

Committee: Development	Date: 14 th November 2012	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Monju Ali		Ref No: PA/12/00605	
		Ward(s): Whitechapel	

1. APPLICATION DETAILS

Location:	83 New Road, London, E1 1HH
Existing Use:	Use Class A1 retail
Proposal:	Change of use from (A1) retail to mixed use coffee shop and restaurant (A1/A3) with no primary hot food cooking facilities, no associated extract flue system and seating area limited to ground floor only; including retention of No.4 AC units and alterations to shop front including new access door.
Drawing No:	A4 OS location plan – scale 1:1250 NR.PL.30 - existing / proposed elevations and sections NR.PL.31 - existing / proposed floor plans 2010-43/C1 - roof plan 2010-43/C2 - rear elevation
Supporting Documents:	Design and Access Statement Acoustical Analysis, prepared by Commercial Kitchen Direct Ltd, dated 12 th October 2010 Fujitsu air conditioning unit specifications
Applicant:	Mr Anwar Sajjad
Owners:	Mr Gurmail Singh & Mr JasvirKaur
Historic Building:	N/A
Conservation Area:	Myrdle Street Conservation Area

2. BACKGROUND

- 2.1 This application was reported to Development Committee on 10th October 2012. The Committee resolved **NOT TO ACCEPT** officers' recommendation to GRANT planning permission (subject to conditions) for the change of use from (A1) retail to mixed use coffee shop and restaurant (A1/A3) with no primary hot food cooking facilities, no associated extract flue system and seating area limited to ground floor only; including retention of No.4 AC units and alterations to shop front including new access door.
- 2.2 The minutes of the meeting state that Members were minded to refuse planning permission for the following reasons:
- The impact on residents, particularly from increased noise and nuisance from the proposal arising as a result of the general comings and goings of patrons;
 - Over-concentration of A3 uses in the area.

3.0 PROPOSED REASONS FOR REFUSAL

- 3.1 Officers interpreted Members' reasons/concerns and drafted reasons for refusal to cover the issues raised. The following reasons for refusal are proposed:-
- 3.2 The restaurant element of the proposed use will have an adverse impact on the amenity of residents of the area by virtue of increased noise and disturbance associated with patrons coming and going. The proposal is therefore contrary to the objectives of policy SP01(2c) of the adopted Core Strategy (2010), policy S7 of the adopted Unitary Development plan 1998 and policy DM25(e) of the Managing Development DPD (Submission Version May 2012).
- 3.3 The restaurant element of the proposed use will result in the proliferation of such uses outside of a designated Town Centre, which is contrary to the objectives of policy DM1(4) of the Managing Development Development Plan Document (Submission Version 2012), which seeks to direct such uses into designated centres. The proposal will lead to the over-concentration of such uses in the area and as such is contrary to the objectives of policies SP01(2c) of the adopted Core Strategy (2010), policy S7 of the adopted Unitary Development plan 1998 and policy DM1(4) of the Managing Development DPD (Submission Version May 2012).

4. ADDITIONAL REPRESENTATIONS

- 4.1 Since the publication of the Committee Report the Council has received no additional representation from a local resident or the wider community.

5. CONCLUSION

- 5.1 Officer's consider that the above reason for refusal can be defended at appeal given the number of existing A3 and A5 uses along this part of New Road and that the site is not designated within a Town Centre.

IMPLICATIONS OF DECISION

- 5.2 Should Members decide to re-affirm their previous resolution and refuse planning permission there are a number of possibilities open to the Applicant. These would include (though not limited to):-

Lodge an appeal against the refusal of the scheme. The Council would defend any appeal against a refusal.

6. OFFICER RECOMMENDATION

- 6.1 Officers original recommendation remains unchanged, however should Members decide to re-affirm their previous resolution and refuse planning permission Members are recommended to resolve to **REFUSE** planning permission for the reasons set out paragraph 3.3 of this report.

