

Application ref: 2024/3366/P  
Contact: Matthew Kitchener  
Tel: 020 7974 2416  
Email: [Matthew.Kitchener@camden.gov.uk](mailto:Matthew.Kitchener@camden.gov.uk)  
Date: 4 October 2024

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

DISTRICT Architects  
Studio 4, Blackwater Court  
17-19 Blackwater Street  
London SE22 8SD

Dear Sir/Madam

## DECISION

In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990 (as amended by section 4(1) of the Growth and Infrastructure Act 2013)

Process set out by condition MA.2 of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Certificate of Lawfulness (Proposed) Prior Approval refused

The Council, as local planning authority, hereby confirm that their **prior approval is refused** for the proposed development at the address shown below, as described by the description shown below, and in accordance with the information that the developer provided to the local planning authority:

**Address of the proposed development:**  
**115 King's Cross Road**  
**London**  
**WC1X 9NH**

### **Description of the proposed development:**

Change of use of the ground and lower ground floors from hot food takeaway to residential under the General Permitted Development Order (GDPO, 2015) Schedule 2, Part 3, Class MA - commercial, business and service uses to dwellinghouses, to create a two-bedroom dwelling.

### **Information that the developer provided to the local planning authority:**

Drawing Nos: 074 3 2 300 B, 074 3 2 200 B, 074 3 2 101 B, 074 3 2 100 B, 074 3 2 002, 074 3 0 300 B, 074 3 0 200 B, 074 3 0 101 A, 074 3 0 100 B, 074 3 0 002, 074 3 0 001, Planning Statement July 2024

Reason(s) for refusal:

- 1 The proposal does not comply with the criteria (b) of MA.1 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended) so it cannot be considered for a change of use from Class E to residential. The site was last in use as a hot food takeaway (Sui Generis / Class A5 pre-2020) which appears to have been the use since at least 2017. As such, it has not been demonstrated that the building was in use for a purpose under Class E of the Town and Country Planning (Use Classes) Order as required by sub-paragraph (2) of Class MA of the GPDO (2015 as amended) for a continuous period of at least 2 years prior to the date of the application (b).
- 2 In the absence of any contamination assessment for the site to demonstrate otherwise, it is likely that the future occupiers would be impacted by potential contamination from the use of the rear amenity space to the detriment of their amenities. It would therefore not comply with criteria MA.2 (b) of Class MA, Schedule 2, Part 3 of the GPDO.
- 3 The proposed development, by nature of its location and the provision of habitable accommodation at basement level within a local flood risk area is contrary to MA.2 (c) of Class MA, Schedule 2, Part 3 of the GPDO.
- 4 The proposed development, in the absence of a Section 106 legal agreement to secure the residential units as car-free, would contribute unacceptably to parking stress and traffic congestion in the surrounding area and the failure to provide cycle parking would not promote the use of sustainable transport. It is therefore contrary to MA.2 (a) of Class MA, Schedule 2, Part 3 of the GPDO.
- 5 In the absence of a Daylight/Sunlight Assessment to demonstrate that all habitable rooms would receive adequate natural light, it is considered that the proposal has failed to demonstrate that it would provide an acceptable level of natural light contrary to MA.2 (f) of Class MA, Schedule 2, Part 3 of the GPDO.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2023.

You can find advice in regard to your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer

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It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address: [www.camden.gov.uk/dmfeedback](http://www.camden.gov.uk/dmfeedback). We will use the information you give us to help improve our services.