

<b>Committee:</b> Development	<b>Date:</b> 4 <sup>th</sup> March 2010	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Nasser Farooq		<b>Ref No:</b> PA/09/02660	
		<b>Ward(s):</b> Whitechapel	

## 1. APPLICATION DETAILS

- Location:** 83-89 Fieldgate Street, London, E1 1JU.
- Existing Use:** Restaurant at ground floor, ancillary uses at basement and upper floors.
- Proposal:** Proposed conversion of part basement floor (currently used as storage area) and first floor (currently used as residential) into seating area for the existing restaurant located on the ground floor. Proposal includes alterations to existing shopfront.
- Drawing Nos:**
- Drawings: KOM/089-21, KOM/089-22 and KOM/089-23
  - Service Management Plan (rev 004) dated December 2009
  - Design and Access Statement
  - Impact Assessment Statement
- Applicant:** Mr Mohammad Tayyab
- Owner:** The Applicant
- Historic Building:** n/a
- Conservation Area:** Myrdle Street Conservation Area.

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

- 2.1 The local planning authority has considered the particular circumstances of the case against the Council's approved planning policies contained in the Tower Hamlets Unitary Development Plan 1998, the Council's Interim Planning Guidance 2007, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that:
- 2.2 Subject to conditions, the impact of the conversion of the basement and first floor into additional seating for the existing restaurant is unlikely to result in an increase in noise and disturbance from pedestrian activity to residential occupiers in the area. As such, the proposal conforms to saved Policies DEV2, DEV50, S7 and HSG15 in the Unitary Development Plan 1998 and Policies DEV1, DEV10 and RT5 of the Interim Planning Guidance (2007): Core Strategy and Development Control which seek to protect the amenity of nearby residential occupiers.
- 2.3 The alteration to the shopfront involving the relocation of an existing door is acceptable in terms of design, and the use of timber is acceptable in terms of materials. As such, the proposal conforms to saved Policy DEV1 and DEV 27 of the Unitary Development Plan as well Policies DEV2 and CON 2 of the Council's Interim Guidance (2007). These policies seek to ensure development proposals preserve the Myrdle Street Conservation Area.
- 2.4 Subject to conditions transport matters, including parking, access and servicing, are acceptable and in line with London Plan 2008 (Consolidated with Alterations since 2004) policies 3C.1 and 3C.23, policy T16 of the Council's Unitary Development Plan 1998 and policies DEV18 and DEV19 of the Council's Interim Planning Guidance (2007), which

seek to ensure developments minimise parking and promote sustainable transport options.

### **RECOMMENDATION**

3. That the Committee resolve to **GRANT** planning permission subject to:
  - 3.1 That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

#### **Conditions**

1. Permission valid for 3 years.
2. Full implementation of the service management plan
3. Retention of the waiting areas
4. Removal of the redundant extract ducts
5. Condition restricting hours of operation
6. In accordance with the approved drawings.
7. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal

#### **Informatives**

1. Any other informative(s) considered necessary by the Corporate Director Development & Renewal

### **4. PROPOSAL AND LOCATION DETAILS**

#### **Proposal**

- 4.1 This application involves the conversion of part of the basement floor and first floor to provide additional seating for the restaurant located on the ground floor. The existing internal floorspace of the restaurant is 391sq.m. The additional floorspace proposed is 260 sq.m.
- 4.2 The basement is a storage area for the restaurant, with the first floor providing ancillary residential accommodation for the commercial use. Residential accommodation will be retained on the second floor.
- 4.3 The application involves internal alterations, including the provision of a new emergency staircase. There are no external alterations proposed, other than the provision of a rear metal staircase and alterations to part of the shopfront to provide an additional door.

#### **Site and Surroundings**

- 4.4 The application property is a three storey building located on the northern side of Fieldgate Street.
- 4.5 Fieldgate Street and the surrounding area is predominately residential. To the west and to the north, adjacent to the site, is the residential building Tower House. To the east along Fieldgate Street towards New Road are shops on the ground floor with residential uses above. East London Mosque is located west and Whitechapel Road to the north

## Planning History

4.6 The following planning decisions are relevant to the application:

PA/08/01848 Installation of roof mounted ventilation plant for kitchen extract ventilation – granted planning permission on 30 October 2008.