7. APPENDICIES

- 7.1 Appendix One – Report to Development Committee 10th October 2012

Committee: Development	Date: 24/09/2012	Classification: Unrestricted	Agenda Item No:
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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 this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Adopted Core Strategy (2010), the Unitary Development Plan, the Council's Interim Planning Guidance (2007), the Managing Development DPD (submission version 2012), associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that:

1. The proposed mixed use coffee shop and restaurant use (A1/A3) would be acceptable in this location as it will not result in a significant loss of the existing A1 use. The proposal therefore accords with the requirements of saved Policy S5 of the Unitary Development Plan (1998), Policy SP01 of the Core Strategy 2010 and Policy DM2 of the Managing Development DPD (Submission Version 2012) which together seek to resist the loss of retail units, ensuring a sufficient local retail provision and promote mixed use proposals outside town centres.

2. Subject to condition, the change of use to a mixed use coffee shop and restaurant use (A1/A3) would not result in unacceptable levels of disturbance to neighbouring residents associated with the over-concentration of A3 and other late night uses. Considering the restriction on hot food cooking on the premises, the limitation on seating to ground floor only and the restriction on opening hours, the proposal accords with the requirements of Policy SP01, and SP03 of the adopted Core Strategy and Policy RT5 of the Interim Planning Guidance (2007), and DM1 of the Managing Development DPD (Submission Version 2012) which together seek to ensure that proposals for Class A3 uses do not result in an over concentration of such uses, cause undue disturbance to neighbouring residents not do not detract from the ability to adopt healthy lifestyles.
3. Subject to condition, the proposed use, including plant equipment would not give rise to any adverse impacts to adjoining residential amenity by way of noise nuisance, vibration or odour in accordance with Policy SP10 of the adopted Core Strategy (2010), saved Policies DEV2, DEV50 and S7 of the Unitary Development Plan (1998), Policies DEV1 and DEV10 of the Interim Planning Guidance (2007) and policy DM25 of the Development Management DPD (Submission Version 2012).
4. On balance, the proposed design alterations including the retention of the air conditioning units and shop front alterations are acceptable in terms of design, scale, choice of materials and visual appearance and are not considered to have an adverse impact on the character and appearance of the host building and Myrdle Street Conservation Area in accordance with saved policies DEV1, DEV9 and DEV27 of the Unitary Development Plan (1998), policy CON2 of the Interim Planning Guidance (2007), policy DM24 of the Development Management DPD (submission version 2012) and policy SP10 of the Adopted Core Strategy (2010), which together seek to ensure high quality design and materials for new developments with regard taken on buildings located within conservation area settings

3. RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to conditions.
- 3.2 That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:
- 3.3 **Conditions**
- 3.4 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 3.5 2) 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.

3.6 3) The use allowed by this permission shall not take place other than between the hours of:

- 07:00am to 21:00pm, Monday – Sunday

Reason: To safeguard the amenity of adjacent residents and the area generally and to accord with policy SP10(4) and policy DEV2 of the Tower Hamlets Unitary Development Plan 1998 and Policy DM25 of the Managing

3.7 Development DPD (Submission Version 2012)

4) The premises shall only be used as mixed use coffee shop and restaurant(A1/A3) with the area for seating and counter sales maintained as shown in drawing no. NR.PL.31.

3.8 Reason: To ensure the proposal contributes to a mixture of uses in the area and that it does not lead to an over-concentration of any one particular use in accordance with the requirements of Core Strategy policy SP02.

5) The use hereby approved shall not include primary cooking or preparation of hot food on the premises.

3.9 Reason: To prevent smells and odour from cooking fumes having an adverse impact on the residents of properties in the vicinity of the site in accordance with the requirements of saved policy S7 of the 1998 UDP, and to accord with Policy SP03(1d) of the adopted Core Strategy (2010) which seeks to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles and safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of Policy SP10 of the adopted Core Strategy (2010), saved Policy DEV2 of the Unitary Development Plan (1998) and Policies DEV1 and DEV10 of the Interim Planning Guidance (2007).

3.10 6) The AC units hereby approved and any associated equipment shall be designed to a level of 10db below the lowest measured background noise (LA90, 15 minutes) as measured one metre from the nearest affected window of the nearest affected residential property. The assessment of the background noise shall be made in the absence of all operating plant that services the premises that is the subject of this planning application. In addition the plant shall not create an audible tonal noise nor cause perceptible vibration to be transmitted through the structure of the building.

