

Committee: Development	Date: 13 th October 2010	Classification: Unrestricted	Agenda Item Number: 7.1
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Report of: Director of Development and Renewal	Title: Town Planning Application
Case Officer: Nasser Farooq	Ref No: PA/10/00037
	Ward: Weavers (February 2002 onwards)

1. APPLICATION DETAILS

Location: Rochelle School, Arnold Circus, London, E2 7ES
Existing Use:
Proposal: Continued use of Rochelle Canteen (use class A3), independent of the Rochelle Centre with ancillary off-site catering operation.

Drawing Nos/Documents: 1. Un-numbered Site Plan
2. Un-numbered Location Plan
3. 4SK.008
4. Supplementary documents for Rochelle School
5. Design and Access Statement
7. Planning Impact Statement
8. Management Plan

Applicant: Mr Anthony Bennett
Ownership: Mr James Moores
Historic Building: Grade II (the site is comprised of two Grade II listed buildings. The main building is located nearest to Arnold Circus and the second building fronts Club Row, the former school walls are also grade II Listed).
Conservation Area: Boundary Estate

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The Local Planning Authority has considered the particular circumstances of this planning application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan 1998, Core Strategy Development Plan Document (adopted 2010), the Council's Interim Planning Guidance for the purposes of Development Control (October 2007), the London Plan 2008 (Consolidated with Alterations since 2004) and Government Planning Policy Guidance and has found that:

2.2 1) The continued use of the canteen does not result in a change of use of the building, nor an intensification of existing activities. As such, the use is considered acceptable in-line with saved policy S7 of the Unitary Development Plan (1998) which seeks to ensure special uses, including restaurants/cafés, are acceptable within their locations.

2) Subject to conditions, the proposed independent café and ancillary catering facilities does not have an adverse impact upon the amenity of neighbouring residential properties in terms of overlooking, loss of privacy and an unacceptable levels of noise. The proposal therefore accords with Saved Policies DEV2, DEV50 and HSG15 of the Tower Hamlets Unitary Development Plan 1998, and policy DEV1 of the Interim Planning Guidance (2007), which seek to protect the amenity of residents of the Borough.

3) The retention of the canteen is not considered to have an adverse impact on the appearance of the Boundary Estate Conservation Area or be out of character with it. As such, the proposal is considered acceptable and in line with policy CON2(2) of the Council's Interim Planning Guidance (2007), which seeks to ensure development proposals preserve the setting of the Boundary Estate Conservation Area.

4) Subject to conditions transport matters, including access and servicing, are considered acceptable and in line with saved policies DEV1 and T16 of the adopted Unitary Development Plan (1998) and policies DEV17 and DEV19 of the Interim Planning Guidance (2007). These policies seek to ensure developments can be supported within the existing transport infrastructure.

5) The proposed change of use is not considered to have an adverse impact on the historic fabric, setting or identity of the listed building. As such the proposal is considered acceptable and in line with policy CON1 of the Council's Interim Planning Guidance (2007), which seeks to ensure development proposals preserve the historic fabric and setting of the Councils Listed Buildings.

3.0 RECOMMENDATION

3.1 That the Committee resolve to **GRANT** planning permission.

3.2 That the Corporate Director of Development and Renewal is delegated power to impose the following conditions and informatives on the planning permission to secure the following:

3.3 Conditions

Condition 1. Development approved in accordance with the plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the Schedule to this planning permission

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

Condition 2. Hours of operation

The use hereby approved must only be carried out within the following times:-

Canteen: 9.30am to 4pm Monday to Fridays

Off-site catering: 7.30am to 9pm.

In addition to this, any servicing for the uses approved must not take place between the hours of 9pm to 8am on any day.

Reason: To safeguard the amenity of adjacent residents and the area generally, in

accordance with the following policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998):
DEV2 , DEV50 Noise and HSG15 Preservation of Residential Character

Condition 3. Restriction on covers

The maximum number of covers allowed for dining at the canteen should not exceed 56 (36 indoor and 20 within the outdoor seating area) unless agreed in writing by the local planning authority.

Reason: To safeguard the amenity of adjacent residents and the area generally and to meet the requirements of the following saved policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998), DEV2, DEV50 and HSG15.

Condition 4 Restriction on loading/servicing

All loading/ unloading and servicing required to facilitate this development should only take place between the hours of 9am until 9pm and should only take place within the Club Row parking area within the school walls or the Arnold Circus entrance.

