

Committee: Development	Date: 1 st June 2011	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Town Planning Application
Case Officer: Nasser Farooq	Ref No: PA/11/00206
	Ward: Weavers (February 2002 onwards)

1. APPLICATION DETAILS

Location:	17 Calvert Avenue, London, E2 7JP
Existing Use:	Unauthorised use of site as a Café (lawful use A1 retail)
Proposal:	Retention of A3 Café.
Drawing Nos/Documents:	Letter dated 31 st January 2011, Design Statement, Impact Statement, lease plan and Os Plan.
Applicant:	Leila McAllister
Ownership:	LBTH
Historic Building:	Grade II
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 premises as a A3 Café does not result in the loss of an essential retail shop and provides an active frontage which contributes to the streetscene along Calvert Avenue. As such, the loss of the A1 use is considered acceptable in-line with saved policy S5 of the Unitary Development Plan (1998), which assesses the loss A1 uses outside designated shopping parades.

2) The retention of the café does not have an adverse impact upon the amenity of neighbouring residential properties in terms of adverse smell pollution and an unacceptable level 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 seeks to protect the amenity of residents of the Borough.

3) The retention of the café is not considered to have an adverse impact on the appearance of the Boundary Estate Conservation Area or to 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) 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 adopted Policy SP10 of the Core Strategy 2010 and 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

Condition 2. Hours of operation and servicing.

Monday to Friday 10am to 6pm

Saturdays 10am to 6pm and;

Sundays (10am to 5pm)

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

3.4 Informatives for Planning Permission

1) Advising the applicant of limited cooking on site.

2) Outdoor seating.

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

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

4.1 The application seeks the retention of a café located at 17 Calvert Avenue.

4.2 According to planning records the lawful use of 17 Calvert Avenue, is retail (use class A1). When the applicant began operating from the premises around 7 years ago, the A1 operations were continued with additional 'light snacks'. These snacks were raw ingredients which were purchased from the premises and cooked on site. The cooking of snacks was ancillary to the use of the premises as a retail shop and did not require the installation of any mechanical plant. Given it was a relatively small-scale operation; it did not require planning permission.

4.3 However, the applicant has expanded her business into number 15 Calvert Avenue. It appears that the A1 element of her business has transferred and expanded into 15 Calvert Avenue, thus leaving 17 Calvert Avenue, effectively as a café.

- 4.4 As a result the applicant has sought planning permission to retain the café element of her business within 17 Calvert Avenue.

Site and Surroundings

- 4.5 The application site is located at the ground floor of Marlow House, 17 Calvert Avenue, which is a Grade II listed building and lies within the Boundary Estate Conservation Area. The café has a floor area of approximately 47 square metres and consists of tables and chairs to the front of the premises with an open plan kitchen at the rear. The café has a capacity of 28 covers.
- 4.6 The majority of buildings around Arnold Circus are residential in nature, with a number of commercial uses at ground floor level on Calvert Avenue.
- 4.7 Planning permission and listed building consent were granted on 13/01/1992 for the installation of a replica shopfront to replace a lost original. The history file contains photographs taken at time revealing the premises as a newsagent.
- 4.8 This application is a result of an enforcement investigation ENF/10/00302. The complainant is the applicant who made a complaint on her property to enable officers from the Enforcement Team to identify whether planning permission was required for the change in operations at 17 Calvert Avenue. The applicant was advised that planning permission was required and was requested to submit a planning application to regularise the use.

