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**Report to:** [Planning Committee](#) **Date of Meeting:** [08 February 2012](#)

**Subject:** [S/2011/1511](#)  
[88 Waddicar Lane, Melling](#)

**Proposal:** [Change of use from Tanning Salon \(A1\) to Hot Food Take Away \(A5\) together with the installation of a new shop front and a ventilation flue to the rear](#)

**Applicant:** [Mr Martin Lee](#)

**Agent:** [TL Architects](#)

**Report of:** [Head of Planning Services](#)

**Wards Affected:** [\(Molyneux Ward\)](#)

**Is this a Key Decision?** [No](#)

**Is it included in the Forward Plan?** [No](#)

**Exempt/Confidential**

[No](#)

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## Summary

The proposal is to use the ground floor as a hot food take away, install a new shop front to the front elevation and ventilation flue to the rear. The main issues to assess are the impact of the proposed use on the residential amenity of nearby properties in terms of noise, smell, disturbance and impact on highway safety

## Recommendation(s)

Refusal

### Reason for the Recommendation:

The use of the ground floor shop unit as a hot food takeaway (Use Class A5) would be detrimental to the amenity of residential properties in very close proximity to the site and is therefore contrary to policies MD6 and H10 of Sefton's adopted UDP.

### Implementation Date for the Decision

Immediately following the Committee/Council/Working Group meeting

**Contact Officer:** [Mrs S Tyldesley](#) Telephone 0151 934 **3569**

**Case Officer:** [Mrs Joy Forshaw](#) Telephone 0151 934 **2212**

**Email:** [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)

### Background Papers:

The following papers are available for inspection by contacting the above officer(s).

History and Policy referred to in the report

## The Site

A vacant retail unit – former tanning salon - at the north end of a parade of 4 shops with flats over situated on the east side of Waddicar Lane. Other units in the block are occupied by a chemist adjoining the site and a doctors' surgery occupying a double unit. The parade is serviced by a small private service road to the front with two access points from Waddicar Lane

## Proposal

Change of use from Tanning Salon (A1) to Hot Food Take Away (A5) together with the installation of a new shop front and a ventilation flue to the rear

## History

S/1999/0784 - Change of use of the premises to a hot food takeaway - Refused 13/12/1999

## Consultations

*Highways Development Control* - No objections in principle as there are no highway safety implications.

There is an existing 'Zebra' crossing on Waddicar Lane outside the premises. The associated zig-zag markings will prevent parking from taking place on this section of the carriageway; however adequate off street parking is generally available in front of the four units

Some minor alterations to the footway directly adjacent to the main entrance of the unit are proposed in order to achieve level access into the premises, however, this area is not part of the adopted public highway and as such there is no requirement for the works to the footway to be carried out by a Council approved contractor

*Built Environment Director* - No objection in principle but the subsequent issues should be addressed;

The above residential flat should be restricted to person(s) associated with the operation of the ground floor use

It is indicated that carbon filters will be employed to control odour from the kitchen extraction system but the size/residence time of carbon filter has not been identified. However it is noted that the flue vents 1m above ridge height and therefore would be acceptable in terms of odour control

The noise level for the extraction fan has been indicated to be 65DbA @ 3m. Although silencers have been indicated it is not known which one is proposed, further it is not known if an induction fan is required. The use of commercial gas appliances will require 95% replacement air. In view of these matters I recommend standard 'plant and machinery' condition is attached.

Further recommend the hours of operation for this development are restricted and standard 'hours' condition is attached

## Neighbour Representations

Last date for replies: 2 January 2012

A petition of objection with 119 signatures and sponsored by Councillor Carr has been received together with

11 letters of objection received from:

