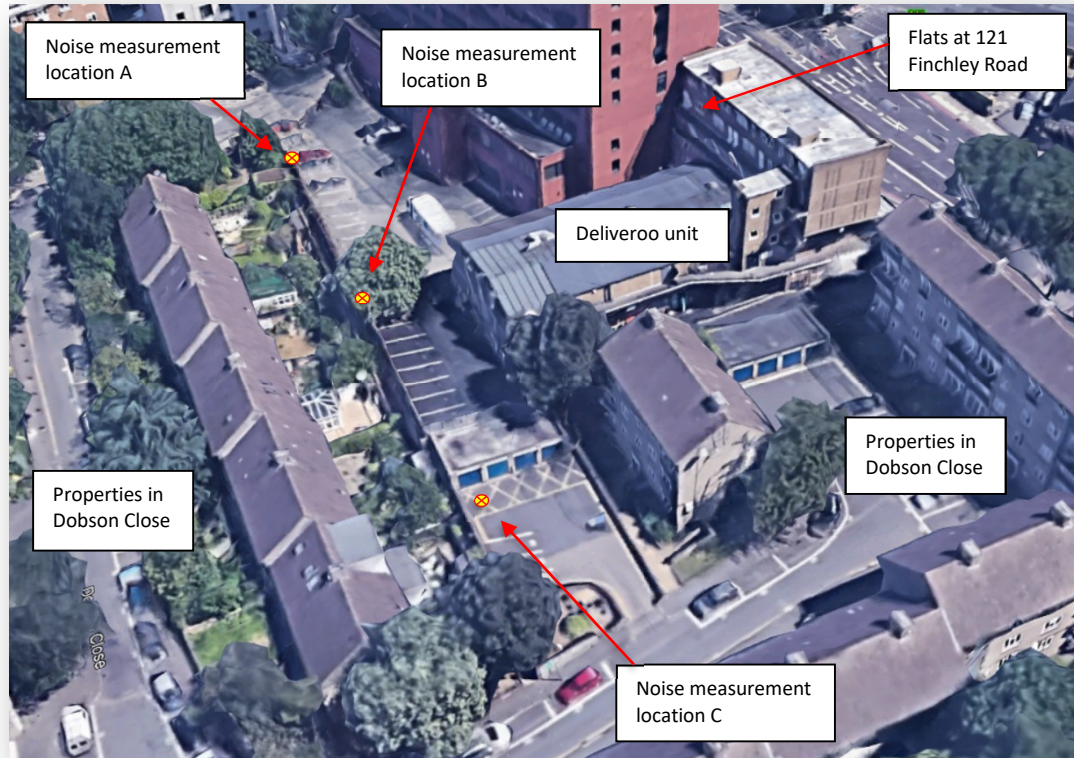
"A relevant standard or guidance document should be referenced when determining values for LOAEL and SOAEL for non-anonymous noise. Where appropriate and within the scope of the document it is expected that British Standard 4142:2014 'Methods for rating and assessing industrial and commercial sound' (BS 4142) will be used. For such cases a 'Rating Level' of 10 dB below background (15dB if tonal components are present) should be considered as the design criterion)."

3.15 The above thresholds have been discussed with Mr Camilo Castro-Llach. It is agreed that the design objective should be that noise from the Deliveroo fixed plant equipment does not exceed a level 10 dB below the existing typical daytime and night time background noise levels at the closest residential properties in Dobson Close.

4.0 Environmental noise survey details

- 4.1 An unattended baseline noise survey was undertaken between Thursday 21st March and Monday 25th March 2019, at two measurement locations to the rear of the properties in Dobson Close, at the back of the Deliveroo unit (noise measurement locations A and B as shown on the map at Figure 1 below). A short attended survey undertaken on Tuesday 23rd April 2019 in the car park to the rear of the flats at 11 to 16 Dobson Close (noise measurement location C as shown on the map in Figure 1 below).

FIGURE 1: Noise measurement locations



- 4.2 The unattended baseline noise measurements (locations A and B) were carried using Cirrus Optimus sound level meters, with the attended short term survey (location C) carried out using a Norsonic 118 sound level meter. All sound level meters were calibrated at the start and end of the measurements and no variations in level observed.
- 4.3 Both sound level meter microphones were positioned approximately 1.5 to 2 metres above the ground in free field conditions.
- 4.4 The weather conditions during the survey(s) were dry are not considered to have affected the noise measurements. The following weather conditions occurred during the survey as reported by the BBC weather forecast.

