

Delegated Report		Analysis sheet	Expiry Date:	16/04/2013
		N/A	Consultation Expiry Date:	21/03/2013
Officer			Application Number(s)	
Gideon Whittingham			2013/0759/P	
Application Address			Drawing Numbers	
100 - 102 Judd Street London WC1H 9NT			Refer to Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use of ground floor retail shop (Class A1) to restaurant & cafe (Class A3).				
Recommendation(s):		Refuse Planning Permission		
Application Type:		Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	91	No. of responses	04	No. of objections	03
			No. electronic	00		
Summary of consultation responses:	<p>A site notice was displayed from 22/02/2013 and a public notice was published in the Ham & High from 28/02/2013.</p> <p>Three objections have been received from occupiers/managing agents of Jessel House all relating to:</p> <ul style="list-style-type: none">• Loss of retail Class A1 use floorspace• Impact on the character and appearance of the area and the vitality and viability of the centre.• Residential amenity – lack of ventilation plan to mitigate smells associated to primary cooking <p>A letter of support was received, undersigned by SQ Trading LTD, Safir Travel Ltd, Grosvenor Building and Property Services and Sayshello.com (no addresses were given).</p>					
CAAC/Local groups comments:	<p><u>The Bloomsbury CAAC object to the proposal:</u></p> <ul style="list-style-type: none">• Loss of retail and not proliferate restaurant and café use <p><u>Councillor Roger Robinson supports the proposal:</u></p> <ul style="list-style-type: none">• It will not be a functional restaurant, as this would affect residents of the flats above. Mr Ashok will be serving Mezze food to complement the alcoholic drinks.					

Site Description

The application site comprises a ground and basement floor level retail (Nos. 100-102) unit located on the north-east side of Judd Street, within the parade of units between the junctions with Hastings Street (to the north-west) and Cromer Street (to the south-east). The unit is currently occupied by 'Java Tree Café' (permitted for Class A1 use). Above the parade of commercial units are six-storeys of residential flats, known as Jessel House. Although the application site is within the Central London Area, it is not located within a Central London Frontage, Town Centre, the designated King's Cross area or a Neighbourhood Centre. Furthermore, the application site is not located within a conservation area, nor is it a listed building.

Relevant History

PS9904553 – Change of use of no 100 & 102 from retail use (Class A1) to food and drink use (Class A3). Withdrawn

EN12/0908 – Alleged breach of control - Preparing hot food without a change of use.

Relevant policies

National and Regional Policy

National Planning Policy Framework 2012
London Plan 2011

LDF Core Strategy and Development Policies

CS1 (Distribution of growth)
CS5 (Managing the impact of growth and development)
CS7 (Promoting Camden's centres and shops)
CS8 (Promoting a successful and inclusive Camden economy)
CS11 (Promoting sustainable and efficient travel)
CS14 (Promoting high quality places and conserving our heritage)
CS18 (Dealing with our waste and encouraging recycling)
DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)
DP16 (Transport implications of development)
DP24 (Securing high quality design)
DP26 (Managing the impact of development on occupiers and neighbours)
DP28 (Noise and vibration)

Camden Planning Guidance 2011: CPG1 Design, CGG6 Amenity (pages 19-24)

Revised Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses 2007

Assessment

1. Proposal:

1.1 The application proposes:

- The change of use of the basement and ground floor levels from retail (A1) use to a café/restaurant (A3), approximately 245sqm of floorspace
- Ventilation/extraction plant units do not form part of this application

1.2 The principal considerations material to the determination of this application are summarised as follows:

- Loss of retail Class A1 use floorspace
- Impact on the character and appearance of the area and the vitality and viability of the centre.
- Residential amenity

- Transport

2. Loss of retail Class A1 use floorspace

2.1 Policy DP10 of the Development Policies document of Camden's LDF seeks to protect small shop units such as the one subject of this application. This site is not located within any designated Town or Neighbourhood Centre. In instances where small shop units are located outside of any designated centre, the Council will only allow its loss provided that; alternative provision is within 5-10 minutes walking distance; there is clear evidence the current use is not viable; and within the Central London Area, the use contributes to local character, function, viability and amenity.

2.2 In this instance, the site is within the Central London Area and there is other shopping provision within 5-10 minutes walk; at Marchmont Street / Leigh Street Taverstock Place Neighbourhood Centre and at Brunswick Centre.

3. Impact on the character and appearance of the area and the vitality and viability of the centre

3.1 With the proposed use in mind, consideration needs to be given to Policy DP12 and managing the impact of new food, drink and entertainment uses. Although the proposal is just outside a Neighbourhood Centre and relates to 243sqm, the floorspace involved is considered to provide a compatible use to a business-orientated area, providing convenience and choice to people working in the wider area. It is considered that although there is an existing A3 unit within the parade (No.112), bearing in mind the remaining and wider area uses, the proposal would not create a concentration of units that would be harmful to the character of the area (See table below).

