

<b>Delegated Report (Members Briefing)</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>24/07/2012</b>
		N/A / attached		<b>Consultation Expiry Date:</b>	21/06/2012
<b>Officer</b>			<b>Application Number(s)</b>		
Neil Zaayman			2012/2604/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
130 Drummond Street London NW1 2PA			Refer to decision notice.		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Variation of condition 7 of planning permission dated 11/05/04 (2003/2456/P) for demolition of existing buildings and replacement with basement, ground and three upper floors to provide five self-contained residential units (2x 1bed, 2x 2 bed and 1x 3 bed) on upper floors and new commercial unit with combination of Class A1/A3/B1 and D1 uses on basement and ground floors. (Alterations relate to the detailed design and amend previous permission PSX0105370 and is an amalgamation of both previous schemes, namely to use the basement as A3 restaurant and ground floor as part retail (A1) / part restaurant (A3) in accordance in with drawing 1203-SK003 PO3.					
<b>Recommendation(s):</b>		Grant permission subject to conditions			
<b>Application Type:</b>		Variation or Removal of Condition(s)			

<b>Conditions or Reasons for Refusal:</b>	<b>Refer to Draft Decision Notice</b>					
<b>Informatives:</b>						
<b>Consultations</b>						
<b>Adjoining Occupiers:</b>	No. notified	<b>13</b>	No. of responses	<b>02</b>	No. of objections	<b>02</b>
			No. Electronic	<b>00</b>		
<b>Summary of consultation responses:</b>	<p>Site notice displayed from 08/06/2012 until 21/06/2012.</p> <p>Two letters of representation were received from the occupiers at No. 124 and 132 Drummond Street, raising objections in respect of the following:</p> <ul style="list-style-type: none"> <li>- the area is already saturated with restaurants; granting permission will affect trade of other existing restaurants</li> <li>- the premises already have a restaurant at basement level</li> <li>- the building works will disrupt local businesses</li> </ul>					
<b>CAAC/Local groups* comments:</b> *Please Specify	N/A					

## Site Description

The site is located to the north of Drummond Street, close to the junction of North Gower Street. The site has been recently redeveloped for 3-storey building comprising a commercial unit of Use Class A1, A3, B1 and D1 at basement and ground floors with residential flats above.

Drummond Street is defined as a Neighbourhood Shopping Centre by the Council's Local Development Framework (LDF). The unit forms part of the frontage of No. 124 – 142 Drummond Street and includes No. 62 & 64 Hampstead Road. There are a number of retail outlets in Drummond Street interspersed with residential units and office units. Drummond Street also includes a notable number of restaurants. The upper floors of these properties are mainly in residential use.

## Relevant History

Planning permission was granted for the erection of a two storey rear extension to provide additional retail and ancillary storage to be used in association with the basement and ground floor of the existing buildings for retail purposes. (pre 1990)

**29/08/90:** Planning permission was granted for the construction of a new third floor storey to provide a 3 bedroom flat and alterations to second floor rear mansard room.

An application to demolish the existing buildings and replace it with a new five storey building containing A3, B1 and residential uses was withdrawn from consideration on 30<sup>th</sup> August 2001. The application was **withdrawn** following officer advice that the scheme in its current form would be recommended for refusal.

**26/04/02:** (Ref: **PSX0105370**). Planning permission was **refused** for the erection of basement, ground and three storey building for alternative uses (A3, B1 & D1) at basement and ground floors & 5 residential units above following demolition of existing building. The application was refused on the grounds of loss of light to 213 North Gower Street, over development of the site, detrimental impact on listed buildings facing North Gower Street and the loss of A1. This decision was appealed and the application was **allowed on appeal** subject to unilateral undertaking for car free. The implications of this approval will be examined in the assessment below.

**PSX0204741/R1:** A further application for the demolition of existing buildings and erection of new buildings to provide ground and basement uses for Class A1 (retail) and five residential units (2x1 bedroom, 2x2 bedroom, 1x3 bedroom) at first, second and third floor levels was approved by DC Sub Committee on 6<sup>th</sup> February 2003 subject to a legal agreement. Legal agreement withdrawn in favour of this current application.