TABLE 1: Noise survey weather conditions

Date	Weather conditions
Thurs 21.3.19	Mostly cloudy, 11-14°C, light south westerly wind
Fri 22.3.19	Mostly cloudy, 9-15°C, light south westerly wind
Sat 23.3.19	Mostly cloudy, 7-12°C, light northerly wind
Sun 24.3.19	Partly cloudy, 4-12°C, light north to north westerly wind

Mon 25.3.19	Partly cloudy, 4-13°C, light westerly wind
Tues 23.4.19	Partly cloudy, 20°C, light easterly wind

- 4.5 Measurement location A was selected to seek to replicate the noise survey undertaken by NSL in their baseline noise survey. At this location, the noise climate was found to be dominated by noise from the office block plant room. The measured background noise levels correlated well to those measured by NSL to be typically 52 dB L_{A90} both daytime and night time (see Appendix E for full survey results and a summary of the noise climate at location A at Figure 2).
- 4.6 Measurement location B was located in the north west corner of the Deliveroo rear yard area, at the boundary with the rear gardens of the houses in Dobson Close. Whilst it was anticipated that the noise at this location would be dominated by noise from Deliveroo plant, the measured background noise levels were lower than those at location A. Noise at this location was affected by local road traffic sources, and intermittent Deliveroo plant noise. Typically the background noise climate at this location was found to be 50 dB L_{A90} daytime and 45 dB L_{A90} at night (see Appendix E for full survey results and a summary of the noise climate at location A at Figure 3).
- 4.7 Noise measurement location C was a short term attended location within the car park to the rear of the flats at 11 to 16 Dobson Close. The measured background noise levels in this location were between 46 to 48 dB L_{A90} , albeit they represent 15 minute samples over a relatively short period of time (see Appendix E for full survey results).
- 4.8 It has been agreed with Mr Camilo Castro-Llach that the noise levels measured at location B of 50 dB L_{A90} daytime and 45 dB L_{A90} night time are considered to be representative of the typical background noise climate at the properties in Dobson Close, and shall be used as the basis for setting plant noise limits.

FIGURE 2: Summary of measured noise levels measurement location A, to the rear of 1 Dobson Close