Reason: To protect the amenity of occupiers of nearby properties from noise or vibration disturbance in accordance with the requirements of Tower Hamlets Core Strategy 2010 policy SP03(2) and SP10(4a).

3.11 7) Within 3 months of the date of this permission; details of the provision of refuse and recycling storage facilities to serve the development hereby approved shall be submitted to and approved in writing by the local planning authority.

The storage facilities shall be implemented as approved within 4 months of the date of the permission.

Reason: To ensure adequate provision for the storage of refuse in accordance with the requirements of Tower Hamlets Core Strategy policy

SP05(1).

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

Informative: None.

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The application seeks permission for the change of use from (A1) retail to mixed use coffee shop and restaurant (A1/A3), with no primary hot food cooking facilities, no associated extract flue system and seating area limited to ground floor only; including retention of No.4 AC units and alterations to shop front including new access door.

Site and Surroundings

- 4.2 The application site comprises the ground floor and basement of a three-storey terraced building, which is bounded by the adjoining terraced building at no.85 New Road to the north, the public highway at New Road to the east, the adjoining terraced building at no.81 New Road to the south, and the rear of the residential buildings at nos.25-26 Romford Street to the west. The application site lies within the Myrdle Street Conservation Area and the site and immediate surroundings include no Statutory Listed Buildings.
- 4.3 The established use of the building is A1 retail, with the premises currently occupied as a coffee shop serving primarily hot and cold drinks, sandwiches and heated food. There is no kitchen but a small servery area to the front of the ground floor. In addition, there is capacity for 34 seats to the rear of the ground floor. The basement level is used as ancillary storage and a small staff room with W/C and washroom provision. The upper floors of the building are occupied in residential use.
- 4.4 The front of the building has a modern aluminium and glazed shopfront with internally illuminated fascia and projecting sign. The rear elevation has a small single storey extension with flat roof. There are four air conditioning units mounted to the flat roof which service the ground and basement levels. The surrounding area has a mix use character with both commercial and residential uses in close proximity along the length of New Road, however properties to the rear of the site along Romford Street are predominantly residential.

Planning History

- 4.5 PA/01/00254
On 14th May 2001 planning permission was granted for the erection of a rear extension at ground floor level plus self-containment of flat unit above.
- 4.6 PA/10/01878
On 23rd October 2010 planning permission was refused for the change of use ground floor and basement from Class A1 retail / wholesale to Class A3 restaurant with ancillary hot food takeaway. The reasons for refusal related primarily to the impacts of over concentration of A3 uses; lack of extract information and lack of waste information.
- 4.7

PA/11/00036

- 4.8 On 9th March 2011 planning permission was refused for the retention of a new shopfront due to modern design and impact on the conservation area.

PA/11/00091

- 4.9 On 9th March 2011 Advertisement consent was refused for the erection of a fascia sign and a projecting sign (new faces) due to modern design and impact on the conservation area

4.10 PA/12/01907

- 4.11 An Advertisement consent application has been received in conjunction with this full planning application. The application status is currently pending.

Enforcement

ENF/10/00590

On 24th November 2011 enforcement investigations commenced for building works starting prior to PA/10/01878 having been granted and noise complaints.

The ground floor commercial unit being used as a Coffee Shop even though change of use application was refused for it.

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:

5.2 Adopted Core Strategy (September 2010)

Policies:

SP01 - Refocusing on Town Centres
SP03 - Creating Healthy and Liveable Neighbourhoods
SP10 - Creating Distinct and Durable Places

5.3 Unitary Development Plan (as saved policies 1998)

Policies:

DEV1 - General Design and Environmental Requirements
DEV2 - General Design and Environmental Requirements
DEV9 - Control of Minor Works Within the Borough
DEV27 - Conservation Areas
DEV50 - Noise
S5 - Other Shopping Parades and Isolated Shops
S7 - Special Uses

