

Item No.	Classification:	Date:	Meeting Name:
7.4	OPEN	18 July 2012	Planning Sub-Committee A
Report title:	Development Management planning application: Application 11-AP-2382 for: Full Planning Permission Address: 110 WYNDHAM ROAD, LONDON, SE5 0UB Proposal: Change of use from retail shop (A1 use) to hot food takeaway (A5 use) including installation of an external duct to the flank elevation.		
Ward(s) or groups affected:	Camberwell Green		
From:	Head of Development Management		
Application Start Date 2 August 2011		Application Expiry Date 27 September 2011	

RECOMMENDATION

- 1 To grant planning permission.

BACKGROUND INFORMATION

- 2 The application was previously heard at the Camberwell Community Council Meeting held on 12 December 2012. The application was deferred for the following reasons: further information regarding the nature of the rear of the site; specific details of the waste disposal arrangements including access and collection; and consultation with the Secure by Design Officer.

These issues have been addressed as follows:

- The applicant has provided photographs of the rear of the site and clarification of the access.
- The applicant has provided further information regarding refuse storage and collection including those associated with fats.
- The Secure by Design Officer has been consulted.

These matters are expanded upon within the report below.

Site location and description

- 3 The subject site is located to the northern side of Wyndham Road, approximately 20m to the west of the intersection of Toulon Street, and opposite the intersection with Redcar Street. The commercial unit is presently unoccupied.
- 4 The application site occupies the ground floor of the premises and there is residential above. The area is otherwise predominantly characterised in residential use, although the St Michaels and All Angels Academy School is located to the immediate west of the site.

- 5 The site is located within an Air Quality Management Area, the Urban Density Zone and the Camberwell Action Area. The site is not located within the setting of any conservation area or listed building.

Details of proposal

- 6 Planning permission is sought for a change of use from retail shop (A1 use) to hot food takeaway (A5 use) including installation of an external duct to the side flank (western) elevation, discharging above the existing roofline.
- 7 The proposed development would include storage space for refuse and recycling to the rear of the premises at ground floor level.
- 8 The applications seeks permission to operate between the hours of 12:00pm to 22:30pm Monday to Sunday (7 days a week), as stated within the application form.

Planning history

- 9 Planning permission (10-AP-2136) was sought for the change of use from retail shop (A1 use) to hot food takeaway (A5 use) including installation of an external duct to the front elevation. The application was withdrawn in October 2010 as it was likely to be refused given the impact on neighbouring occupiers (upstairs) from noise and odour disturbance because the extraction unit would have discharged to the front elevation below residential windows.
- 10 The difference between the previous application (10-AP-2136) and this current application is the change of the extraction unit, which now proposes a duct to the flank elevation of the building, as opposed to below residential windows at the front.

Planning history of adjoining sites

St Michaels and all Angels Academy on Wyndham Road

- 11 11-AP-2946) for the 'Demolition of the existing school buildings, church and games court and erection of a part two, part three storey secondary school building for St Michaels and all Angels Academy on Wyndham Road, a three storey special needs school for Highshore School on Farmers Road, and a two storey sports block for St Michael and All Angels Academy on Pitman Street, plus external play space, including multi-use games area, car parking, servicing and new church on Wyndham Road'. Planning permission was granted on 2nd November 2011.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 12 The main issues to be considered in respect of this application are:
- a) the principle of the proposed development in terms of landuse
 - b) the impact on the amenities of neighbouring occupiers
 - c) the impact on the functioning of the transportation network
 - d) visual impact of the duct

Planning policy

Core Strategy 2011

- 13 Policy 3 'Shopping, Leisure and Entertainment'
Policy 12 'Design and Conservation'
Policy 13 'High Environmental Standards'

Southwark Plan 2007 (July) - saved policies

- 14 1.10 'Small scale shops and services outside the town and local centres and protected shopping frontages'
3.1 'Environmental Effects'
3.2 'Protection of amenity'
3.6 'Air quality'
3.7 'Waste reduction'
3.12 'Quality in design'
5.2 'Transport impacts'
5.3 'Walking and cycling'

London Plan 2011

- 15 None considered to be directly relevant.

National Planning Policy Framework

- 16 The NPPF came into effect on 27 March 2012 and is a material planning consideration, of particular relevance are the core planning principles, also parts 1 'Building a strong, competitive economy' and 7 'Requiring good design'.