North Side – Judd Street

Address No.	Use Class	Description
90	Sui generis	Sauna
94 – (92 – 94)	D1	Conference Rooms
Entrance to Jessel House	-	-
100-102	A1	Retail
104 -106	A1	Vacant retail (Extant permission for change to A2)
108-110	A2	Employment agency
112	A3	Restaurant
114	A4	Public House

South side – Judd Street

85	C3	Residential
87	C3	Residential
89	C3	Residential
91	C3	Residential
93	A2	Travelzone
95	C3	Residential
97	A2	Chartered Accountants
99	A1	Book shop
101	C3	Residential
103	C3	Residential
105 – 121	B1	Royal National Institute of Blind

4.Residential amenity

4.1 Policy DP28 of the Development Policies document of Camden's LDF seeks to protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity, with particular regard to noise and vibration levels, odour, fumes and dust. We will require all development likely to generate odours to prevent them from being a nuisance by installing appropriate extraction equipment and other mitigation measures. Nuisance odour and noise emissions associated with commercial kitchens/restaurants are very common, particularly in urban areas where housing is immediately above catering premises. Therefore, proposals seeking to provide commercial kitchens/restaurants in compliance with Policy DP28 should include appropriate measures to ensure that noise and odour are managed to avoid detriment to the wider amenity.

4.2 Factors that influence the control of odour from commercial kitchens include the size of the cooking facility (This influences the intensity of the odour and volume of ventilation air to be handled), the type of food prepared (This affects the chemical constituents within the ventilation air) and the type of cooking appliances used (This dictates the level of fat, water droplets and temperature within the ventilation air).

4.3 At the application property, as an authorised commercial unit within Class A1, limited reheated food (whereby no primary cooking takes place) is sold for consumption off the premises. Food is prepared and reheated within the kitchen and serving area, relying on non-mechanical ventilation, namely a single flue/fan to the front and rear and the general practice of opening windows to the premises.

4.4 Given the current extent of mitigation measures for nuisance odours, when primary cooking for consumption on the premises did take place in early 2012, neighbour complaints relating to its use and associated odours resulted in enforcement action (see relevant history). As a result, the means for primary cooking and the provision of cooked food for consumption on the premises (Class A3 use) was deemed unlawful and instructed to return to a Class A1 use. In this instance, it is acknowledged the inadequacies of the existing ventilation system in place to mitigate potential odour problems resulting from primary cooking on the premises.

4.5 Contrary to the mitigation methods exercised by the restaurant (No.112) and public house (No.114), no additional ventilation/extract or plant unit has been proposed as part of this application to mitigate potential odour problems resulting from primary cooking on the premises. The applicant asserts non-mechanical fans to two existing openings, expelled at front fascia sign level and rear ground floor level, are appropriate in this instance.

4.6 The applicant has submitted an assessment in this respect, deficient of an odour/acoustic report and a background noise survey including calculations of predicted odour/noise levels to support compliance with the Council's standards.

4.7 The Council's Environmental Health officer has assessed the submission and considers it to fail to adequately demonstrate that the Council's required standards would be met. Based on the information submitted it is considered the existing extraction system would not adequately remove all odour generated as a result of the restaurant undertaking primary cooking and as such, the proposal would give rise to odour nuisance to the detriment of the amenities of nearby residents. An area of particular concern relates to discharges onto the front pavement at fascia level and rear ground floor level, directly below residential properties on the first floor and above. The assessment has also failed to adequately consider alternative mitigation methods, such as external ducting or low level systems.

4.9 Within this context, the proposal is considered unacceptable on amenity grounds and this forms a reason for refusal.

4.10 In all other respects, it is considered that no undue harm would be caused with regard to the amenity of the neighbouring properties in terms of access to sunlight, daylight, visual bulk and sense of enclosure.

5. Transport

5.1 Given the scope and nature of the proposal, it is concluded that there would be a negligible impact on traffic generation. It is considered that the development would not adversely affect transport flows, parking capacity or public transport within Camden.

6. Community Infrastructure Levy (CIL)

6.1 The proposal will not be liable for the Mayor of London's CIL as it is for a change of use only and no additional floorspace is proposed.

NB. Informal discussions have taken place with the applicant with regard to external planting/extract units to the rear, rising up from ground floor level along the rear elevation and external planting to the front fascia, which would likely be unacceptable due to design concerns. It should be noted however any formal recommendation in this respect would be made in light of a technical assessment justified in terms of planning policy and taking into account any material considerations.

Recommendation: Refuse planning permission