5.4 Interim Planning Guidance for the purposes of Development Control (2007)

Policies:

DEV1 - Amenity
DEV2 - Character and Design
DEV10 - Disturbance from Noise Pollution
DEV15 - Waste and Recyclables Storage
DEV16 - Walking and Cycling Routes and Facilities
DEV17 - Transport Assessments
CON2 - Conservation Areas
RT5 - Evening and Night-time Uses
Planning Standard 3: Parking

5.5 Managing Development Plan Document (May 2012)

Policies:

DM1 - Development within Town Centre Hierarchy

DM2 - Local shops

DM15 - Local job creation and investment

DM24 - Place Sensitive Design

DM25 - Amenity

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

6. CONSULTATION RESPONSE

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

The following were consulted regarding the application:

6.2 London Borough of Tower Hamlets - Development Design and Conservation

No objections raised based on the principle of change of use or modest shop front alterations.

6.3 London Borough of Tower Hamlets – Transport & Highways

This relatively small restaurant benefits from a lengthy loading bay outside its frontage, and therefore I do not raise any objections on servicing impacts, nor do I consider it is likely to draw large numbers of car-borne patrons from a wide area as a destination restaurant.

6.4 London Borough of Tower Hamlets – Cleansing Officer

The applicant has shown no storage for waste and recycling. They need to provide details showing where the bin is kept, how large the bin is and where the storage area is in relation to the road (so we can assess if the crews can move the container to the collection point)

6.5 London Borough of Tower Hamlets – Environmental Health (Food Safety)

Standard food safety recommendations in line with Regulation (EC) No. 853/2004 made by EHO in relation to food preparation, internal layout, adequate facilities, storage areas. Detailed recommendations on case file.

6.6 London Borough of Tower Hamlets - Environmental Health (Noise and Vibration)

Construction/refurbishment must comply with the Council's Code of Construction Practice. Noisy works only permitted Mon-Fri 0800-1800 and Sat 0800-1300, not at all Sundays and Bank Hols.

Any mechanical/electrical noise associated with the completed building (for example, fans on the air conditioning units) needs to not exceed L90-10dB (i.e. be at least 10dB below background levels) – a Noise Report presenting details of measurements and calculations to be provided to EHEP for approval.

Kitchen extract system to comply with DEFRA's Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005).

Officer Comment: suitable conditions have been recommended in relation to noise and the proposal does not include any kitchen extract system. In relation to construction hours, no demolition or construction is proposed. The application comprises a change of use.

7. LOCAL REPRESENTATION

7.1 A total of 39 neighbouring properties within the area shown on the map appended to this report were notified about the application. A site notice was also displayed and the application was advertised in East End Life.

7.2 The total 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: 10 Objecting: 10 Supporting: 0 Duplicated:
1
No of petitions received: 1 with 65 signatories

7.3 The following issues were raised in objection that are addressed in the next section of this report:

7.4 • The proposal will result in increased levels of air, smell and environmental pollution.
Officer comment: *The proposal does not include any new plant or extraction equipment, in addition there will be no primary hot food cooking on site.*

7.5 • The proposal will result in increased noise disturbance to neighbours
Officer comment: *The hours of operation and use of the air conditioning units to the rear elevation will be controlled via condition and the proposed hours of operation (07:00am to 21:00pm) is considered to be suitable to the location, without causing significant noise nuisance to residential properties.*

7.6 • There is already an over-concentration of A3 restaurants in the area, creating further competition to existing A3 uses along New Road.
Officer comment: *Competition is not a material planning consideration; however, as discussed in the material planning considerations of this report, the mixed use nature (A1/A3) of the proposal, small footprint of the site, limited seating, and restriction on any cooking on site, limits the impact of the proposal.*

7.7 • The proposal will adversely impact upon on-street parking provision.
Officer comment: *The Councils Highways department have been consulted on the application who have raised no objections. It is also noted the site has a high PTAL with accessible public transport modes, it is not considered the proposal would have a significant impact upon the highways.*

8. MATERIAL PLANNING CONSIDERATIONS

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

1. Land Use

Principle land use of the site in conjunction with the surrounding area.

