

Committee: Development	Date: 9 th October 2013	Classification: Unrestricted	Agenda Item Number: 7.1
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Report of: Director of Development and Renewal	Title: Town Planning Application
Case Officer: Adrian Walker	Ref No: PA/13/01607
	Ward: Whitechapel

1. **APPLICATION DETAILS**

Location: 85 - 87 New Road, London, E1 1HH

Existing Use:
85 New Road – Shop (Use Class A1)
87 New Road – Restaurant (Use Class A3)

Proposal: Change of use at 85 New Road from shop (A1 use class) to restaurant (A3 use class) with rear extension to provide waiting area, toilets (including one disabled) and seating for the existing restaurant at 87 New Road.

Drawing Nos/Documents: 01, 02, 03, 04, 05, 06, 07, Survey of businesses on New Road, Planning Statement, Design and Access Statement

Applicant: Needoo Grill

Ownership: Mushtaq Ali
Naveed Khan
Khalid Bashir

Historic Building: NA

Conservation Area: Myrdle Street

2. **BACKGROUND**

2.1 This application was reported to the Development Committee on the 12th of September 2013 with officers' recommendation for **REFUSAL** for following reason:

1. The proposed restaurant would add to the proliferation this use along New Road. This will result in an over-concentration of this type of use and detract from the objectives of Core Strategy policy SP01, which seeks to promote a vibrant mix of uses in the designated Tower Hamlets Activity Area. The over-concentration of restaurant uses in the area will lead to adverse impacts on residential occupiers of the area in terms of increased noise & disturbance from patrons coming and going to the restaurants. The proposal is therefore contrary to the objectives of policies SP01(2ci); of the adopted Core Strategy (2010) and Policy DM1(4a) of the adopted Managing Development Document (2013).

2.2 The Committee resolved **NOT TO ACCEPT** officers' recommendation to refuse planning permission. Officers recorded that the Members were minded to GRANT planning permission for the following reasons:-

2.3 1. The shop at 85 New Road was currently vacant and the loss of the A1 retail use

was considered acceptable.

2. The Committee was not convinced by the evidence that there was an over-concentration of restaurant uses in the area.
3. The lack of clear policy guidance in relation to over-concentration of a specific use in an area.

Officer Commentary

- 2.4 In the original Committee report at paragraph 8.2 officers commented that the loss of the retail until was acceptable in terms of policies SP02 and DM2.
- 2.5 The third reason for overturning officers recommendation appears to suggest that Policy DM1(4) is unclear as to the approach adopted in relation to restaurant activity outside town centres. Officers do not accept this contention and remind the Committee that the Development Management Document has been the subject of formal examination and consequently does provide clear guidance. Notwithstanding this and unlike other areas of the Borough (Brick Lane for example), the policy does not provide any specific guidance as to what might constitute over-concentration; the reason being that the policy needs to be applied borough-wide across different situations and circumstances, requiring a flexible approach to considerations of over-concentration and the effect of any over-concentration on neighbouring amenity.
- 2.6 In this particular case, Members have taken a different view from officers on the degree of over-concentration of restaurants in this particular area and the impact of further restaurant activity on the amenities of neighbours. It is not appropriate to infer that the policy is unclear but the Committee adopted an alternative position in relation to the degree of over-concentration in this particular case taking into account the individual planning merits.
- 2.7 Members were presented with different ways of interpreting the level of over-concentration of restaurants in the area, whilst officers maintain their position that the proposal should be refused planning permission, it is considered that it may be reasonable for Members to adopt an alternative view based on the evidence before them in this case.
- 2.8 However, Members will be aware that consistency of decision making represents a material planning consideration. As such, the Committee is reminded of its decision(in November 2012) to refuse planning permission for the change of use of 83 New Road to a mixed A1/A3 use along with alterations to the existing shop front and the retention of air conditioning units, which was also considered against Policy DM1(4) of the Managing Development Document which at the time, was at submission version stage. The reasons for refusal in the case of 83 New Road referred to the proliferation of such uses outside designated town centres, leading to an over-concentration of such uses in the area. It is for this reason why officers are maintaining their previous recommendation to REFUSE planning permission and it is important as part of Members on going deliberations, to consider how the planning merits differ between this previous proposal and the current application.
- 2.9 If Members resolve to approve the scheme, it is recommended that conditions are imposed on the permission. Proposed conditions are outlined in the next section of this report.

Proposed Conditions

- 2.10 Officers would recommend standard conditions in relation to the time to implement the permission, and compliance with the approved plans.
- 2.11 Officers would also recommend the imposition of a condition requiring the submission of details of the materials of the external materials to be used on the proposed rear extension.
- 2.12 The enlarged restaurant would require additional areas for refuse and recycling storage, and these are not currently shown on the plans. A condition would therefore be imposed requiring the submission of these details.
- 2.13 Finally Officers would recommend the imposition of a condition to restrict the hours of opening of the newly enlarged restaurant. Members will be aware that the hours of opening of the existing restaurant at number 87 is restricted by condition 3 attached to planning permission reference PA/08/02662. This condition currently restricts the hours of opening of the restaurant to 10.00am to 10.00pm on any day. The Applicant has submitted an application to vary this condition which appears under Part 6 of this agenda. The varied hours would allow the premises to open 11.30am to 11.30pm on any day.
- 2.14 Officers therefore recommend that this permission is also subject to a condition limiting hours of operation to 11.30am to 11.30pm. These hours of operation are considered to be acceptable given the character of the area, and would satisfactorily protect residents from unacceptable levels of noise and disturbance.
- 2.15 It is therefore recommended that the following conditions are included on any permission that Members chose to grant:-

2.16 Conditions for Full Planning Permission

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).

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. No development shall take place until samples of the external facing materials for the rear extension have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.

Reason: To ensure that the external appearance of the building is satisfactory in accordance with the requirements of policy SP10(4) of the Tower Hamlets Core Strategy 2010.

4. Within 3 months from the date of this permission; details of the provision of refuse and recycling storage facilities to serve the development hereby approved have been 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 and retained thereafter.

Reason: To ensure adequate provision for the storage of refuse in accordance with the requirements of Tower Hamlets Core Strategy policy SP05(1)

5. The use allowed by this permission shall not take place other than between the hours of: -

11:30 -23:30, Mondays - Sunday

Reason: To safeguard the amenity of adjacent residents and the area generally and to accord with policy SP10(4) and policy DM25 of the Managing Development Document (2013).

5.0 OFFICER RECOMMENDATION

5.1 The officers' recommendation as at 12th September 2013 to refuse planning permission remains unchanged. Accordingly, the Committee are recommended not to approve the application and to resolve to **REFUSE** planning permission as previously detailed within the published report and addendum report at the Development Committee meeting held on 12th September 2013. The suggested reasons for refusal are outlined in the main report, appended as Appendix One of this report.

5.2 If Members determine to approve the application it is recommended they impose the conditions recommended at paragraph 2.12.

6.0 APPENDICIES

6.1 Appendix One – Report to Development Committee 12th September 2013