Reason: To ensure the development does not have an adverse impact on residential amenity and to meet the requirements of the following saved policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998), DEV2, DEV50 and HSG15.

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

3.4 Informatives for Planning Permission

1) With regards to Condition 3, should you wish to increase the number of seating the council would need to be satisfied that the increase in seating would not have an adverse impact on amenity and on the highway.

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

4.0 Background

4.1 This application for planning permission was reported to Development Committee on 18th August 2010 with an officer recommendation for approval.

4.2 Members' indicated that they were minded to refuse the planning application because of concerns over:

1. Overlooking
2. Parking, as a result of deliveries
3. Parking, for patrons of the site.
4. Noise disturbance
5. Impact on adjoining area

4.3 The application was subsequently reported to the Development Committee on 14th September 2010. At this committee discussions took place over the proposed

reasons for refusal.

- 4.4 Members were informed that Paragraph 1.4.2 of the Planning Inspectorates guidance on appeals sets out “a number of core principles which underpin the operation of a well-functioning appeal system”. These include a requirement that:

“where the elected members’ decision differs from that recommended by their officers, it is essential that their reasons for doing so are...clear, precise and comprehensive.”

- 4.5 It was pointed out that the use of the outbuilding as a café had already been granted planning permission as an ancillary café. Therefore, the proposed use as an independent café was not going to increase or add additional impacts to what is approved and as existing.
- 4.6 After a discussion on the reasons for refusal, it was decided that the application should be deferred, to enable members to carry out a site visit, as part of their consideration of the application.
- 4.7 Given the application had been previously deferred, the Council’s constitution requires the application to be reported again in its entirety.

5.0 PROPOSAL AND LOCATION DETAILS

Proposal

- 5.1 This planning application is for the continued use of Rochelle Canteen (use class A3), independent of the Rochelle Centre with an ancillary off - site catering operation. The application form states that the use has been occurring since 2006.
- 5.2 The premises have 36 covers within the canteen and an additional outdoor area which accommodates around 20 people.
- 5.3 The canteens preferred operating hours Monday to Friday 9.30am to 4pm.
- 5.4 The applicant has submitted a management plan which outlines the business would operate an off-site catering facility, with approximately 6 off-site events per month.
- 5.5 Food deliveries would be made during normal canteen food deliveries by the same suppliers and all rubbish collections would be made from the off-site event and disposed of directly.

Previous applications

- 5.6 A previous planning application was submitted and granted consent for an ancillary café at the application site. The consent was granted on 16/01/2006 under planning reference PA/04/1790. Condition 3 of the planning permission restricted the use of the café. It reads:
- 5.7 *‘The accommodation hereby approved for café purposes shall not be used or occupied otherwise than as ancillary in connection with the existing principal Rochelle Centre building’s uses.*

Reason: As requested by the applicant and to safeguard the amenity of adjacent residential properties and the area generally. The local planning authority has

had regard to the circumstances of the case and considers that use by way of separate occupants would not have been granted planning permission. ‘

- 5.8 This condition has not been adhered to as Arnold & Henderson caterers; the occupiers currently based in the café, provide weekday lunches for non- Rochelle Centre users. Given, this use is contrary to condition 3 of planning application PA/04/1790, this planning application has been submitted to regularise the situation.

Site and Surroundings

- 5.9 The application site, ‘The Rochelle Centre’ comprises of two Grade II listed buildings, which lie within the Boundary Estate Conservation Area. The main building is located nearest to Arnold Circus and the second building fronts Club Row. The café, the application site, is in the centre of the Rochelle Centre, and has a floor area of approximately 68 square metres.
- 5.10 It is concealed to an extent by Grade II listed brick walls. However, some views of the canteen exist from the upper floors of neighbouring residential properties.
- 5.11 The majority of buildings around Arnold Circus are residential in nature, with some commercial uses at ground floor level on Calvert Avenue.
- 5.12 Walton House is a 5/6 storey residential building to the east of the subject site and several of the flats on the upper storeys overlook the subject site. The Councils records indicate Walton House has around 45 flats.
- 5.13 Clifton and Sanford Houses are also 5/6 storey residential buildings, located to the west of the subject, with some flats overlooking the subject site. The Councils records indicate they have 72 and 5 flats respectively.
- 5.14 The Laundry Building is a residential building located to the east of the site. It contains four flats.
- 5.15 The Rochelle Centre has a mix of different uses, including artist’s studios and small creative businesses (Use classes B1/D1). According to the applicant, 44 people regularly work within the Rochelle Centre building.
- 5.16 The canteen building is a single storey structure within the compound of the site. The structure holds 36 covers with additional space externally used in the summer. The applicant suggests a maximum of 56 people could be accommodated in total.