PA/09/00291 Proposed conversion of part basement floor (currently used as storage area) and first floor (currently used as residential) into seating area for the existing restaurant on the ground floor – withdrawn on 14 April 2009

PA/09/01407 Proposed conversion of part basement floor (currently used as storage area) and first floor (currently used as residential) into seating area for the existing restaurant on the ground floor- refused by the Development Control Committee (decision issued on 1/10/2008)

During the development control committee (30<sup>th</sup> September 2009) it was discussed whether there are any solutions to the current predicament facing local residents. This application seeks to overcome the previous reason for refusal (for PA/09/01407) following advice from the Councils Planning and Environmental Health Officers.

PA/09/02742 Advertisement consent is sought for the display of three illuminated fascia signs (this is a current application and no recommendation/decision has been made to date)

## 5. POLICY FRAMEWORK

5.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

### Unitary Development Plan 1998 (as saved September 2007)

Policies:	DEV1	Design Requirements
	DEV2	Amenity
	HSG15	Development Affecting Residential Amenity
	DEV50	Noise
	DEV55	Development and Waste Disposal
	S7	Special Uses
	T16	Traffic

### Interim Planning Guidance for the purposes of Development Control

Policies:	DEV1	Amenity
	DEV2	Design Requirements
	DEV4	Safety and Security
	DEV10	Disturbance from Noise Pollution
	DEV15	Waste Storage
	DEV16	Walking and Cycling Routes and Facilities
	DEV19	Parking for Motor Vehicles
	RT2	Secondary Shopping Frontages
	RT5	Evening and Night-Time Economy
	CON2	Conservation Areas

**Community Plan** The following Community Plan objectives relate to the application:  
A better place for living safely

A better place for living well  
A better place for creating and sharing prosperity

## 6. CONSULTATION RESPONSE

6.1 The views of officers within the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

6.2 The following were consulted regarding the application:

### **LBTH Environmental Health Department**

- 6.3
- The Design/Access statement and the Impact statements submitted as part of the planning application have been reviewed.
  - The design drawing no: KOM/089/21 dated November, 2009 includes an adequate dedicated internal waiting area to ensure that the public do not congest the public highway so as to mitigate any community noise.
  - Environmental Health have no further concerns in terms of noise nuisance.

### **LBTH Highways Department**

6.4 Highways have referred the case officer to their previous comments on application PA/09/1407. These are listed as follows:

- Servicing Management Plan includes a number of important commitments e.g. marketing sustainable transport to customers, provision of an internal waiting area, dedicated procedures for deliveries to the restaurant and the permanent removal of the pavement benches;
- The service management plan should be conditioned;
- Request a condition to limit the expansion of numbers of tables and chairs to no more than 30%;
- Require no increase in refuse provision.

*(Officer Comment: It is not considered that a condition restricting the number of chairs and tables would be enforceable. Consideration should be given to the increase in floor area as proposed)*

## 7. LOCAL REPRESENTATION

7.1 A total of 214 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The application has also been publicised on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 3            Objecting:3            Supporting:0  
No of petitions received: 1 against containing 128 signatories

7.2 The following issues were raised in representations that are material to the determination

of the application, and they are addressed in the subsequent sections of this report:

7.3 Comments in objection to the application

- The proposed increase in seating area will lead to increased noise and disturbance;
- Increase in vehicular activity & parking;
- Inadequate service management plan
- Ventilation system inadequate;

7.4 The following issues are raised but they are not material to the determination of the application:

- Basement conversion has already taken place.

(Officer comment: The Council's Enforcement Team are investigating this breach)

## 8. MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues raised by the application that the committee must consider are:

1. Land Use
2. Design
3. Amenity
4. Highways

### Land Use

8.2 Policy S7 of the Unitary Development Plan (1998) lists the criteria by which proposals for special uses including restaurants are considered in light of. They are listed as follows:

- The amenity of nearby residents
- On-street parking
- Free flow of traffic
- Adequate measures for the ventilation of food.

These are discussed in the amenity and highway sections of the report.

8.3 The main land use considerations are whether the principle of the change of use of the storage area in the basement and residential accommodation on the first floor to provide additional seating for the restaurant is acceptable.

8.4 The existing storage area in the basement is ancillary to the restaurant use. From the site visit, it was apparent that the basement is not used for food storage. Given the provision of alternative storage areas at ground floor level, the principle of the change of use of this space is acceptable.

8.5 The first and second floors of the property provide ancillary residential accommodation. These units are accessed via the existing restaurant and could not be marketed as separate residential accommodation. Given that the second floor would be retained for residential use in connection with the restaurant, it is not considered that objection to the loss of this ancillary accommodation could be justified.

8.6 The change of use of these areas will provide 260 additional squares metres of restaurant floorspace. In land-use terms the main issue is whether this increase would result in adverse impact on neighbouring residents. This is discussed in the amenity section of the report.