**2003/2456/P:** Demolition of existing buildings and replacement with basement, ground and three upper floors to provide five self-contained residential units (2x 1bed, 2x 2 bed and 1x 3 bed) on upper floors and new commercial unit with combination of Class A1/A3/B1 and D1 uses on basement and ground floors. (Alterations relate to the detailed design and amend previous permission PSX0105370 and is an amalgamation of both previous schemes – **Granted** subject to legal agreement.

For **clarification** the above application (2003/2456/P) superseded application ref: PSX0204741/R1. The application was for a combination of elements of both the schemes approved by committee (i.e. layout of building), the scheme approved by appeal (i.e. massing of building, A3 use) and the detailed design to the front and rear elevations, the subject of application ref: 2003/2456/P.

**2006/2035/P:** Amendments to planning permission dated 11th May 2004 (ref 2003/2456/P) for the demolition of existing buildings to provide five self-contained residential units on upper floors with combination of Class A1/A3/B1 and D1 uses on basement and ground floors. Amendments involve the erection of one additional floor to provide a 3-bed flat with private amenity space – **Refused**.

The application was refused as the additional floor was considered to fail to respect the height of neighbouring buildings and thereby harm the visual amenity of the area. Other reasons for refusal related to the absence of a legal agreement.

**2007/4602/P:** Amendments to planning permission dated 11th May 2004 (2003/2456/P) for the demolition of existing buildings to provide five self-contained residential units on upper floors with combination of Class A1/A3/B1 and D1 uses on basement and ground floors, namely, the erection of an additional floor to provide an additional 2-bedroom self-contained flat – **Refused**.

This application was refused for the same reasons as application ref: 2006/2035/P.

**2012/1443/P:** Removal of condition 7 of planning permission 2003/2456/P dated 11/05/2004 for demolition of existing buildings and replacement with basement, ground and three upper floors to provide five self-contained residential units (2x 1bed, 2x 2 bed and 1x 3 bed) on upper floors and new commercial unit with combination of Class A1/A3/B1 and D1 uses on basement and ground floors, namely to remove the requirement that not less than 50% of the ground floor area be utilised for retail (A1 use) floorspace. **Refused on 03/05/2012** for the following reasons:

*The proposal to use less than 50% of the ground floor area as Class A1 (Retail) would result in an unacceptable proportion of non-retail frontages within the shopping parade, harmful to the character, function, vitality and viability of this neighbourhood centre, contrary to policy CS7 (Promoting Camden's centres and shops) of the London Borough of Camden Local Development Framework Core Strategy and policy DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses) of the London Borough of Camden Local Development Framework Development Policies.*

## **Relevant policies**

### **LDF Core Strategy and Development Policies**

CS2 (Growth Areas)  
CS5 (Managing the impact of growth and development)  
CS7 (Promoting Camden's centres and shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)  
DP30 (Shopfronts)

### **Supplementary Planning Policies**

Camden Planning Guidance (2011).  
Revised Planning Guidance for Central London - Food, Drink and Entertainment, Specialist and Retail Uses (2007).

### **National Planning Policy Framework (March 2012)**

## **Assessment**

### **Proposal / Background:**

Condition 7 of permission Ref: 2003/2456/P, stated:

*"Notwithstanding any provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification), not less than 50% of the ground floor area of the building hereby permitted shall be used for the purpose of Class A1 (Retail). Before development commences a drawing showing the proposed division of the ground floor (together with any part of the basement to be used in association with the shop) shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.*

*To ensure that the premises makes an adequate contribution towards the overall proportion of retail units (Use Class A1) located within this neighbourhood shopping centre in line with policy SH9 of the London Borough of Camden Unitary Development Plan, March 2002.*

This condition was identical to the condition required by the Inspector who allowed the appeal on application ref: PSX0105370. In his decision, the Inspector allowed the appeal on the basis that the applicant submitted an amended proposal, offering a sizeable and single-space retail unit area with potential storage in the basement. The Inspector concluded that based on the appellant's suggestion, no less than 50% of the ground floor area would be assigned for A1 use, meeting the objectives of PPG6 and policy SH9 of the UDP.

