

Application No:	Consultees Name:	Received:	Comment:	Response:
2022/3337/P	Ben Lewin	14/01/2024 01:10:10	OBJ	<p>I am the leaseholder of 187a Haverstock Hill, NW3. The refrigeration unit at issue is situated just below my bedroom windows and I oppose the Application for Planning Permission for the following reasons:</p> <ul style="list-style-type: none"> - This is not a suitable premises for the operation of a business of this nature. - Based on their past actions, the applicants should be refused permission. - Granting permission will materially damage the leaseholders. <p>1. SUITABILITY</p> <p>I first occupied the flat at 187a Haverstock Hill in 1972, initially as tenant and then as leaseholder. Over time, one has come to respect the environment in which one lives and the neighbours with whom one shares it. When the applicants moved in, these norms were shattered.</p> <p>To my knowledge, the building was originally designed and built as a bank, with flats on the upstairs floors for its employees. During most of the past 50 + years of my experience, the freeholders of the building and occupants of the ground floor and basement were the National Westminster Bank.</p> <p>During the bank's occupancy, a small, domestic size air-conditioning unit was attached to the back wall of the building, several feet off the ground, above head-height. It operated mostly during the summer months and only during banking hours. The noise was minimal and only intermittent, there was no cause for complaint and, to my knowledge, no-one ever complained. Bank employees were respectful of the flat occupants' privacy and only entered the common areas of the flats by prior notice. They certainly never deposited any of their waste in the common areas.</p> <p>Allowing the applicants to install an industrial size refrigeration unit is a major enabling factor in the running of a food business, especially perishable foods, and opens the door to other problems. The applicants have in fact, at the same time as improperly operating their refrigeration unit, been improperly depositing their trash, including perishable foods, in a large, commercial bin, for which they have constructed a shelter, next to the refrigeration unit. The bin attracts intruders and rats, and the applicants' employees come and go from the common access area without regard to the flat occupants' privacy.</p> <p>The applicants have also been using the footpath on Haverstock Hill to store their products in large, caged trolleys, a potentially dangerous practice.</p> <p>It has to be accepted that the refrigeration of food products and issues of waste disposal and storage come in the same package. We are not only looking at the esthetic unsuitability of the refrigeration unit, the noise nuisance, sleep deprivation and other interference with the immediate residents' quiet enjoyment, but health hazards which impact the neighbourhood as a whole.</p> <p>In my opinion, this building was not designed to accommodate a food business and it may not be feasible to legitimately transform it into one which does. The area is already well-served with grocery businesses such as Budgen, Pomona, The Wine Shop, Londis and others. Tesco have previously been refused permission to open a shop.</p> <p>2. ACTIONS OF THE APPLICANTS: "GO BUY EARPLUGS"</p>

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At no time did the applicants ever attempt to engage the flat occupants and leaseholders in conversation or negotiation over use of the common access area. When one of the leaseholders initially complained to the applicants about the noise of the refrigeration unit, she was told to go and buy earplugs.

The applicants have managed to operate an illegal refrigeration unit, run their food business and dispose of their garbage in an unregulated manner for three years. To my knowledge, there have been no retrospective penalties for this and, in effect, they have gotten away with it. They have taken full advantage of the weaknesses of the system and the limitations of the bureaucracy and have chosen to wage a battle of attrition with the residents and the authorities, rather than observe the laws and regulations.

If planning permission is granted, it will come, I assume, with specifications, limitations and restrictions, any of which the applicants may choose to defy at a future time. Having already defied the law and successfully gamed the system, in my opinion they may choose to do so again, knowing that it will take years for the residents and the authorities to achieve a remedy. I submit that having once offended, the applicants should not be given a free pass and the opportunity to offend again.

3. RIGHTS OF LEASEHOLDERS AND OCCUPANTS

The installation of the proposed industrial-sized refrigeration unit and the adjoining shelter for a waste bin would occupy ground space which was not previously occupied by the freeholders. The applicants would thereby be carving out part of the common access area for their exclusive use. This would create a new 'footprint' of that area and contravene the rights of the leaseholders under the head lease and under applicable common law. In considering the application, the council should be mindful of the fact that it may be opening up a legal hornet's nest.

It is also of serious concern that granting planning permission to the applicants will significantly reduce both the asset value and rental value of the flats in the building. In many cases, a person's house or flat is their major asset and represents their life savings. I have no doubt that consultation with a surveyor or valuer can confirm that the addition of an ugly, noisy structure, together with the trash, odors, health issues and other intrusions which inevitably accompany it, will have a serious negative impact on real estate value.

For the above reasons, I respectfully urge the council to refuse planning permission.

Ben Lewin

January 11, 2024