Principle of development

- 17 Saved policy 1.10 of the Southwark Plan states that outside town centres, local centres and protected shopping frontages, development will only be permitted for a proposal for a change in use between A use classes or from A use classes to other uses, when the applicant can demonstrate that:

i) The proposed use would not materially harm the amenities of surrounding occupiers;

- 18 Refer to the amenity section of this report.

and

ii) The use that will be lost is not the only one of its kind within a 600m radius and its loss would not harm the vitality and viability of nearby shops or shopping parades;

- 19 There is another A1 use at 98-100 Wyndham Road (Foodlink superstore) which is within approximately 36m of the site, therefore the proposal complies with part ii of the policy.

or

iii) The premises have been vacant for a period of at least 12 months with demonstrated sufficient effort to let, or have not made a profit over a two year period.

- 20 No information has been submitted with regard to profits or vacancy, although it is noted that the wording of policy 1.10 is such that the proposal need only comply with

part ii or part iii, not both. It is noted however, that a letter from Marble Sales and Lettings has been submitted with the application which states that they have been actively trying to let the shop since September 2006, but owing to the market downturn and the current situation of the premises they have been unsuccessful in trying to rent it out.

- 21 In light of the above, there are no objections in principle to change of use from A1 to A5 in landuse terms.

Environmental impact assessment

- 22 A Screening Opinion was not requested prior to the submission of the application as the scheme is not Schedule 1 development. It does fall within Schedule 2, being an urban development project. Having reference to the Column 2 criteria, the site area does not exceed the initial threshold of 0.5ha. In addition it has been determined that the development is unlikely to have a significant effect upon the environment by virtue of its nature, size or location based upon a review of the Schedule 3 selection criteria for screening Schedule 2 Development. The site is a brownfield site in an inner London location, and is located outside of a sensitive area as per Regulation 2(1) and the development is unlikely to generate any significant environmental effects. Therefore an Environmental Impact Assessment is not required.

Amenity

- 23 The Environmental Protection Team has assessed the application documents and diagrams and are satisfied that the development would not cause material harm to the amenity of neighbouring occupiers, subject to the imposition of suitable conditions.
- 24 The application shows a kitchen range canopy and odour extraction system with flue to a high level discharge, above the existing roof. The Environmental Protection Team consider that this would satisfactorily filter and disperse cooking fumes provided that the proposed carbon filter is installed (PlasmaClean Xract2100 using copper activated carbon filter) and that a tapered cowl is fitted at the top of the duct (rather than a 'chinaman's hat' which is more triangular in shape), and it is recommended that this be secured by a planning condition.
- 25 Since the application was deferred at the Camberwell Community Council Meeting in December 2011 the applicant has provided further information regarding the fat trap, and collection and storage of waste.
- 26 Furthermore, in terms of plant noise and vibration, the Environmental Protection Team are satisfied that the extraction equipment has been designed to ensure that the plant noise would be 10dBA below the background noise level which would ensure there would be no loss of amenity as a result of plant noise. A condition is recommended to secure this.
- 27 There is also potential that noise from the commercial kitchen may impact on the residents living directly above the premises, therefore in order to protect these neighbouring occupiers, it is recommended that a condition is imposed to protect their amenity. This condition would ensure that any walls or floors sharing a party element with any residential use would need to be designed and constructed to provide reasonable resistance to sound.
- 28 For these reasons, it is considered that any potential impact on neighbouring occupiers relating to odour, vibration and noise from the operation of the unit can be adequately addressed through conditions.

- 29 However, concern was also raised by neighbouring occupiers regarding the hours of operation, and potential noise and disturbance from late night operation in particular.
- 30 The proposed use is seeking permission to operate between the hours of 12:00pm to 22:30pm Monday to Sunday (7 days a week).
- 31 It is considered that a 22:30pm closing time would be an appropriate closing time for such a use on a reasonably busy road, and would therefore not have a material impact on the amenity of neighbouring occupiers. Should consent be granted, then it is recommended that a condition is imposed restricting these hours of operation.
- 32 One of the neighbouring occupiers raised concern that the proposed development is located immediately adjoining a possible future church, on the school site for which planning permission was recently granted (11-AP-2946).
- 33 However, it is considered that given the church would be located approximately 8m from the application site, there would be no maintenance or functioning complications arising from the proposed development. The applicant has advised that the duct would be within their site.
- 34 Overall, for the reasons set out above, it is considered that subject to the imposition of conditions, the proposed development would not have a detrimental impact on the amenity of neighbouring occupiers.