6.0 Planning History

- 6.1 The following planning decisions are relevant to the application:

16th January 2006 (PA/04/1790 and 1791)

Planning permission for external alterations to outbuilding in connection with provision of ancillary café for the occupiers of the main Rochelle Old College building and Club Row building only with cooking extract system linked to the main Rochelle Old College Building.

Listed Building Consent for external and internal alterations to outbuilding to create cafe ancillary to the main Rochelle Old College building and Club Row building with cooking extract system linked to the main Rochelle Old College building.

3rd July 2008 (PA/08/544)

Refusal for the removal of Condition 3 of the PA/04/1790 dated 16th January 2006 (PA/04/1790): The accommodation hereby approved for cafe purposes shall not be used or occupied otherwise than as ancillary in connection with the existing principle Rochelle Centre building's uses).

The reasons for refusal were:

1. The removal of condition as proposed would have an adverse impact upon amenities of neighbouring residential properties and would therefore contravene policies which seek to protect the amenities of the residents of the Borough.

2. The proposed removal of condition is unacceptable as it would result in the inappropriate intensification of the use within a residential area, thus detracting from the character of the Boundary Estate Conservation Area. The proposal therefore fails to comply with policies that seek to ensure and protect the amenity of the residents of the Borough.

15th July 2008 (PA/08/829 and 830)

Planning permission for the erection of two new buildings to adjoin the existing roof building in order to create an additional 3 x B1 (office) units (311m² in total).

Conversion and refurbishment of existing roof building to provide office accommodation.

16th March 2010 (PA/10/89)

Listed Building Consent for the erection of a roof extension on the southern side of existing roof space for use as an office (Use Class B1).

3rd April 2010 (PA/10/183)

Listed Building Consent for the erection of three new single storey roof extensions on the north, south and west elevations for office Class B1 Use and refurbishment of existing roof building.

12th April 2010 (PA/10/36)

Planning permission for a change of use of the "Old College" Building within the Rochelle Complex from D1 (non - residential training and education centre) to mixed D1/B1 use (artists studios and small creative businesses).

7.0 POLICY FRAMEWORK

7.1 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:

7.2 Unitary Development Plan 1998 (as saved September 2007)

Proposals		Not Subject to site specific proposals
Policies:	DEV1	Design Requirements
	DEV2	Amenity
	DEV50	Noise
	HSG15	Residential Amenity
	S7	Special Uses
	T16	Traffic Priorities for New Development

7.3 Interim Planning Guidance for the purposes of Development Control

Proposals:		Not Subject to site specific proposals
Policies:	DEV1	Amenity
	DEV2	Character and Design
	DEV17	Transport Assessment
	DEV19	Parking for Motor Vehicles
	CON1	Listed Buildings
	CON2	Conservation Areas

7.4 Core Strategy 2025: Development Plan Document (Adopted 2010)

	SO22	Protecting historical and heritage assets
	SO25	Placemaking

7.5 Spatial Development Strategy for Greater London (London Plan)

	3C.22	Parking Strategy
	4B.5	Creating an inclusive environment
	4B.6	Sustainable design and construction
	4B.7	Respect local context and communities
	4B.10	London's built heritage
	4B.11	Heritage conservation
	4B.12	Historic conservation-led regeneration

7.6 Government Planning Policy Guidance/Statements

	PPG1	General Policy and Principles
	PPS1	Urban Design
	PPS5	Planning and the Historic Environment

7.7 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
- A better place for learning, achievement and leisure
- A better place for excellent public services

8.0 CONSULTATION RESPONSE

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

8.2 The following were consulted regarding the application.

8.3 **LBTH Environmental Health** – Comments have been received regarding the extraction system. The existing system is not causing nuisance and no change is proposed to the system. As such, officers consider this acceptable.

8.4 In addition, Environmental Health have confirmed that whilst the area in general suffers from some anti-social behaviour, there have not been any complaints specifically regarding the canteen and its use. As such, no objection has been raised to this use.

8.5 **LBTH Highways** – Welcome the provision of a 'Management Plan' which sets out exactly how the canteen is currently managed and operated.

8.6 The servicing described currently is low-key and uses small vehicles that unload on-

site. It is recommended that that the servicing is conditioned, possibly under the heading of 'Servicing/Management Plan'.