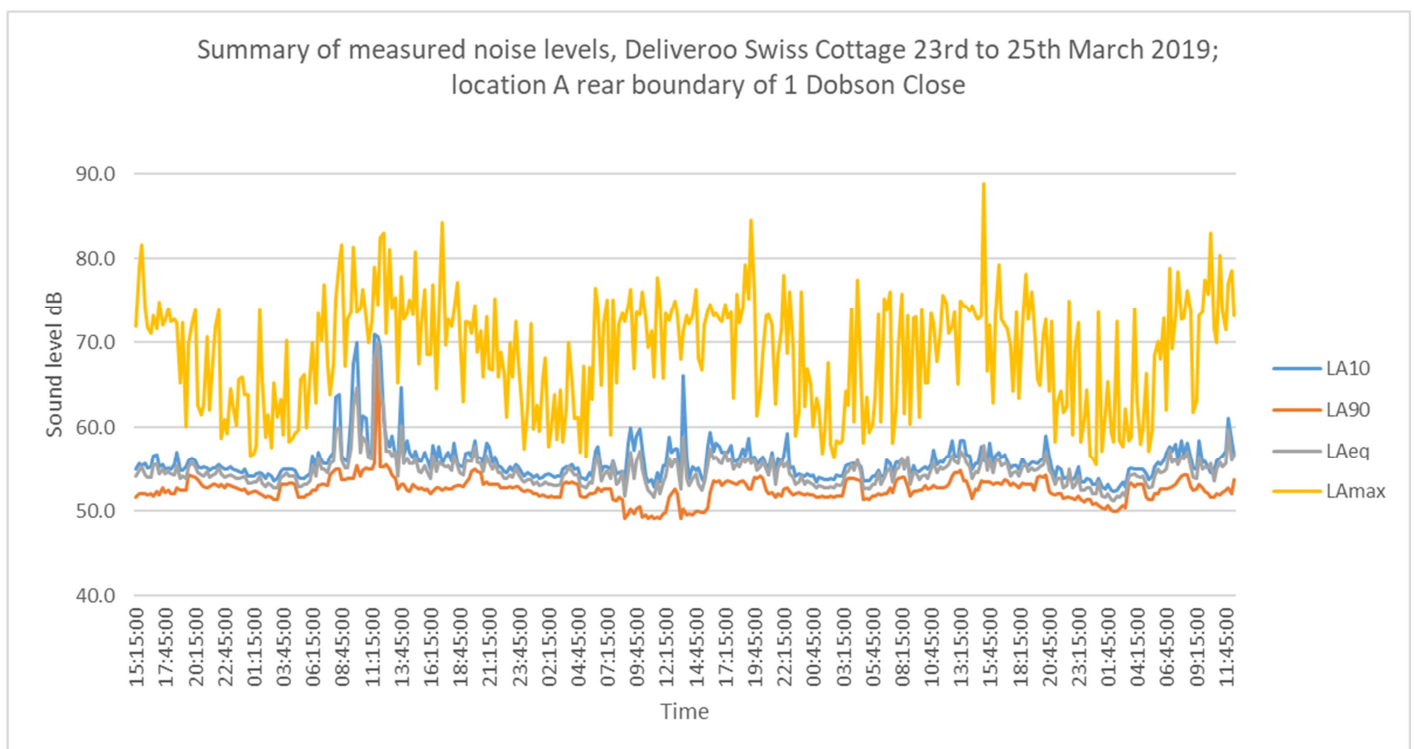
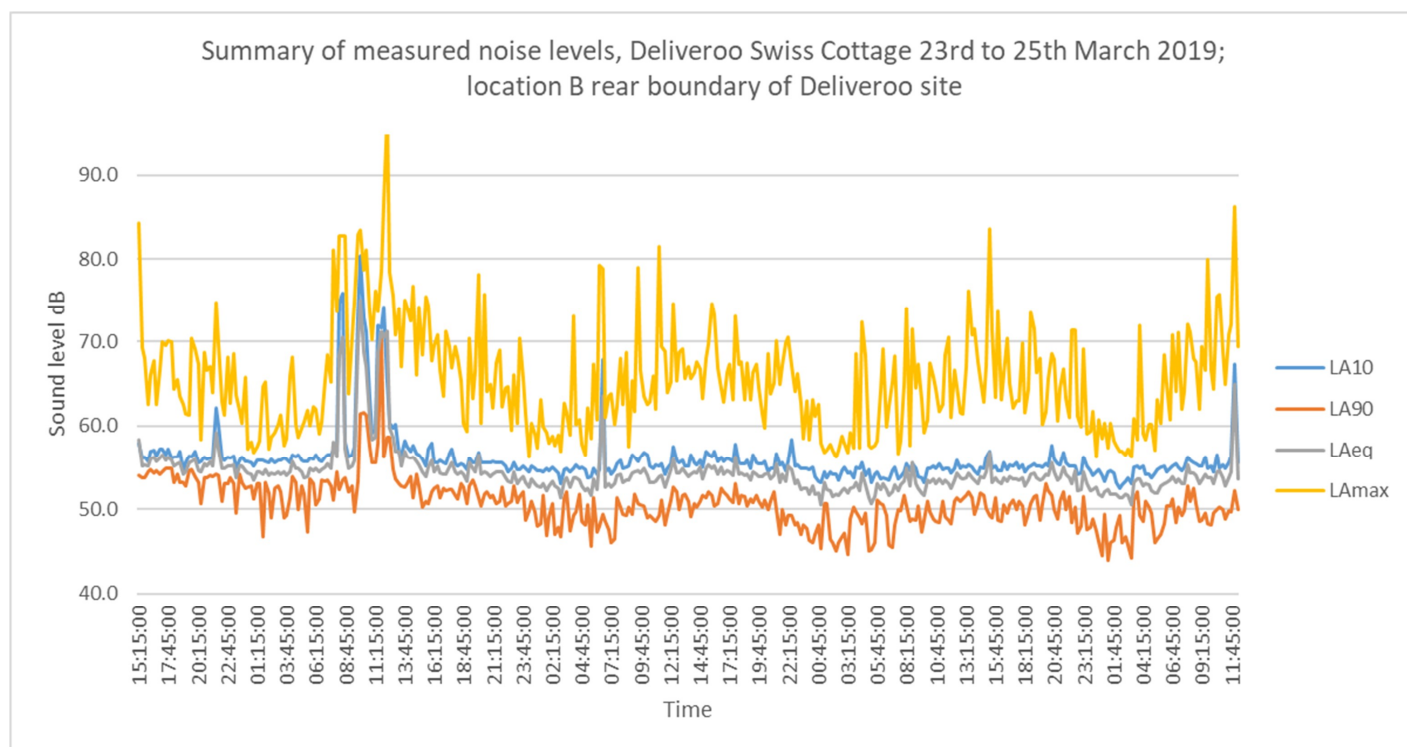