### Design

- 8.7 Policy DEV1 in the Unitary Development Plan (1998) requires development to take into account, and be sensitive to the character of the surrounding area. Policy CON2 in the Interim Planning Guidance (2007) states that proposals within Conservation Areas will only be approved where they preserve or enhance the character of the Conservation Area.
- 8.8 External changes are proposed to the shop front on Fieldgate Street. A new shop front is proposed in the eastern section to enable the relocation of the door. The design and materials proposed would match the existing shop front, and as such the proposed change is considered to preserve the character and appearance of the Myrdle Street Conservation Area.
- 8.9 Externally to the rear a new metal staircase is proposed which will provide an additional means of escape from the first and second floors. This staircase is similar in appearance to the existing staircase located at the east of the building, and is considered acceptable in terms of design.
- 8.10 The redundant extract ducts to the rear are also proposed to be removed. Should planning permission be granted this would be conditioned.
- 8.11 It is considered that the proposed external works preserve the character and appearance of the Myrdle Street conservation area and considered to accord with the requirements of Policy CON2 in the IPG (2007).

### **Amenity**

- 8.12 Policy S7 in the UDP (1998) requires that consideration be given to the amenity of nearby residents when assessing proposals for restaurants. The application site is located in a predominately residential area. Therefore Policy HSG15 in the Unitary Development Plan (1998) is also relevant. This policy states that non-residential development will normally only be granted where it is likely to have no adverse effects upon residential amenity.
- 8.13 The existing restaurant is popular in the area and its success results in large numbers of people queuing outside waiting to be seated, in particular at weekends. This is acknowledged in the supporting information submitted with the application. Queuing outside the restaurant results in noise and disturbance, late into the evening.
- 8.14 The main public transport links are on Whitechapel Road to the north and Commercial Road to the south. The residential streets provide the most direct route for pedestrians. Given the residential nature of this part of Fieldgate Street and the neighbouring streets, consideration needs to be given to the likely impacts of the proposal on these residential occupiers in terms of noise and disturbance as a result of pedestrian activity in the area.
- 8.15 The application proposes the following mitigating measures to reduce the existing disturbance to residents;
- The removal of external seating. The tables outside the restaurant can seat 8 people. The removal of the seating area is supported. However, in isolation this is unlikely to significantly reduce the disturbance to residents.
  - Provision of a dedicated internal lobby where patrons can wait to be seated. The previous application which was presented at the development control committee on 30<sup>TH</sup> September 2009 proposed an internal lobby measuring 16 sq.m and was shown on plans to seat approximately 12 people. It was considered by case officers that this was inadequate in size and capacity to mitigate the increase in

capacity. The current proposal has increased this space to cover the eastern section of the restaurant at ground floor level. The waiting area is proposed to hold 21 people. This includes those waiting for a taxi. An additional waiting area is proposed at first floor level to seat 10 people.

- A dedicated function area to reduce large groups waiting outside. This comprises a dedicated area on the first floor with large tables seating up to 12 people. Officers had previously considered that this style of operation is likely to exacerbate problems associated with large numbers of people arriving and leaving at the same time. Given the proposed waiting area at first floor level it is considered that this would be mitigated.
- In addition to this there is no change proposed in the number of seating within the restaurant. As such, the additional space is proposed to accommodate existing seating and to provide a dedicated waiting area.

8.16 Subject to conditions retaining the waiting area in perpetuity, the removal of the external seating and the implementation of the service management plan it is considered that the proposal will suitably mitigate the impact of the restaurant on local residents.

8.17 Concerns were raised with regard to drinking alcohol on the street and anti-social behaviour outside the application site are a matter for police control. However the removal of the external seating area will assist in this regard.

8.18 As such, for the reasons above, the proposal is considered to comply with policies S7 and HSG15 in the Unitary Development Plan (1998), which seek to protect the amenity of residents.

8.19 The hours proposed are 12pm to Midnight Monday to Sunday. These are the existing opening hours and are not proposed to change.

8.20 Under planning reference PA/08/01848, planning permission was granted for the installation of roof mounted ventilation plant for kitchen extract ventilation. The application was submitted following advice from the Council's Environmental Health department. The kitchen extraction system has now been implemented.

### **Highways**

8.21 The existing servicing of the restaurant is not regulated. The proposed Service Management Plan would manage the deliveries and servicing to ensure that there is minimal impact on the highway network and the residential amenity. LBTH Highways support the proposed strategy.