Traffic issues

- 35 The application site is located within an area with high (level 5) Public Transport Accessibility Level (PTAL) and is also located within a Controlled Parking Zone (CPZ). No off-street parking places are proposed and the demand that operational parking will place on on-street parking capacity therefore has to be considered.
- 36 Whilst car parking demand is already relatively high within this area, it is not considered that the proposed use would result in an increased demand when compared with a retail use, particularly as it's catchment is likely to be local and given the modest size of the unit, which is likely to have a comparable number of employees and comparable operational parking needs.
- 37 In terms of the increased traffic movements from future customers and the associated impact on the functioning of the transportation network, normal car parking restrictions would need to be adhered to, including those on-street car parking spaces immediately outside the site. Failure to do so would likely result in parking enforcement involvement.
- 38 With regard to servicing / deliveries, it is considered that the scale and nature of the use would not generate a significant number of deliveries each week. Servicing would have to take place on-street, as existing, and would have to comply with on-street restrictions. The applicant has confirmed that there would be no home delivery service provided and the application has been assessed on this basis. Given that provision of a delivery service could result in transport and amenity impacts and no details have been provided as to how this would be managed, a condition is recommended preventing home deliveries from being offered and the applicant has confirmed that this would be acceptable.
- 39 For these reasons, it is not considered that the proposed development would have any undue impact on the functioning of the transportation network.

Design issues

- 40 In terms of design, the only external alterations sought to the host building is the installation of the extraction flue to the flank wall of the building.
- 41 It is not considered that this extraction flue, being approximately 30cm in width, would cause material harm to the character or appearance of the host building, or its wider setting. Given that this flue is visible from the public domain, a condition is recommended to ensure it is painted in a suitable colour.

Impact on character and setting of a listed building and/or conservation area

- 42 The site is not located within the setting of any listed building or conservation area.

Waste

- 43 The application plans show an area to the rear to provide storage for refuse and recycling, and a note that all material is to be disposed by a licensed trade waste disposal company. The area shows storage for regular waste, food waste, oil / fat waste and paper / cardboard recycling.
- 44 The applicant has proposed to install a refuse storage enclosure to the rear of the site which would contain 3 x refuse bins measuring 480mm x 555mm x 1060mm (one each for normal refuse bin, food waste bin and fat recycling storage container). A condition is recommended to ensure that the refuse storage area is provided in accordance with the plans.
- 45 On collection days the bins will be placed to the front of the unit (as with the previous use of the site). This is a similar arrangement to all the other commercial premises along Wyndham Road. The applicant anticipates that collection will be undertaken 2-3 times per week with the bins being removed from the front of the premises once emptied.
- 46 Given the site constraints it is considered that the location for the refuse and recycling storage is acceptable, as is the method and regularity of collection.

Secured by Design

- 47 Subsequent to the application being deferred at the Camberwell Community Council Meeting, the application has been referred to the Secured by Design Officer. At the time of writing this application is being assessed by said Officer, and as such Members will be updated prior to the meeting by way of addendum report on this matter.

Sustainable development implications

- 48 There are no sustainable development implications associated with the development.

Other matters

- 49 One neighbouring occupier raised concern that there were inaccuracies or errors within the application documents, namely the Design and Access Statement. Most of these are considered to be subjective differences of opinion, however some aspects were factual errors (such as spelling mistakes and a reference to the wrong town centre). The application was assessed on the merits of the scheme and little weight was given to subjective comments from the applicant, and no weight given to factual errors.
- 50 Furthermore, given that the unit is under 100m² in floorspace and that part of the

building (the residential aspect) has been in use for at least 6 of the last 12 months, CIL is not triggered.

Conclusion on planning issues

- 51 Overall, for the reasons detailed above, it is considered that subject to the imposition of appropriate conditions, the proposal would comply with the relevant policies in the Southwark Plan and the Core Strategy and that planning permission should be granted.

Community impact statement

- 52 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

Consultations

- 53 Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

- 54 Details of consultation responses received are set out in Appendix 2.

Summary of consultation responses

- 55 A total of 5 neighbouring occupiers have objected to the proposed development, being occupiers of:

- 7 Lady May House, Wyndham Road
- 22 Carey Court, 101 Wyndham Road
- 2 Harlynwood, Wyndham Road
- No Address Provided x 2

- 56 The concerns raised are summarised as follows:

Amenity

There are already problems with rubbish and vermin associated with the 24 hour corner shop on Wyndham Road, which also causes disruption from the hours of operation and noise.

A hot food shop will add to the problem of rubbish, vermin and noise (and vibration) disturbance including gangs of youths hanging around. There is a risk of anti-social behaviour which includes knife crime.

There is no place for storage of food waste on the premises aside outside the front of the shop, which would disturb functioning of the footpath. Waste collection is proposed to the rear where there is no access for large vehicles.