FIGURE 3: Summary of measured noise levels measurement location A, to the rear of 5 Dobson Close (boundary with Deliveroo unit)



5.0 Fixed plant noise assessment

- 5.1 It is standard practice that the objective assessment of plant sound sources in commercial premises is undertaken in accordance with British Standard 4142:2014. This Standard enables the resultant sound levels from new plant equipment to be compared against the existing typical background sound level (L_{A90}) of an area to establish the significance of the sound impact.
- 5.2 The agreed typical measured background sound levels were 50 dB L_{A90} during the daytime and 45 dB L_{A90} at night to the rear of 5 Dobson Close.
- 5.3 In terms of seeking to set appropriate plant rating sound limits, the advice in BS 4142:2014 is that *“The lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Where the rating level does not exceed the background sound level, this is an indication of the specific sound source of having a low impact, depending on the context”* (clause 11, note ‘d’).
- 5.4 However, as discussed at paragraph 3.14 the plant noise limit required by Camden Council (CC) are more stringent than those suggested by BS 4142. CC policy is for plant rating noise level to not exceed a level 10 dB below the background noise climate. The following plant noise limits have been adopted.

TABLE 2: Adopted plant noise limits

Time period	Plant rating noise level limits dB
Daytime (0700 to 2300 hours)	40 (50-10)
Night time (2300 to 0700 hours)	35 (45-10)

- 5.5 Previous noise modelling has established that the original Deliveroo plant equipment scheme had been operating at noise levels above local authority threshold limits. Deliveroo has recently instigated number of operational changes aimed at improving the way the site operates. This has involved removal of an external refrigeration condenser unit, with reliance on an internal freezer storage solution, and the installation of atmospheric side attenuators to two previously unattenuated extract fan systems (which has no effect on the external appearance of the Deliveroo unit).
- 5.6 This assessment objectively demonstrates that the Deliveroo ventilation and refrigeration plant equipment operates in accordance with the noise limits agreed with the local authority.

- 5.7 The following table summarises the mechanical services plant equipment source noise levels.

TABLE 3: Plant schedule source noise levels

Description	Octave band (Hz) sound power levels dB L _w							
	63	125	250	500	1K	2K	4K	8K
Kitchen extract fans EF1 & EF2*	79	73	84	80	80	75	73	70
Kitchen extract fans EF3*	80	74	85	81	81	76	74	71
Kitchen extract EF1 & EF2 duct breakout**	69	58	63	48	41	30	26	29
Kitchen extract EF3 duct breakout**	70	59	64	49	42	31	27	30
Kitchen supply fan SF1*	76	82	80	77	72	69	66	64
Kitchen supply fan SF2*	77	83	81	78	73	70	67	65
Kitchen supply fan SF3*	80	96	84	81	76	73	70	68
Chefs room extract fan EF4	49 dBA at 10 metres							
Rider room extract fan EF5	49 dBA at 10 metres							
Toshiba AC unit (x3)	47 dBA measured at 1 metre (each unit)							
Optyma condenser unit fridge room	38 dBA at 10 metres							

Notes:

*Fan noise levels corrected for fan speed (see Appendix F);

**Kitchen extract fan duct breakout source noise level calculations see Appendix G.

- 5.8 The extract and supply systems have been fitted with atmospheric side attenuators with the following insertion loss performance.

TABLE 4: As installed insertion loss performance

Equipment name/reference	Insertion loss – Mid frequency octave bands (Hz)							
	63	125	250	500	1K	2K	4K	8K
Kitchen extract fans EF1, EF2 & EF3	4	6	9	17	22	20	16	10
Kitchen supply fan SF1 & SF3	5	7	11	19	25	22	18	12
Kitchen supply fan SF2	6	13	26	36	40	36	30	21
Extract fans EF4 and EF5	2	5	8	12	14	16	15	10

- 5.9 All of the plant equipment operates during the daytime; with only the Optyma condenser unit (for the chilled room) operating throughout the day and night time. The ventilation equipment only operates during the daytime when the kitchens are in use, and the Toshiba AC units are on timer switches to ensure daytime only use.

