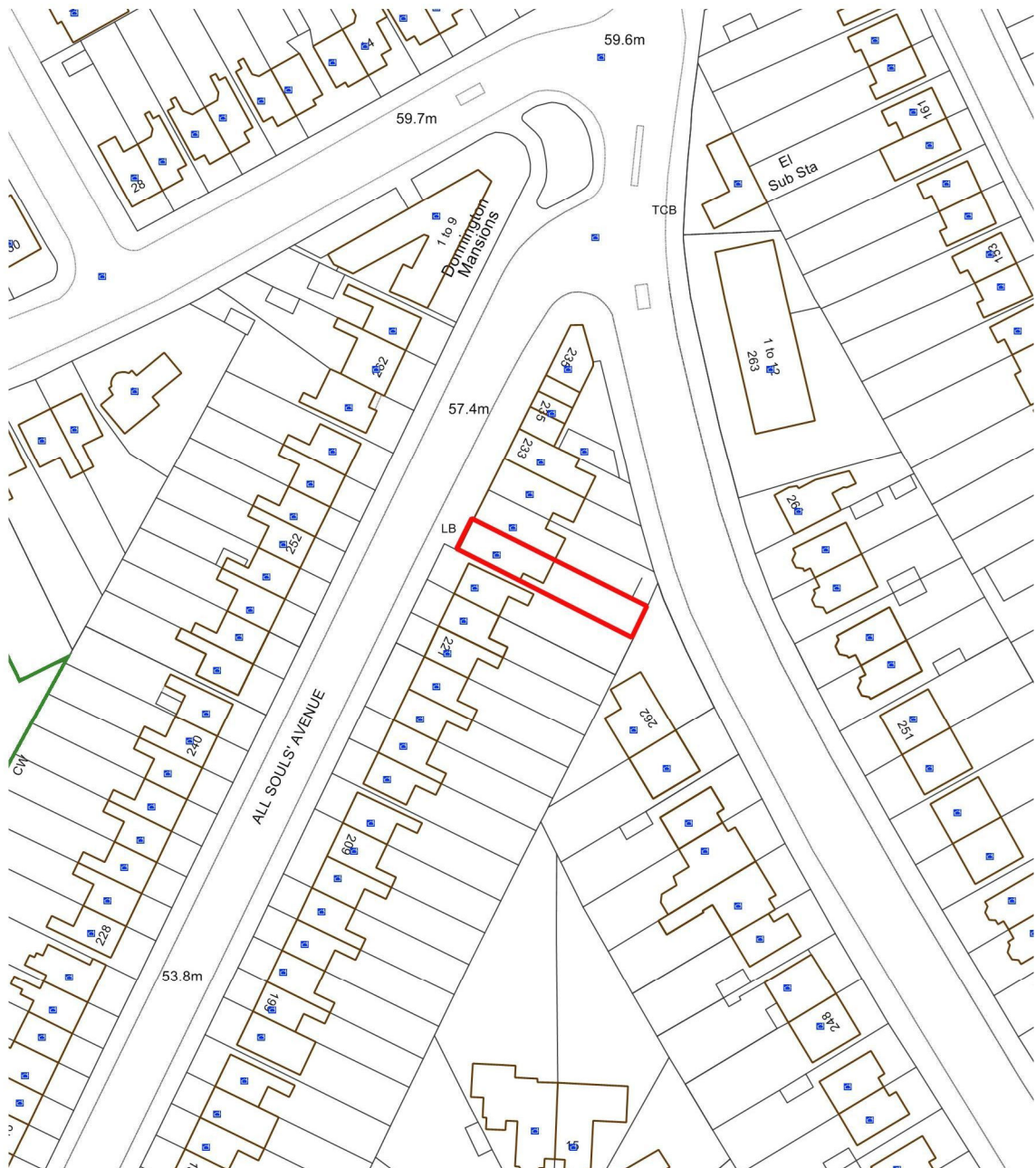
 **Planning Committee Map**  
Site address: 227 All Souls Avenue, London, NW10 3AE  
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This map is indicative only.

**RECEIVED:** 24 January, 2012

**WARD:** Brondesbury Park

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** 227 All Souls Avenue, London, NW10 3AE

**PROPOSAL:** Change of use of the premises to hot food takeaway (Use Class A5)

**APPLICANT:** Mr Rowan Grant

**CONTACT:** AAH Planning Consultants

**PLAN NO'S:**  
See condition 2

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## **RECOMMENDATION**

Approve.

## **EXISTING**

The existing property is a commercial unit on All Souls Avenue which forms part of a three storey terraced block with residential above.. It is not part of any designated shopping frontage. It is not a listed building nor is it within a Conservation Area.

## **PROPOSAL**

See above.