8.22 The application site is located in a sustainable location, near to public transport links. The measures proposed to promote the use of public transport by patrons are supported

8.23 It is considered that transport matters, including servicing and use of public transport, can be dealt with through the implementation of a Service Management Plan. As such the proposal would meet the requirements of Policy DEV1 and T16 in the UDP (1998), which seek to ensure that developments can be supported within the existing transport infrastructure.

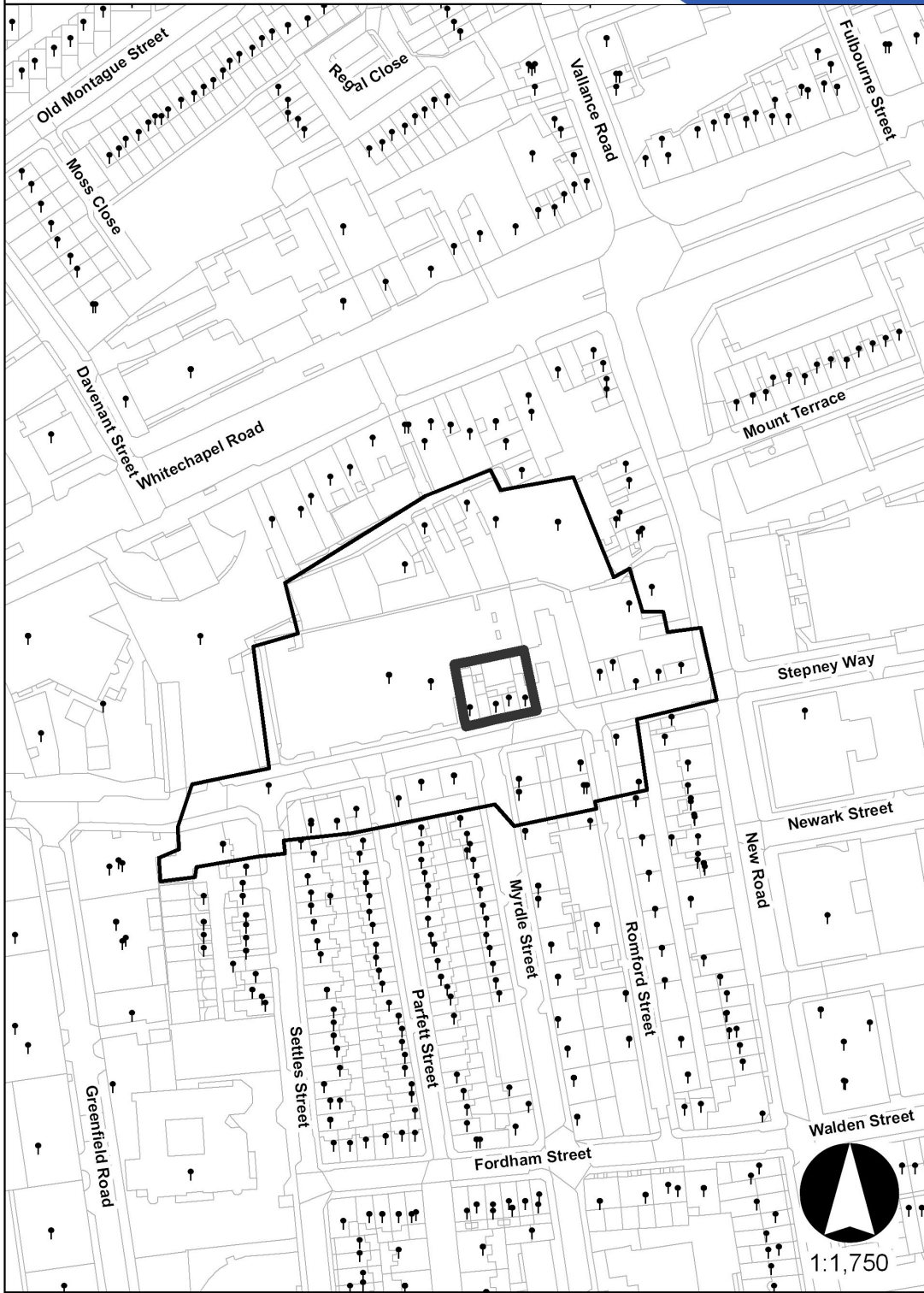
8.24 Refuse can be stored within the curtilage of the site. Full details could be dealt with by condition.

## **Conclusions**

- 9 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.



Planning Application  
Site Map



 Planning Application Site Boundary
  Land Parcel Address
  Consultation Area

0 30 m

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationary Office (c) Crown Copyright. London Borough of Tower Hamlets LA100019288