80, 82a, 86a, 94, 96, 104, 123, 127, 137 Waddicar Lane

5, 9 Farrell Close and Melling Parish Council

- detrimental to residential amenity of neighbouring residents due to late night opening, noise, odours, excess rubbish and possible attraction of congregating youths
- limited parking to front of shop units - proposed use would increase vehicular traffic considerably at an already congested location
- increased risk at zebra crossing at this point which recently been cause of concerns raised with Parish Council due to failure by motorists to stop for waiting pedestrians and illegal parking
- already one takeaway on Waddicar Lane and others not too far away
- previous application in 1999 for similar proposal was rejected situation has not changed
- understand the need for development of small business that creates jobs for local people but fail to see how this application supports these aims
- would not enhance Melling
- only one parking space within site, area outside already well subscribed by patients of Doctor's surgery and are already parking issues in Woodland Road and Rock View opposite – require assurance that additional traffic generated could be accommodated without resulting in further traffic problems or road safety issues and existing TRO's will be enforced
- Travel plan submitted is incorrect - buses started do not operate via Waddicar Lane and there is no bus service after 18.30 or on Sundays/Bank Holidays, Distances and times to walk to Kirby where there are other fast food outlets that offer delivery service.
- impact on health of schoolchildren
- ventilation flue unsightly - will produce fumes that will disperse over Farrell Close at rear and particularly to rear of 88 Waddicar Lane

## Policy

The application site is situated in an area allocated as residential on the Council's Adopted Unitary Development Plan.

AD2	Ensuring Choice of Travel
CS3	Development Principles
DQ1	Design
EP2	Pollution
EP6	Noise and Vibration
H10	Development in Primarily Residential Areas
MD6	Food and Drink Uses

## Comments

The proposal is to change the use of the vacant A1 premises to a hot food takeaway – A5, the opening hours are proposed 16.00 – 22.30 from Monday to Sunday, a new shop front is proposed to the front elevation and a kitchen ventilation flue to the rear elevation which projects 1m above the ridgeline

The issues to assess are the effect of the proposed use on the residential amenity of nearby properties in terms of noise, smell and disturbance and impact on highway safety.

Policy H10 states non – residential development will be permitted in Primarily Residential Areas provided it can be demonstrated that the proposal:

- (a) will not have an unacceptable impact on residential amenity and
- (b) is otherwise compatible to the residential character of the area

Policy MD6 allow for Food and Drink Uses in or adjacent to Primarily Residential Areas providing

- (a) they would not cause significant harm to residential amenity
- (b) the residential use of the upper floors is limited to person(s) employed in the proposed food and drink use

There are residential flats over the adjoining chemist and doctors' surgery to the south and a vehicular access to a residential property immediately to the north with further residential properties fronting Waddicar Lane to the north, to the rear in Farrell Close and across Waddicar Lane in Woodlands Road/Liddell Avenue

Given the restricted parking outside this block of shops these properties are already affected by traffic comings and goings related to the existing parade during the day and early evening.

Although the Highways Development Control comment that parking on Waddicar Lane will be prevented by zig zag markings associated with the zebra crossing opposite the site and the existing service road is available for parking it is considered the noise of customers and vehicles arriving and leaving the premises, car doors banging and engines starting would cause considerable and unacceptable disturbance to the amenity of residents living close by especially the occupants of the flats above the site and adjoining residential premises.

The proposed opening hours from 16.00 would partly coincide with the existing opening of the doctors' surgery and chemist which would add to the existing disturbance currently endured. Remaining open until 22.30 7 days a week would significantly increase the amount of noise and general disturbance to neighbours during the evenings when occupants of properties located in a primarily residential area would expect relative peace and quiet.

It is noted that reference was made by an Inspector in an appeal for a site at 66 Harington Road, Formby in 1997 to the viability of a hot food takeaway business and stated that it would be unreasonable to apply a condition to close at 2030 (as was proposed) *'since it would be likely to make it impossible to run the business successfully.'*

Given such premises by their nature tend to draw heavily on late night trade; it is a relevant material consideration that the applicant's proposal is to close at 22.30 and there may be considerable pressure in the future for its later variation in the event that the business proves not to be viable with the time limits applied for.

It is not uncommon to see subsequent applications for later hours, often of retrospective nature, and whilst accepting such applications must be judged on their own merits, any condition imposed would nevertheless be subject to appeal in itself on the grounds that it might nullify the benefit of permission being granted for the use; additionally, an alternative user may have an alternative preference for later trade.