## **HISTORY**

09/1206. Certificate of lawfulness for proposed change of use to office (Use Class B1). This was refused for the following reason:

*The proposed Use Class B1 office cannot be considered lawful, as insufficient evidence has been provided to satisfy the Local Planning Authority that this premises has been continuously used for purposes within Use Class B8 for 10 years or more, which would be necessary to change it from a B8 to a B1 use as Permitted Development under the Town & Country Planning Use Classes (Amendment) Order 2005.*

## **POLICY CONSIDERATIONS**

### **National Planning Policy Framework**

The NPPF was published on 27<sup>th</sup> March and replaces Planning Policy Guidance and Planning Policy Statements with immediate effect. It is intended to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. It includes a presumption in favour of sustainable development in both plan making and decision making and its publication.

Saved policies from the adopted UDP will have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. Core Strategy policies will also need to be in conformity with both the London Plan and the NPPF and have considerable weight.

Where PPG's, PPS's, LDF Core Strategy and UDP saved policies are referred to in the report below they have been considerations in the assessment of the application. However, the recommendation is considered to comply with the NPPF.

### **London Plan 2011 and Mayor's Community Infrastructure Levy (CIL)**

This applies to relevant developments from 01/04/2012

### **Brent's Unitary Development Plan (2004)**

BE2 - Townscape: Local Context & Character

BE3 - Urban Structure: Space & Movement

BE7 - Public Realm: Street scene

BE9 - Architectural Quality

BE17 – Building Services Equipment

SH10 – Food and Drink (A3) uses

SH11 – Conditions for A3 Uses

SH19 – Rear Servicing

EP2 - Noise & Vibration

H22- Protection of Residential Amenity

SH10 - Food and Drink (A3) Uses

SH11 - Conditions for A3 Uses

### **CONSULTATION**

All neighbouring properties, Transportation Engineers and Environmental Health Officers consulted.

4 letters of objection and a petition with 13 signatures have been received from local residents, objecting on the following grounds:

- Increase in traffic and congestion
- Noise disturbance from late opening hours.
- Fumes
- Rubbish and the potential for anti-social behaviour.

No objections from Environmental Health or Highways Officers.

#### *Officer Comments on objection*

1. The opening hours are discussed in the main remarks section of the report. A condition will be attached to ensure that appropriate internal insulation will be installed to ensure that noise disturbance to the flat above is limited.

2. The proposed use will have an extractor fan and flue on the rear of the building. The environmental implications of this have been assessed by a Council officer from Safer Streets. They note that the proposed extractor will remove smells and odours and should not have an undue impact on the amenity of the residential properties above provided appropriately worded conditions are attached and complied with.

3. Rubbish and anti-social behaviour are not matters that can be effectively controlled by the planning system as they can be addressed by other non-planning related legislation. Nevertheless the conditions relating to the hours of use should limit any anti-social behaviour outside of these hours.

## REMARKS

### *Principle of use.*

The existing unit is vacant but the most recent use would appear to be as an office. However, a lawful development certificate for this use was refused in 2009 due to lack of evidence. The application is seeking to change the use of the unit to a takeaway restaurant selling Caribbean food. The site is not within a protected shopping frontage therefore the main policy when considering a change of use is policy SH 10 - Food and Drink Uses. Such uses are considered acceptable if they will not result in traffic congestion, car parking problems or a reduction in highway safety in the local area and will not have a detrimental impact on the amenity of neighbouring residential occupiers.

### *Residential Amenity*

When considering the impact of a food and drink use on residential properties there are a number of issues identified within Policy SH 10 which need to be considered. These are the proximity of residential accommodation, the nature and size of the proposed use, the character of the area and concentration of, and disturbance from, existing similar uses and whether the proposed hours of operation would cause disturbance for local residents.

The nearest residential accommodation to the property is directly above the unit where there are two self-contained flats, to the side is a two-storey terraced dwellinghouse and there are also terraced dwellinghouses on the opposite side of the road. The proposed takeaway unit will have floor area of 75sqm and would be used a takeaway serving Caribbean food. This limited size and type of use on its own is not something that would be likely to have an adverse effect on amenity of neighbouring residents.

The shopping frontage runs on the ground floor of a three storey perimeter block (Nos. 227-235) and is not classified as a town or local shopping centre and is not protected shopping frontage. For information, there are seven commercial units on this part of All Souls Avenue and there are no existing takeaway uses.

The proposed opening hours for the unit are 7am-10pm Monday to Sunday and on Bank Holidays. These hours of use are considered to be appropriate for the proposed use, given its location in a shopping parade without any similar uses and no other late night uses.

As such the proposed change of use to takeaway service is not considered to create an unacceptable impact on residential amenity of neighbouring occupiers.

### *Design of an Extractor Fan*

An extractor flue duct is proposed to be attached to the rear elevation of the building and will extend 1m above the parapet wall. This is proposed to be a Helio 500MUB fan and will have a silencer attached to ensure that there is no detrimental impact on the amenity of residents in the flats above and the dwelling adjacent. The specifications of the system have been assessed by the Council's Safer Streets Officer who is satisfied that there will be no detrimental impact on neighbouring residents in terms of noise or smells. The rear elevation is visible from Chamberlayne Road and there are already a range of paraphernalia visible from the street. The addition of another flue is unlikely to have a detrimental visual impact. The applicants have indicated where the proposed fan will be situated but have not shown this on elevational drawings. A condition requesting such drawings will be attached to ensure that the impact on residents and the appearance of the property is acceptable.