- 8.7 (Officer comment: has included a recommended condition requiring the applicant to implement the Management Plan and acknowledges that any future change in operation of the canteen (such as more deliveries, longer opening hours etc) would require an amendment to this Management Plan and, consequently, a fresh planning application.

9.0 LOCAL REPRESENTATION

- 9.1 A total of 198 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 in East End Life and 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:	Objecting: 89	Supporting: 67
No of petitions received:	0	

- 9.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

Use

- Intensification of use, with increased levels of activity resulting in a detrimental impact on surrounding properties.

Design

- Use out of character with predominantly residential nature of the conservation area

Amenity

- Noise associated with visitors to the canteen, and general operation (i.e. kitchen, machinery, refuse disposal, staff).

Highways

- Increase in traffic, parking problems and congestion, generated by both suppliers and the general public.

Other

- Failure to comply with Council policy.
- Previous refusals on the application site (for the same development).

The letters of support make the following comments

- The canteen is a key component of the community
- Provides a facility for local people
- Proposal does not lead to an increase in noise or parking
- Approving the canteen will enable a popular local business to provide a valuable service in Tower Hamlets.

10.0 MATERIAL PLANNING CONSIDERATIONS

10.1 The key considerations are:

1. Amenity of neighbouring residential occupiers
2. Generation of traffic

Amenity of neighbouring residential occupiers

10.2 Saved policy DEV2 of the Tower Hamlets UDP (1998) and Policy DEV1 of the Interim Planning Guidance (2007) seek to ensure development will not result in an unduly detrimental loss of amenity for neighbouring properties. Policy DEV50 of Tower Hamlets' UDP (1998) seeks to ensure development will not result in an unduly detrimental increase in noise levels, and policy HSG15 of Tower Hamlets' UDP (1998) seeks to ensure development within residential areas is appropriate, and will not result in an unduly detrimental loss of amenity for residents.

Previous application decision

10.3 The application to remove condition 3 (PA/08/544) was refused on 3rd July 2008 for the following reasons:

1. *The removal of condition as proposed would have an adverse impact upon amenities of neighbouring residential properties and would therefore contravene Saved Policies DEV2, DEV50 and HSG15 of the Tower Hamlets UDP 1998, together with policy DEV1 of the Interim Planning Guidance (2007), which seek to protect the amenities of the residents of the Borough.*
2. *The proposed removal of condition is unacceptable as it would result in the inappropriate intensification of the use within a residential area, thus detracting from the character of the Boundary Estate Conservation Area. The proposal therefore fails to comply with saved policy DEV2 of the Tower Hamlets Unitary Development Plan 1998, and policy DEV1 and CON2 of Interim Planning Guidance 2007 which seek to ensure and protect the amenities of the residents of the Borough.*

10.4 The previous application seeking to remove the condition, did not provide enough evidence that the existing operations would not have impacts on residential amenity. At the time, it was also felt that the removal of the condition could lead to an unacceptable intensification of use, hence the two reasons for refusal.

10.5 In order to address these reasons for refusal, the applicant has drawn up a detailed management plan which sets out the details of the canteen operation and how it will control and avoid amenity, refuse and highway issues. It includes information in relation to hours of operation, number of seats, details of deliveries, waste proposals and the nature of the off-site catering operation. The applicant is committed to adhering to this management plan. The details regarding the covers, opening hours and servicing have all been conditioned to ensure the acceptability of the plan.

10.6 The implementation of the Management Plan and the further controls imposed by conditions will ensure that no unacceptable impacts to resident's amenity will occur.

Overlooking

- 10.7 The following table was originally presented to members in the update report on 14th September 2010. It shows the nearest residential blocks to the site and their distance to the canteen building and the centre of the outdoor area.
- 10.8 Members, raised concerns over the omission of the Laundry Building which is located in close proximity to the development. The original table has been updated to include the Laundry Building.

Block	Approximate distance from Canteen building (metres)	Approximate Distance from the centre of outdoor area (metres)
Cookham House	26	41
Laundry Building	7	34
Walton House	30	55
Clifton House	37	30
Sandford House	37	25
Culham House	41	54
Hurley House	50	43
Sonning House	50	75
Mosely House	63	53

- 10.9 Out of the all the surrounding properties, the Laundry building is the closest residential property. However, site visits show that, given the direction and orientation of the canteen, the views into this building are limited. Furthermore, given the canteen building is an approved structure with an approved use and no new windows are proposed, this application will not involve an increase in the perception of overlooking.
- 10.10 It is important to also note that the proposals do not involve the construction of a new building. They simply involve the formalisation of its existing use. Consequently, overlooking impacts are not a significant consideration for this application as both the building, and its use as a canteen, are established and benefit from planning permission.
- 10.11 Moreover, the arrangement between the open area and the surrounding buildings is an established relationship, which is not dependent on the outcome of this planning application.