5.0 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:

5.2 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
	S5	Other shopping parades
	S7	Special Uses
	T16	Traffic Priorities for New Development

5.3 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

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

SO22	Protecting historical and heritage assets
SP10	Amenity and Design
SP09	Highway network

5.5 Spatial Development Strategy for Greater London (London Plan)

- 4B.10 London's built heritage
- 4B.11 Heritage conservation

5.6 Government Planning Policy Guidance/Statements

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

5.7 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

6.0 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:

6.3 **LBTH Environmental Health** – Primary concern is to ensure that there will be protection of noise sensitive buildings and the noise is controlled from the commercial activity to safeguard the amenity of surrounding premises. In addition to this, Environmental Health have suggested a condition restricting cooking so that smells should not impact neighbouring residents' (Officer comment: it is considered that a suitable condition restricting hours of operation will prevent any adverse amenity impacts, with regards to limiting cooking, it is considered that a condition to this effect would be difficult to enforce against).

6.4 **LBTH Highways** - This business had migrated gradually from being an A1-type to an A3-type business, given the relatively small size of the operation and the similarity in servicing patterns for the two uses no objections are raised.

7.0 LOCAL REPRESENTATION

7.1 A total of 65 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: 7	Supporting: 74
No of petitions received:	1 in objection containing 25 signatures	
	1 in support containing 502 signatures.	

7.2 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:

Land use

- Having a café in a historic parade of shops, located on the ground floor of a residential block, is an unacceptable change of character to a long standing conservation area and listed building.

Amenity

- There is no extraction system.
- The premises are noisy and used into the evenings for candlelit private dinners and parties.

Highways

- Customers arrive by car or taxi creating further traffic.

Other

- Seating on the public highway causing obstructions_(Officer Comment: this matter is regulated by the Council's Licensing department.)
- The owner's flat is being used to provide toilet facilities to customers (Officer comment: site visits by the case officer revealed the premises have toilet facilities).
- Unauthorised use (Officer comment: this is not a valid reason for refusing the application).
- 16 Calvert Avenue refused change of use in 1996, this application should be consistent with that decision (Officer Comment: the planning records do not show a planning application for a change of use on the site. As such, limited weight can be given to this matter).

The letters of support make the following comments

- Brings trade to the area
- Proposed use does not create a disturbance
- No parking issues
- Does not contribute to anti-social behaviour issues
- Increases security
- Provides local employment
- Provides refreshments for Sunday markets
- Supports local communities and initiatives

8.0 MATERIAL PLANNING CONSIDERATIONS

8.1 The key considerations are:

1. Land use
2. Amenity of neighbouring residential occupiers
3. Generation of traffic

Land Use

8.2 The application site is not allocated within the adopted Unitary Development Plan as a protected shopping parade or centre. Similarly it is not designated as a Town Centre within the adopted Core Strategy (2010).

8.3 Therefore, when assessing a change of use from retail, saved policy S5 of the Unitary Development Plan (1998) is relevant. This policy states applications for changes of use from A1 use outside district centres and local parades may be

favourably considered where:

1. In the case of a vacant property, the applicant can demonstrate the property has been marketing for retail reuse
 2. There is adequate provision of retail shops within the vicinity
 3. Proposed uses would not be detrimental to local amenity
- 8.4 In addition to this, saved policy S7 of the Unitary Development Plan provides the criteria for allowing special uses including A3, these include impact on:
1. Amenity of residents
 2. On street parking
 3. Free flow of traffic
 4. Other policies
 5. Adequate ventilation for food prepared on the premises.
- 8.5 In respect of the above policies, whilst the applicant has not provided any marketing evidence for site to be used within A1, a site visit revealed that the site is located in a parade of retail A1 shops including the 15 Calvert Avenue which is a grocery shop. Along with this, the site is located within walking distance of Shoreditch High Street, where there is adequate provision of retail shops. As such, it is considered that the loss of the A1 unit can be supported.
- 8.6 With regards to the proposed café use. The recent appeal decision on the Rochelle Canteen (PA/10/00032) allowed an A3 use within the Boundary Estate Conservation Area. In the appeal decision dated 6th May 2011 (appeal reference APP/E5900/A/11/2144732) the inspector commented with regards to the Rochelle Canteen:
- 18. Although the site lies within a predominantly residential area, commercial uses are evident on the ground floors of some residential blocks close to the Circus. Other uses, including a school, the Rochelle Centre itself, and a nearby community centre, whilst not commercial, nevertheless attract a substantial number of people, thus creating a significant level of activity during the day within the area close to the Circus.*
- 19. Against this background I do not consider that the continued daytime use of the Canteen as a cafe and catering service would materially affect the character of the CA. At worst, it would have a neutral effect, and the character of the CA, accordingly, would be preserved.*
- 8.7 In addition to this, several site visits have revealed that the premises provides natural surveillance on the street and is considered to positively contribute to the street scene.
- 8.8 Therefore, taking the above into consideration, the provision of an A3 use (and therefore the loss of an A1 use) in this location is considered acceptable by planning officers and it is noted that an A3 use in this type of location has also been considered acceptable by planning inspector at Rochelle Canteen. As such, in principle it is considered that an A3 Café use is acceptable on site subject to other planning considerations, in particular those identified within saved Policy S7 of the Unitary Development Plan (1998).