### *Highways*

Although the most recent use has been claimed to be as an office (see "History") it would be useful

to consider how a retail use would compare with the proposed take away use in highway terms. The parking standards set out for an A1 retail premises and an A5 food & drink premises are the same up to a floor area of 400sqm, as set out in PS7 and PS9 of the UDP-2004 respectively. As a result, the proposed change of use will have no impact on the single car space permissible for the premises. The servicing standards are also the same and therefore there will be no additional impact in terms of parking and servicing.

With takeaway uses there is the risk of motorists stopping and parking in front of the unit to pick up food. However there is a CPZ along this stretch of All Souls Avenue which restricts parking on most of the street with short term pay and display bays in the vicinity of the site which should help to mitigate against any adverse highways impact. In line with recent approvals for A5 uses a condition has been attached requiring the submission of a delivery plan to ensure that any delivery services offered by the proposed takeaway will not have a detrimental impact on the amenity of neighbouring residents.

### *Conclusion*

The proposed change of use of the commercial unit to a takeaway use is considered to be in accordance with the relevant policies and guidelines and as such will not have a detrimental impact on the amenity of neighbouring residents. Accordingly approval is recommended subject to the conditions set out below.

**RECOMMENDATION:** Grant Consent

### **REASON FOR GRANTING**

- (1) The proposed development is in general accordance with policies contained in the:-  
Brent Unitary Development Plan 2004

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment  
Environmental Protection: in terms of protecting specific features of the environment and protecting the public  
Town Centres and Shopping: in terms of the range and accessibility of services and their attractiveness

### **CONDITIONS/REASONS:**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

CDL0208/11  
Extract Fan and Flue Specifications

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

- (3) The premises shall only be open and used for the preparation or sale of hot food and for ancillary purposes and accept deliveries to premises between the hours of:

0700 to 2200                      On any day.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties.

- (4) Within three months of installation, the extraction system shall be painted black and shall be permanently maintained in that condition thereafter unless prior written consent of the Local Planning Authority is obtained.

Reason: In the interest of visual amenity of the locality.

- (5) Any extract ventilation fan shall be installed, together with any associated ducting, so as to prevent the transmission of noise, vibration, fumes and odours into any neighbouring premises. The noise level from any extraction plant together with any associated ducting, shall be 10 dB(A) or greater below the measured background noise level at the nearest noise sensitive premises – a positive indication that complaints are unlikely. The method of assessment should be carried out in accordance with BS4142:1997 'Rating industrial noise affecting mixed residential and industrial areas'. Should the predicted noise levels of the extraction system exceed those specified in this condition, a scheme of insulation works to mitigate the noise shall be submitted to and approved by the Local Planning Authority prior to the commencement of use. Any mitigation works required shall be implemented in accordance with the details prior to the commencement of the use.

Reason: To ensure that users of the surrounding area do not suffer a loss of amenity by reason of nuisance.

- (6) The proposed fast food takeaway shall be insulated to minimise noise transmission between adjoining premises in accordance with details, which shall be submitted to and approved in writing by the local planning authority. The insulation shall be installed in accordance with the approved details.

Reason: To safeguard the amenity of the neighbours from the transmission of noise

- (7) Prior to the development hereby approved commencing a hot food delivery management plan shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall include details of the method of delivery and also the location of the parking of any vehicles when they are not been used for such delivery. There shall be no home delivery without the approval of details and once approved the plan shall be implemented and fully complied with at all times.

Reason: In the interests of highway safety and residential amenity.

- (8) Notwithstanding the plans and documents hereby approved a drawing showing the position of the extraction flue on the rear elevation shall be submitted and approved in writing by the Local Planning Authority prior to works commencing. The approved details shall be implemented in full prior to the commencement of the proposed

takeaway use.

Reason: In the interests of visual amenity.

- (9) Bicycle parking shall be provided on the site in the form of a single "Sheffield" type stand on the private front yard of the premises. Details of this stand shall be submitted to, and approved in writing by, the Local Planning Authority prior to the development hereby approved commencing. Once approved, those details must be fully implemented and permanently maintained.

Reason: In order to allow the Council to exercise proper control over the development.

**INFORMATIVES:**

- (1) The provisions of The Party Wall etc. Act 1996 may be applicable and relates to work on an existing wall shared with another property; building on the boundary with a neighbouring property; or excavating near a neighbouring building. An explanatory booklet setting out your obligations can be obtained from the Communities and Local Government website [www.communities.gov.uk](http://www.communities.gov.uk)

Any person wishing to inspect the above papers should contact Robin Sedgwick, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5229