Planning permission 2003/2456/P has since been implemented (since 2008) however, the drawing stipulated in condition 7 above has never been submitted. The unit has therefore been operating in breach of this condition.

The purpose of this application is to vary condition 7 of planning permission 2003/2456/P in order to use the basement as restaurant use (A3 use) and ground floor as part retail (A1 use) and part restaurant (A3 use) in

accordance with drawing 1203-SK003 PO3.

### **Assessment:**

The original planning application (ref: PSX0105370) for use of the basement and ground floor as an A3 restaurant was refused as the Council was of the opinion that due to the site being located within the Drummond Street Neighbourhood Centre and given the existing dominance of non-retail uses, the use would have resulted in an intensification of non-retail uses in this location which would have an adverse effect on the quality and character of the shopping parade, contrary to policy SH9 of the UDP (2000).

The acceptability of this application would have relied on retaining the retail unit, as retail uses have an active frontage, are open during core hours (between 8am and 5pm) and generate footfall, therefore contributing to a town centre's vitality and viability.

Similarly, when the Inspector required the applicant to submit a drawing (pre-commencement) to show that not less than 50% of the ground floor area of the building shall be used for the purpose of Class A1 (Retail), the intention of this condition was specifically aimed at town centre policies which require a reasonable amount of A1 retail uses to be retained which would contribute to the centre's vitality and viability.

The application site has a frontage of approximately 12.7m with 4.8m of that being utilised as access to the flats above and a further 3.7m represents the area in front of the staircase leading to basement level. As such, of the 12.7m total frontage, 8.5m (approximately 67%) is effectively "dead space" already. The remaining 4.2m where the restaurant has been operating since 2008 is the only frontage able as being an active frontage.

Following refusal of the last application (ref: 2012/1443/P), the applicant revised the ground floor layout. The current scheme indicates an internal ground floor layout which utilises the active frontage for retail purposes (i.e. the usable 4.2m of the frontage). The retail use is also shown to be the main use at ground level, occupying 70sq.m of the floor space as opposed to the 40sq.m shown to be used in connection with the basement restaurant. The main entrance would serve the retail unit, giving it more prominence in terms of its frontage.

The proposal is considered to comply with the requirement of condition 7 of planning permission ref: 2003/2456/P and the Inspector's requirements. The revised internal layout shows a dedicated retail space which would retain an active frontage and contribute to the vitality and viability of the town centre.

CPG5 states that within Neighbourhood Centres, such as in the case of the application site, planning permission will only be granted for non-retail uses within a parade providing the proposal would not result in the grouping of more than two adjoining non-retail uses and that the proposal would not result in the proportion of non-retail uses within the relevant frontage exceeding 50% of its total length. In addition, the non-retail use should maintain the impression of a visual and functional continuity to aid in enhancing the vitality of the town centre.

In this case, the frontage is considered to include Nos. 124 to 142 Drummond Street and No. 62 / 64 Hampstead Road, comprising 8 units. The parade, as it currently operates and with the application site operating unlawfully as an A3 restaurant use at ground floor level has a 75% non-retail frontage. The proposal would utilise the usable frontage at No. 130 Drummond Street for retail (A1) purposes, reducing the amount of non-retail frontage to approximately 62.5% (if the main use of the ground floor unit is considered an A1 use). Although the entire frontage will not be A1, the in front of the staircase and serving the flats above are not usable as an active frontage and can therefore be discounted for purposes of this calculation. .

The proposal, in its current form is therefore considered to comply with the aims and objectives of policies CS7 and DP12 of the LDF which seeks to ensure that development does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

### **Recommendation:**

Grant permission subject to conditions.

**Decision route to be decided by nominated members on Monday 23<sup>rd</sup> July 2012. For further information please click [here](#).**