Noise modelling

- 5.10 SR uses an environmental noise modelling software package called 'NoysPlot'. This software enables coordinates to be entered for the relative positions of noise sources, receivers and barriers to calculate a resultant noise level at a given noise receptor. The software carries out 'text book' atmospheric side calculations with regard to distance and screening attenuation by referencing relative source and receiver positions.
- 5.11 The schedule of source noise data produced by the noise model is presented in Appendix H1.
- 5.12 The height coordinates ('z') used in the 'NoysPlot' model have been taken from the Retail Design Solutions topographical survey drawings and from site observations. The horizontal coordinates are referenced from an arbitrary 'x', 'y' position on a grid system.
- 5.13 NoysPlot uses operating time information to calculate noise levels for daytime and night time operation. The time period that the equipment is assumed to be operating is denoted by 'D' to indicate daytime only operation; 'N' to denote night time usage and 'A' to indicate that the equipment runs all the time. As explained, all of the plant equipment operates during the daytime; with only the Optyma condenser unit (for the chilled room) operating throughout the day and night time. In the context of the existing noise climate none of the ventilation or refrigeration equipment is considered to attract a BS 4142 rating level correction for noticeable acoustic characteristic.
- 5.14 NoysPlot has the capability to accept input noise data in a number of formats. Where available, the ventilation plant manufacturer's sound power level data (designated by the letter W in the L_p/L_w column of the input schedule) is used. Where the sound power level data is not available the manufacturer's un-weighted octave band sound pressure levels at a stated distance are used (designated P but with an N in the dBA column of the schedule to indicate un-weighted). Alternatively, measured or manufacturer's A-weighted, single figure, averaged level at the stated distance is used (designated 'P' with 'Y' in the dBA column of the schedule). For this assessment, single figure A-weighted noise level data and octave band sound power levels have been used.
- 5.15 The surface directivity is also assessed for all cases – this depends on the number of adjacent reflective surfaces – the number can be seen in the column headed Q in the input schedule.
- 5.16 Summaries of the atmospheric noise calculations for daytime and night time are displayed in Appendices H3 and H4. Calculations for each source to receiver can be made available upon request. These calculations take into account the attenuation afforded by distance, outlet reflection, angular and surface directivity and acoustic screening. The software maintains a logarithmic summation for each receiver position and ranks the individual noise sources in order of contribution to the overall noise level (highest at the top of the list). This assists with the identification of those noise sources requiring additional noise control.
- 5.17 The input data defining the locations of the noise sources, the receivers and screening are shown in Appendix H2. The NoysPlot noise model principally considers two noise barrier types; the barrier descriptor 'R' is used in the schedule to denote a ring type whereby only noise transmitted over the top of the barrier is considered; whilst noise barriers denoted

'F' for finite consider noise transmitted over the top and around the ends of the barrier. The Deliveroo building has been modelled as a ring barrier.

- 5.18 The NoysPlot calculations (see Appendices H3 and H4) show the following resultant plant noise levels:

TABLE 5: Predicted plant rating noise levels

Noise sensitive receptor	Predicted plant rating noise level dB(A)	
	Daytime	Night time
7 Dobson Close	35	32
3 Dobson Close	36	28
1 Dobson Close	35	26
5 Dobson Close	36	31
11 to 16 Dobson Close (ground floor)	37	25
11 to 16 Dobson Close (1st floor)	37	25
11 to 16 Dobson Close (2nd floor)	37	25
17 to 24 Dobson Close	32	10
121 Finchley Road above shops	37	8

- 5.19 The predicted rating noise levels show compliance with the local authority criteria for plant rating noise levels not to exceed 40 dB daytime and 35 dB at night. BS 4142 describes this situation, where plant rating noise levels do not exceed the background sound level, as being indicative of low impact, depending upon context. The above predicted rating levels are 10 dB or more below the background noise climate.

6.0 Assessment summary and conclusions

- 6.1 This proof of evidence considers noise associated with the fixed plant equipment at the Deliveroo Editions site at Finchley Road, Swiss Cottage.
- 6.2 The plant noise assessment at section 5 of this proof of evidence demonstrates that the predicted rating noise levels from the operation of the Deliveroo fixed plant equipment comply with Camden Council's requirement for plant rating noise levels to be 10 dB below the existing background noise climate.
- 6.3 The principal noise reduction measures at this site are the use of atmospheric side attenuators to the extract and supply fan systems, and the selection of intrinsically quiet refrigeration plant equipment.
- 6.4 This assessment objectively demonstrates that the predicted rating noise levels meet the local authority noise level requirements, and in doing so would comply with the requirements of the NPPF to avoid significant adverse impact.

APPENDIX A

**NOISE SOLUTIONS LIMITED – PLANT NOISE ASSESSMENT DATED 4TH
AUGUST 2017**