Hours of operation

- 10.12 The proposed hours of operation are as follows:

Use	Monday to Friday	Saturdays	Sundays and Bank holidays
Canteen	9.30am to 4pm	Not applicable.	Not applicable
Off site Catering	7.30am to 11pm	Not applicable	Not applicable

- 10.13 The proposed hours of operation for the canteen are between Mondays to Friday, 9.30 to 4pm. These hours are outside the noise sensitive hours and are not considered by officers as contentious. Furthermore, these hours are likely to be similar to the sites historic use as a school.
- 10.14 Following further discussions with the applicant, a condition will be imposed to restrict the hours of operations of the off-site catering to no later than 9pm.
- 10.15 In terms of operations, this would mean that any vehicles returning to the site after the off-site event, would need to have returned by 9pm rather than the 11pm originally requested.
- 10.16 The purpose of restricting the hours of the off-site catering is to mitigate any late night noise disturbances encountered by neighbouring residential occupants from vehicular activity.
- 10.17 Officers from the Councils Environmental Health team have confirmed that no noise complaints have been registered against this use. As such, the Environmental Health Department raise no objections to the use.
- 10.18 The applicant has submitted a management plan which outlines the functions of the café and off-site facilities.
- 10.19 In summary the management plan outlines the following:
1. There are approximately 6 off-site events per month
 2. Food deliveries for the off-site events are made with normal canteen food deliveries by the same supplier
 3. Rubbish collections are made from the event.
 4. Any goods returns to the school are made before 10pm or the next morning.
 5. Loading is from the Club Row parking area, within the school walls or the Arnold Circus entrance
- 10.20 Conditions will be included on the consent to ensure that the applicant complies with aspects of the management plan, to ensure that the retention of the independent café does not have an adverse impact on the amenity of neighbouring properties.

Intensification of Use

- 10.21 The proposal does not involve any intensification of use; it simply seeks to regularise the existing operation. No changes are proposed to the current canteen /catering facilities (e.g. opening hours, physical expansion, alcohol sales, parties, types of foods, deliveries, servicing arrangements etc).
- 10.22 There are only a small number of covers at the canteen (up to 36 inside) and a landscaped area outside which can cater for around 20 people (in good weather) and this will not change.
- 10.23 The Management Plan, which accompanies the application, sets out all of the limits, restrictions and principles governing the café operation that the applicant abides by and will continue to abide by. As stated aspects of the management plan will be conditioned to ensure acceptability.

Traffic Generation

- 10.24 Policy T16 of Tower Hamlets' UDP (1998) together policy DEV19 of the Interim Planning Guidance (2007) seek to ensure developments will not prejudice the free flow of traffic, and highways safety.
- 10.25 The streets surrounding the site are designated as residents only parking, and the site has good access to public transport with a Public Transport Accessibility level (PTAL) of 5. The Councils Highways section had no adverse comments to make in respect of the proposal, in particular noting that the scale of vehicles and operations are not envisaged to have a detrimental impact on the vicinity
- 10.26 The applicant will be required to comply with the management plan, via the imposition of a condition, to ensure that this remains the case and that no intensification can occur without a new application being considered.