2. Design

Design merits and visual impact on the property and surrounding area.

3. Residential and Visual Amenity

Impact on the amenity of occupying residents and the visual impact to the surrounding area.

8.2 **Land Use**

8.1 Policy Considerations

Consideration has been given to a number of policies which guide development involving the loss of A1 retail uses in certain locations. Saved Policy S5 of the Council's adopted Unitary Development Plan (1998) seeks the retention of Class A1 retail uses outside district centres or local parades, unless it can be demonstrated to the satisfaction of the Local Planning Authority that any vacant A1 site has been actively marketed at values prevailing in the area for retail use, or that there is adequate provision in the locality for essential shops to meet local needs, or that the proposed use would not be detrimental to the amenity of residents.

8.2

Policy SP01 (2) of the Core Strategy (2010) seeks to ensure the scale and type of uses within town centres are consistent with the town centre hierarchy and SP02 (Part 5) promotes areas outside and at the edge of town centres as places which support and assist in the creation of sustainable communities. Part (a) of Policy SP02(5) promotes mixed use development at the edge of town centres.

8.3

Policy DM2 of the Managing Development DPD (Submission Version 2012) seeks to ensure the existing level of local shop provision is maintained and complements the town centre network. In summary, this Policy also goes on to explain how the loss of A1 will only be supported where there is a shop within 300m walking distance, the shop has been vacant for more than 12 months, and there is no viable prospect of retail use.

8.4

Policy RT5 of the Interim Planning Guidance (2007) requires proposals that would contribute to the evening and night-time economy to be considered in light of the proximity of residential accommodation and surrounding uses, the cumulative impact and level of disturbance associated with A3, A4 and A5 uses, the nature of the activity, including the impact of the proposed hours of operation, and the mitigating measures for any likely pollution, including ventilation equipment and refuse disposal (including customer litter).

8.5

8.6 Consideration has also been given to Policy SP03 of the Core Strategy which supports healthy and active lifestyles, through seeking to reduce the over concentration of any use type that distracts from the ability to adopt healthy lifestyles.

Loss of A1 Retail Unit

The proposal would result in the loss of a pure A1 retail unit however the mixed use nature of the proposal (A1/A3) means that the unit would still comprise an element of A1 floor space at ground floor level. The site is not vacant and no evidence has been submitted to demonstrate that the premise has been marketed for retail use at values

prevailing in the area. In addition, no evidence has been provided to demonstrate that there is adequate provision in the locality for essential shops to meet local needs. However, assessment of the site by the case officer shows the property to be located just outside of the Whitechapel Town Centre, which has a high provision of A1 uses including the Whitechapel Market providing essential shops and services. In addressing Policy DM2, the nearest A1 unit to the subject site is within 25-75m considering other A1 units along New Road and the edge of the Whitechapel District Centre which is 72m away. As such the proposal complies with the policy DM2 which seeks to prevent the loss of A1 uses where there are no alternative local shops within 300m walking distances of the site.

8.7 On balance, despite the lack of evidence to demonstrate market or vacancy issues, the combined mix use nature of the proposed coffee shop and restaurant is considered acceptable in land use terms given the fact an element of A1 will be retained. In any instance, there is satisfactory provision of alternative A1 shops within walking distance to the site. Matters relating to residential amenity are discussed in later sections of this report.

8.8 In conclusion, it is considered that the loss of a pure A1 retail units acceptable in light of the proposed mix and in accordance with the requirements of saved Policy S5 of the Unitary Development Plan (1998), SP01 of the Core Strategy and DM2 of the Managing Development DPD (2012) which seek to resist the loss of retail units in the Borough.

8.10 Proposed Mixed Class A1/A3 Restaurant Use

In terms of the appropriateness of the proposed use, (Mix Use Class A1/A3 coffee shop and restaurant), consideration has been given to the type of use proposed, its internal layout, including seating provision, type of food preparation and scale of cooking, hours of operation and any issues relating to over-concentration of similar uses.