Very few hot food takeaways are open during daytime hours only as the majority of business for this type of use is evening trade and it is felt that conditions that potentially nullify the advantages associated with a planning permission would fail to meet with the requirements of Circular 11/95 - Use of Conditions in Planning Permission.

Furthermore, another Inspector dismissed an appeal at 77/79 Liverpool Road, Formby, also within a parade of shops. The Inspector stated that the *'use of the shop for the purpose proposed would be detrimental to the amenity of the residential properties at 83, 87, 91, 95 and 99 Liverpool Road by reason of noise and disturbance from vehicles arriving and leaving, banging of car doors, conversations and car radios during the evenings, which would significantly reduce the quality of the living conditions of the residents.*

Given similarity of the location of the above appeals in small parades of shops these decisions are clearly material planning considerations and are given significant weight in the assessment of this application. As such the application is considered to fail policy MD6 in terms of having a detrimental impact on residential amenity.

The proposed ventilation flue to the rear elevation appears in principle to comply with the requirements of the Director of Built Environment; however the location of the flue in close proximity to the flat above the adjoining property, less than 6m from the rear joint boundary with 11 Farrell Close and some 13m from the rear elevation of that property creates an unsightly visual appearance to the detriment of residential amenity.

The proposed use of the first floor flat as staff accommodation in conjunction with the proposed use in principle complies with policy and the new shop front is not a significantly visually different to the existing shop front.

However for the reasons above it is considered the proposal would create a significant and unacceptable impact on residential amenity of neighbouring properties and the residential character of the area which fails to comply with policy.

Recommend planning permission is refused

## Reason

1. The use of the ground floor shop unit as a hot food takeaway (Use Class A5) would be detrimental to the amenity of residential properties in very close proximity to the site and is therefore contrary to policies MD6 and H10 of Sefton's adopted UDP.

## **Drawing Numbers**

01, 02, 03, 04, 05, 06, 07, 08, 10, 11, 12, fan/air filter/attenuator details

# Existing site plan



<b>Sefton Council</b> Department of the <b>Built Environment</b> Jane Gowing Head of Planning Services	S/2011/1511 Waddicar Lane Melling		Standard Site Plan Scale: 1:1250 Date: 24/1/2012 Drawn By: RO BID on	
	OSGR: 339514, 399515	Sheet(s): 135C	Area: 146 sqm	Ward(s): Molyneux Postcode Sector(s): L31 1 Polling District(s): C2 Parishes(s): Melling Co

# SUN BEDS SHOP

We the undersigned most strongly opposed the change of use at 88 Waddicar Lane, Melling. Being next to Doctors Surgery and Chemist shop, with a small service road in front, this could lead to the area becoming very congested with traffic, also many environment problems that need to be addressed.

NAME	ADDRESS
L. GREENALL	1 CHESTNUT WALK, MELLING, LIVERPOOL L31 1LL.
M. COWEN	166 TITHEBARN LANE, MELLING L31 1BQ.
C.V. COWEN	" " " "
CREYNWODS	4 FARRELL CLOSE, MELLING L31 1BU.
M PRINCE	4 FARRELL CLOSE, MELLING L31 1BU.
C RAY	8 CYPRESS CLOSE, MELLING L31 1LA.
R COOKIES	HAIR CO L31 1DU.
C. NEILL	8 DAPPLE HEATH AVE
S. HAYES	88 WADDICAR LANE L31 1DT
A McCLELLAN	" " "
<del>W. J. JONES</del>	36 WADDICAR LANE " "
S. PRITCHARD	18 HAYES DRIVE MELLING
M REX	62 SATINWOOD CRESENT. L31 1JZ.
J. Freeman	8 WILLSFORD AVE.
D SOO	2 LEASONS GROVE MELLING.
C COOK	14 WOODLAND RD, MELLING. L31 1EB.
P. M. Nally	12 BRYTREE COVE MELLING
C KELLY	8 BUSHY TREE DRIVE MELLING L31 1DE
P KELLY	" " " "
M KELLY	" " " "
S PRITCHARD	46 HAYES DR L31 1BQ