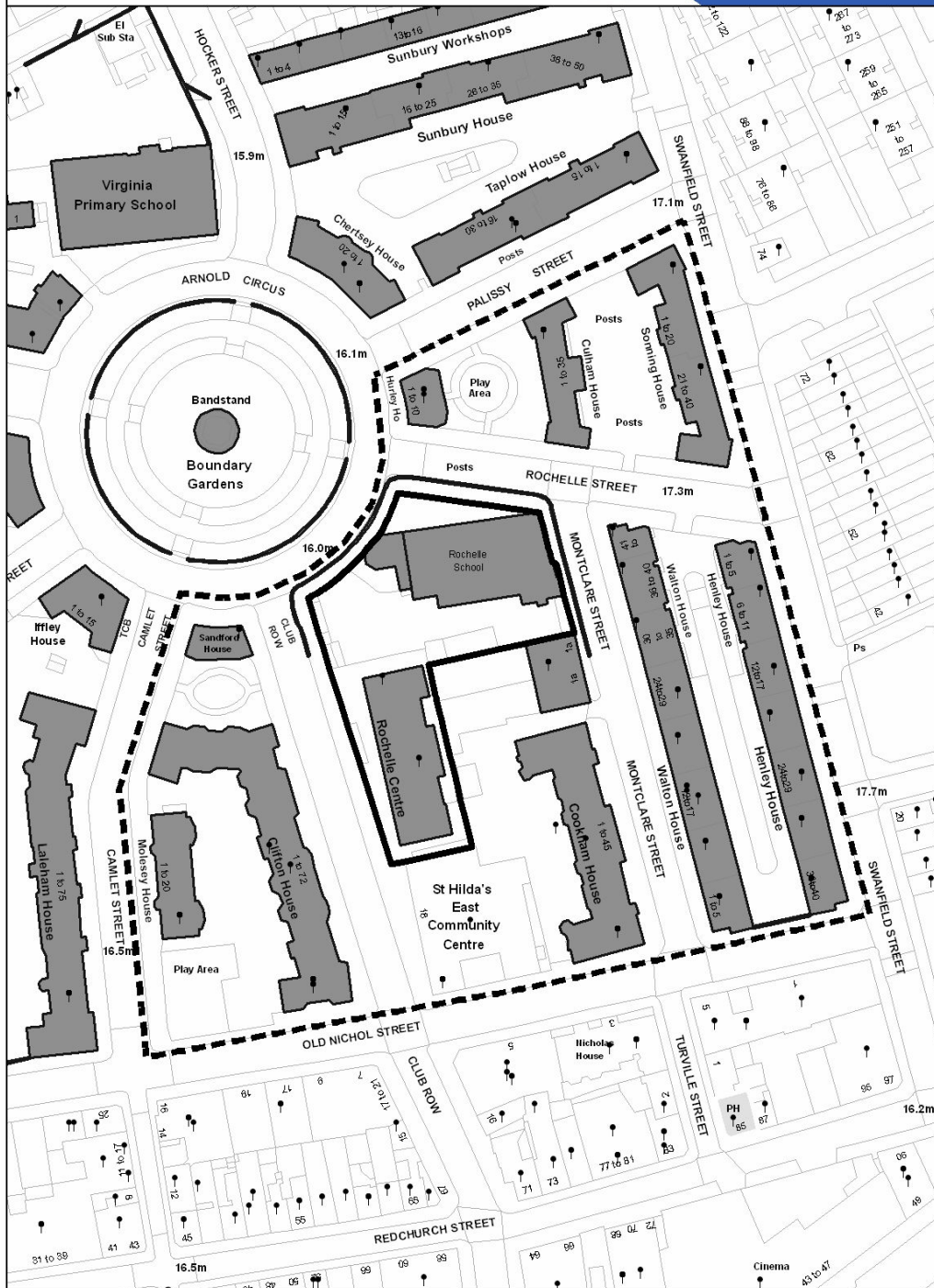
Potential Intensification of use, out of character with residential nature of conservation area/issues;

- 10.27 The site has an approved consent to be used as an ancillary café and the use of the cafe is established, having been in operation since 2006. Therefore, the principle of having a café at this site has already been assessed and considered acceptable within the conservation area. Officers do not believe these considerations have changed.
- 10.28 In terms of the potential for impact on the character and appearance of the conservation area, given that the building already exists, (and planning permission was granted for its conversion and associated works) and there is no intensification of the use, the proposal cannot be considered as having any unacceptable impact on the character and appearance of the area, as nothing is proposed to change the current situation.
- 10.29 Secondly, the canteen is located within the compounds of a former school, within the Boundary Estate. This school building along, with the former workshops (Marlow workshops), the retail uses (Calvert Avenue) and the Virginia School, illustrate that whilst the area is predominately residential, it contains a mixture of different uses which form part of the character of the area. This use is considered to fit within this mix of uses satisfactorily.
- 10.30 Enforcement
In 2007 a complaint was received by the Councils' Enforcement Department in relation to a breach of condition 3 of full planning permission: PA/04/1790 (which stated the use of the cafe should be ancillary to the Rochelle Centre). A letter dated 30 April 2007 was sent to the owner, reminding them of the requirements of the conditions. However, it was not considered expedient, nor practical to take action against the applicant given an application to regularise the situation is before the planning authority for consideration.

11.0 Conclusions

- 11.1 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	 Locally Listed Buildings	 Land Parcel Address
 Consultation Area	 Statutory Listed Buildings	 1:1,250



This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. 100019288, 2010.