Amenity of neighbouring residential occupiers

- 8.9 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.

8.10 Proposed hours of operation

Use	Wednesday to Friday	Saturdays	Sundays (not bank holidays)
Café	10 am to 6pm	10am to 6pm	10am to 5pm

8.11 These hours are outside the noise sensitive hours and are not considered by officers as contentious. Furthermore, these hours are similar to the retail use within the area. It is considered that the hours can be conditioned in any planning permission. In addition to this, officers would have no objection to similar opening hours on Monday and Tuesday and recommend that this be provided for within the condition.

8.12 In addition to this, the premises measures 47sqm of which an area is allocated as an open kitchen area, therefore the actual amount of people that can be seated at any one time is limited to 28.

Noise and smell pollution

8.13 Officers from the planning department viewed the premises in October 2010, and twice during the course of this application. The visits revealed that the cooking on site was low scale domestic type with the resulting product having no odour or smell issues. As such, the planning department considers that the premises can operate without the need for an extraction system. The applicant has also confirmed that as part of her lease with the Council she has a condition requiring that any cooking is low scale and does not cause smell/odour issues.

8.14 As well as this, given Environmental Health are able to issue Abatement notices should the applicant's cooking have an adverse impact on residential amenity. Overall, it is considered that the current cooking arrangements are acceptable and the planning department are satisfied that the proposal would not have an adverse impact on the amenity of local residents.

8.15 As such, subject to conditions restricting the hours, the proposed retention of the café would not have an adverse impact upon the amenity of neighbouring residential properties in terms of unacceptable levels of noise or smell. 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.