The installation of the duct will take cooking fumes right into the flats above the shop,

as well as other neighbouring sites. The flue may impact on future development on the neighbouring school site, with complications arising for maintenance and operation.

The extraction flue up the site of the flank wall will look out of place.

There are already numerous hot food takeaway establishments within a 10 minute walk and there is no need for another.

Health

This type of premises will encourage students to leave the school and eat there, creating concerns around obesity and nutrition.

A neighbour has agreed with Thames Water regarding potential for food and fat waste blocking the sewer system.

Consultation

In terms of consultation, concern was raised that the site notice was placed on a lamppost outside the adjoining site.

The site notice was removed from the lamppost, and the statutory consultation period should be extended.

Change from previous application

There has been little or no change since the previous application/s were refused.

Inaccuracies within the application

One neighbouring occupier raised concerns that there are errors within the Design and Access Statement. Many of these errors are considered to be differences of opinion, although there are some factual errors also.

The Camberwell Society

At first reading a duct to the front elevation sounds ridiculous, with flats above, but the drawings clearly show the duct to the side. Whether the tenant has the right to oversail the adjoining land for the duct is a legal matter on which we cannot comment.

Whilst correspondence includes objectors to the idea of a take-away due to discarded rubbish, and attracting groups of people hanging around, there is no other takeaway in the immediate vicinity on this busy through road and on that basis it would seem unobjectionable.

Thames Water

Thames Water recommends the installation of a properly maintained fat trap to be installed, and furthermore, that in line with best practice the collection of waste oil by a contractor. These measures are recommended to avoid potential for blocked drains, sewage flooding and pollution to local water courses.

Human rights implications

- 57 This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected

or relevant.

- 58 This application has the legitimate aim of providing a hot food takeaway. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/2013-108 Application file: 11-AP-2382 Southwark Local Development Framework and Development Plan Documents	Regeneration and Neighbourhoods Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5470 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

AUDIT TRAIL

Lead Officer	Gary Rice, Head of Development Management	
Report Author	Fennel Mason, Planning Officer	
Version	Final	
Dated	25 October 2011	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	No	No
Director of Planning	no	no
Strategic Director Environment and Leisure	no	no
Date final report sent to Constitutional Team		6 July 2012

Consultation undertaken

Site notice date:

19 August 2011

Press notice date:

N/A

Case officer site visit date:

23 August 2011

Neighbour consultation letters sent:

23 August 2011

Internal services consulted:

Environmental Protection Team
Transportation Team

Statutory and non-statutory organisations consulted:

Thames Water

Neighbours and local groups consulted:

Neighbour Consultee List for Application Reg. No. 11-AP-2382

TP No	TP/2013-108	Site	110 WYNDHAM ROAD, LONDON, SE5 0UB
App. Type	Full Planning Permission		

Date Printed	Address
23/08/2011	5 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	4 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	6 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	8 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	7 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	11 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	10 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	12 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	3 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	2 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	FLAT 19 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011	FLAT 14B LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011	20 Luxor Street London SE5 9QN
23/08/2011	108 WYNDHAM ROAD LONDON SE5 0UB
23/08/2011	9 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	THE WINDMILL 98-100 WYNDHAM ROAD LONDON SE5 0UB
23/08/2011	FLAT 14A LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011	ST MICHAEL AND ALL ANGELS ACADEMY WYNDHAM ROAD LONDON SE5 0UB
23/08/2011	1 HARLYNWOOD WYNDHAM ROAD LONDON SE5 0UE
23/08/2011	FLAT 12 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011	FLAT 11 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT

23/08/2011 FLAT 14 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 16 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 15 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT ABOVE THE WINDMILL 98-100 WYNDHAM ROAD LONDON SE5 0UB
23/08/2011 FLAT 10 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 1 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 6 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 5 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 7 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 9 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 8 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 18 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 17 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 2 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 4 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
23/08/2011 FLAT 3 LADY MAY HOUSE WYNDHAM ROAD LONDON SE5 0TT
20/06/1837 via email
20/06/1837 via email X
20/06/1837 via email XXXX
20/06/1837 22 Carey Court 101 Wyndham Road London SE5 0UX
20/10/2011 by e-mail XXXX

Re-consultation:

Site Notice 20 September 2011 and Neighbour Consultees 10 October 2011 following an error in the description of development stated that the duct would be at the front of the building.

Consultation responses received

Internal services

Environmental Protection Team - does not object to the development, subject to the imposition of conditions.

Transportation Team - does not object to the development.

Statutory and non-statutory organisations

Thames Water - recommended a condition is imposed to avoid potential blocked drains, sewage flooding or pollution to water courses.

Neighbours and local groups

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