8.11

The application drawings specifies that there will be seating capacity for 34 seats solely on the ground floor and there will be no seating within the basement level (given the fact there is no means of escape). The proposed restaurant use will affect

8.12 the ground floor only as the basement will remain unchanged as ancillary storage space with W/C and wash facilities only.

The proposal does not propose any hot food cooking on site and therefore if this can be secured via condition, it is considered that the use should not have the same impact as regular A3 type uses, therefore limiting the impact of the use.

8.13 Consideration has also been given to the fact that the proposed change of use affects a small proportion of floor space at ground floor level. Furthermore, the proposed use is to operate from 07:00 Hours to 21:00 Hours, Monday to Sunday and on Bank Holidays and this is considered to limit any nuisances associated with late night uses.

8.14 In order to assess the impact of the proposal on the issue of over concentration the case officer undertook a survey of the evening and night-time economy uses (specifically Class A3 restaurant and Class A5 hot food takeaway uses) within the surrounding area. The survey shows that there are 27 Class A3 and A5 uses within a distance of approximately 300 metres from application site.

8.15 The majority of A3 and A5 uses are found within the Whitechapel Town Centre, with 5 of the A3 uses along the length of New Road itself, outside the town centre. Taking into account the results of the survey, together with the objections raised by local

residents which note concerns regarding the existing over concentration of restaurants in the area consideration has been given to implications of a further A3 type use.

8.16

However, the proposal is for a mixed use A1/A3 and considering there will be no primary hot food cooking on site, no late night opening beyond 9pm and also the fact that seating is limited to the ground floor only, the proposal is considered acceptable. Given these restrictions and conditions officer believe that there will be minimal cumulative impact on levels of disturbance associated with these uses.

On balance, the proposal is therefore acceptable in line with the requirements of Policies SP01, SP03 and SP10 of the adopted Core Strategy (2010) and Policy RT5 of the Interim Planning Guidance (2007), and DM2 of the Managing Development DPD (submission version 2012) which together seek to prevent the over-concentration of evening and night-time economy uses where they would have a detrimental impact on residential amenity.

Design

8.17 *Policy Considerations*

Policy SP10 of the Council's adopted Core Strategy (2010), Policy DM24 of the Managing Development DPD (submission version 2012), saved Policy DEV1 of the Unitary Development Plan (1998) and Policy DEV2 of the Interim Planning Guidance (2007) seek to ensure that development incorporates good design principles and takes into account and respects the local character and setting of the development site and its surroundings in terms of scale, height, bulk, design details, materials and external finishes. Saved Policy DEV9 of the Unitary Development Plan (1998) seeks to resist proposed alterations which would adversely affect the elevation of any building or the visual integrity of the street.

8.18

Saved Policy DEV27 of the Unitary Development Plan (1998) seeks to ensure that applications for minor alterations are considered with regard to the effect that such alterations will have on the host building, street and wider Conservation Area. Policy CON2 of the Interim Planning Guidance (2007) states that development proposals will be approved in Conservation Areas only where they will preserve or enhance the distinctive character and appearance of the conservation area, in terms of scale, form, height, materials, architectural detail and design, and preserve open spaces, views and vistas. Policy DM24 of the Development Management DPD (submission version 2012) seeks to ensure developments are place sensitive taking in consideration the local context. Policy 4B.12 of the London Plan (2011) seeks to protect and enhance London's historic assets, including Conservation Areas, based

8.19 on an understanding of their special character.

Proposed Design

The proposal includes the retention of No.4 AC units mounted to the flat roof top of the rear single storey extension. The AC units service the ground and basement level and are visible from the rear residential windows from No.25 & 26 Fieldgate Mansions. The proposal also includes the retention of minor alterations to the shop front which includes the installation of matching transform to divide and break up the full glazed frontage with the installation of a new aluminium and glazed entrance door and a new separate timber framed access door leading to the residential flats above.

8.20

The four AC units are grey in colour and of standard size and specification. The outlook from the rear residential properties is to the flank elevation of No.83 New Road and its single storey extension. The four AC units which are are lined up in

8.21 pairs are largely out of sight and have no significant or detrimental visual impact.