Traffic Generation

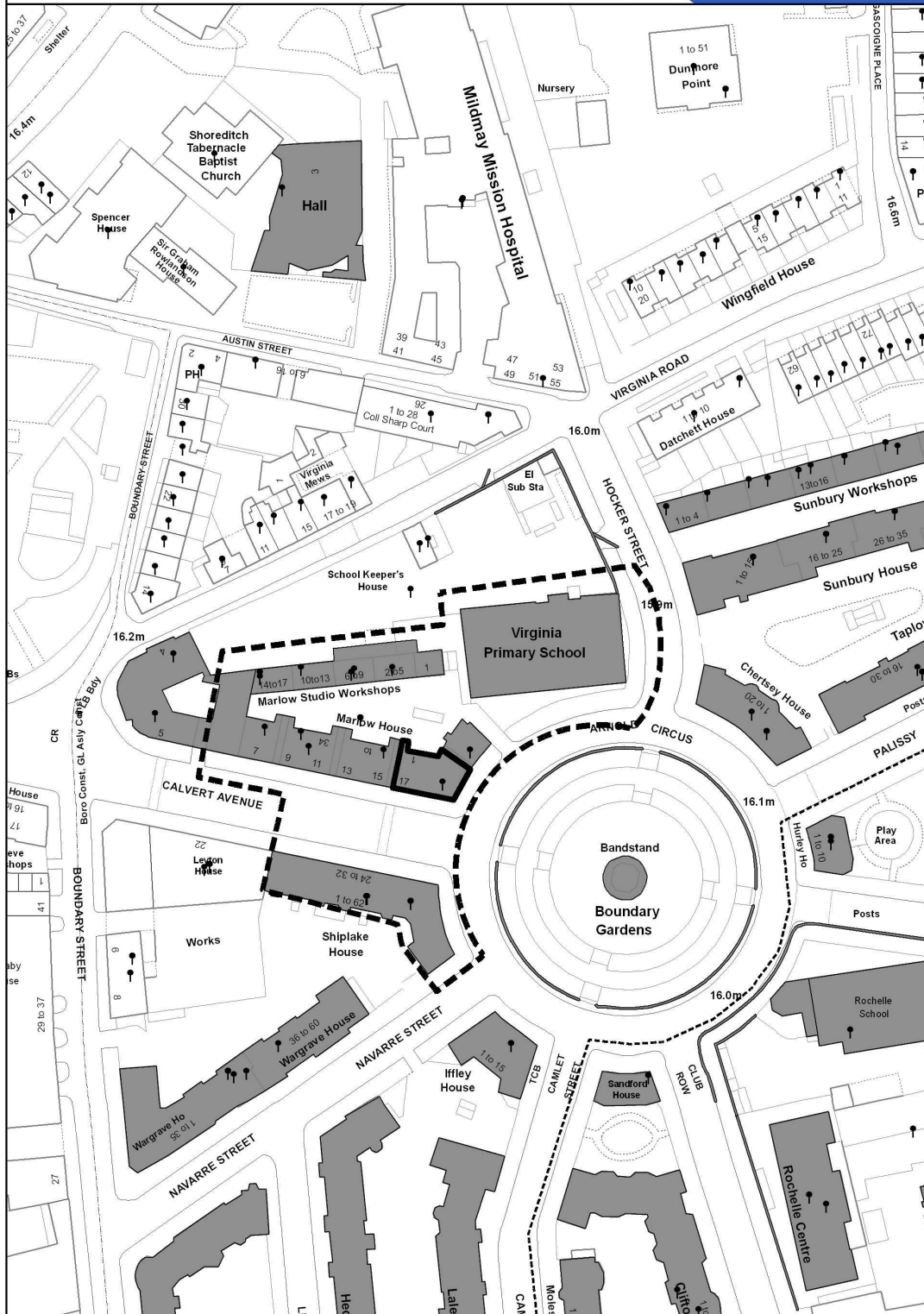
8.16 Policy T16 of Tower Hamlets' UDP (1998) together policy DEV19 of the Interim Planning Guidance (2007) seek to ensure developments will not prejudice the free flow of traffic, and highways safety.


- 8.17 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 do not oppose the proposal, in particular noting that the scale of vehicles and operations are not envisaged to have a detrimental impact on the vicinity.
- 8.18 An objection has been received from a local resident regarding the impact on traffic from vehicles parking and taxi drop off. It is envisaged that given the high PTAL rating many of the customers will travel by public transport, In addition, given the proposed hours which are to be conditioned, the size of the premises at 47sqm and the views of the Councils Highways officer, it is considered that an objection on these grounds cannot be justified. This is further emphasised by the Inspector's decision on the Rochelle Canteen, in which the Inspector did not consider highway matters as a concern within the locality.
- 8.19 As such, taking all of the above into consideration, it is considered that the proposed retention of the existing café does not have an adverse impact on the amenity of local residents or the free flow of traffic. As such, the proposal accords with adopted policies SP09 and SP10 of the Core Strategy and saved policy S7 of the Unitary Development Plan (1998), which seeks to ensure special uses such as cafés are suitably designed to protect residential amenity and not have an adverse impact on the highway or free flow of traffic.

9.0 Conclusions

- 9.1 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	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.

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