The alterations to the shop front are considered to be minor and will help enhance the appearance of the frontage moving away from the existing full glazed and modern appearance with a more traditional style, which is considered appropriate for the

8.22 Myrdle Street conservation area.

The proposed AC units and shop front alterations are acceptable in terms of design, scale, choice of materials and visual appearance. The proposal would result in a development that is acceptable to the host building and Myrdle Street Conservation Area. The proposal is therefore acceptable in terms of the saved policies DEV1, DEV9 and DEV27 of the Unitary Development Plan (1998), policy CON2 of the Interim Planning Guidance (2007), policy DM24 of the Development Management DPD (submission version 2012) and policy SP10 of the Adopted Core Strategy (2010), which seek to ensure high quality design and materials for new developments with regard given to buildings located within conservation area settings.

Amenity

8.23 Saved Policy DEV2 of the Unitary Development Plan (1998), Policy DEV1 of the IPG (2007), policy DM25 of the Development Management DPD (submission version 2012) and Policy SP10(4) of the adopted Core Strategy (2010) require development proposals to protect the amenity of surrounding existing and future residents and building occupants, as well as protect the amenity of the surrounding public realm. Saved Policy S7 of the Unitary Development Plan (1998) as states that proposals for restaurants will be considered in light of the amenity of nearby residents and whether adequate measures for ventilation are provided on-site.

8.24 Saved Policy DEV50 of the Unitary Development Plan (1998) states that the Council will consider the level of noise generated from developments as a material planning consideration and that the developer will be expected to include information relating to noise generated by the proposal in their application. Policy DEV10 of the IPG (2007) requires attenuation measures to be incorporated into development likely to generate unacceptable levels of noise and/or vibration, and that development will only be supported where it can be demonstrated that noise levels generated from the development will be in accordance with Planning Standard 1: Noise of the IPG (2007).

8.25

In terms of visual amenity, the upper floors of the property comprise of residential flats with two rear windows, in addition the property backs on to a residential terrace along Fieldgate Mansions. Whilst this has been taken into account, it is considered that the existing outlook is poor, which faces a brick wall, the single storey rear extension and is restricted by the footprint of the building and rear court yard. Furthermore, given the location and small footprint of the AC units within the context of the existing outlook, it is not considered that there would be any unacceptable or detrimental visual impacts to any neighbouring dwellings, therefore the proposal

8.26 meets the aims of policy listed above.

Hours of operation

The applicant has requested the following hours of operation for the proposed A1/A3 mix use unit :

- 07:00am to 21:00pm hours (Monday to Sundays and Bank Holidays)

These hours are considered acceptable in the area as there will be no significant or

detrimental impact on occupiers of nearby residential properties considering the limit after 9pm.

8.27

Impacts from Noise, Vibration and Odour

The proposal includes does not include any kitchen extraction system or ducting as there will be no primary cooking on site. Instead food will be heated and served to customers in a café style fashion. The nearest noise sensitive facade is located 1.5 metres from the rear facing room windows, which comprise of a kitchen of the flat

8.28 situated directly above the application site.

The application was accompanied by two documents: a Noise Assessment Report, prepared by CK Direct dated 12th October 2010 and the AC unit specifications from Fujitsu Compact Cassette, which assessed the noise and vibration impact resulting from the proposed AC units. The details were assessed by the Councils Environmental Health Team (EHEP), who have requested that any mechanical/electrical noise associated with the proposal (for example, fans on the air conditioning units) needs to not exceed L90-10dB (i.e. be at least 10dB below background levels), and further that a Noise Report presenting details of measurements and calculations be provided to EHEP for approval to safeguard and ensure there will be no adverse amenity issues arising from the proposal.

8.29

8.30 A condition will be attached to ensure the noise generated by the plant does not exceed 10dBA below any background noise at any time.

Subject to conditions, the proposal meets the aims of policy SP10(4) of the Adopted Core Strategy 2010, saved policies DEV2 and DEV50 of the Unitary Development Plan (1998) and DEV1 of the Interim Planning Guidance (2007). These policies seek to ensure and safeguard residential amenities from unacceptable levels of noise nuisance.

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		





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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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