

Delegated Report		Analysis sheet		Expiry Date:	31/10/2011
		N/A / attached		Consultation Expiry Date:	03/10/11
Officer			Application Number(s)		
Angela Ryan			2011/4418/P		
Application Address			Drawing Numbers		
15 Chalton Street London NW1 1JD			Refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use from cafe (Class A1) at ground floor and basement levels to a massage parlour (Sui Generis) to be used in association with the existing premises at 17-19 Chalton Street.					
Recommendation(s):		Refuse Planning Permission			
Application Type:		Full Planning Permission			
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice			
Informatives:					

Consultations

Adjoining Occupiers:	No. notified	15	No. of responses No. electronic	11	No. of objections	11
Summary of consultation responses:	<p>A site was displayed from 09/09/11 to 30/09/11.</p> <p>10 letters of objection have been received from the occupier of the first floor flat at 15 Chalton Street, occupier of 233 Levita House, Chalton Street, the chairman of Somers-Town and St Pancras ART (START), Chief Executive of 1-5 Christopher Place (The speech, language and hearing centre), three concerned parents of children who attend the school, another interested party, Camden Town Urban Design Improvement Society, and Councillor Roger Robinson.</p> <p>A summary of the objections are as follows:-</p> <ul style="list-style-type: none"> - Noise nuisance due to operation of the use and construction works -Inappropriate land use in close proximity to a school that caters for vulnerable children and the adverse impact that the operation may have on the children - Impact on the school's viability by having an 'unsavoury' use located in close proximity - Proposal is against policy - Dubious classification of the proposed use as being a health club, and errors with the application submission; inaccurate description of existing use which appears to be more like a sex establishment - Issues of existing/proposed use as a 'massage parlour' - Property will be devalued - Issues to do with licensing (not a planning consideration) <p>Comments have also been made to secure tree planting to mitigate the environmental and architectural/visual discomfort and an access statement and agreement to control the patron's comings and goings should permission be granted.</p>					
CAAC/Local groups* comments: *Please Specify	N/A					

Site Description

The site comprises a three storey plus basement building located on the west side of Chalton Street. The ground floor is currently vacant but has been previously used for a mixed Class A1/A3 sandwich bar/café with a limited amount of cooking involved (ie. such that it does not require extraction equipment, as controlled by condition) and no evening operation; the upper floors are used as two self-contained flats. It lies within a terrace of buildings containing a mixture of retail, food and drink, office, financial and professional, health and residential uses and its rear adjoins a school at 1-5 Christopher Place that provides health and educational services to pre-school children with hearing, speech and language impairment. The school is accessed via a passageway next to 15 Chalton Street. The commercial uses are typically located at ground floor level with some office and residential use situated above. Next door is a pair of linked properties, nos.17-19 which comprise 'Steam and Sun' (the applicants) on the basement and ground floors plus residential above.

Chalton Street lies within a designated Neighbourhood Centre and is located on the northern side of Euston Road between St Pancras and Euston stations. It contains 29 shop premises and also a street market. According to the Revised Central London Guidance, part of the centre on the eastern side of Chalton St is outside of the Central London Area (although this is actually inaccurate as the northern part of the west side is also outside the CLA) but the whole centre is referred to in the Central London Guidance for the purpose of consistency.

The site is neither listed or within a conservation area.

Relevant History

No.15-

1984 planning permission granted for change of use and conversion to form two self-contained flats on first and second floors (Ref: 8401031)

1995 permission refused for change of use from retail shop (A1) to restaurant (A3) (Ref: 9500094)

1996 & 1999 planning permission granted for the continued use of the ground floor and basement for mixed retail and cafe use, with conditions limiting scope of cooking operations and hours of use. (Ref: 9502045 & PS9904216)

2004 permission granted subject to a S106 for a mansard roof extension to form additional 2 bed self contained flat. (Ref:2004/1097/P)

Nos.17-19-

1988 permission granted for continued use of basement as gym in connection with health club (ref 8703548).

Relevant policies

LDF Core Strategy and Development Policies

Core strategy:

CS5- (Managing the impact of growth and development)

CS7- (Promoting Camden's centres and shops)

Development policies:

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

DP26 – (Managing the impact of development on occupiers and neighbours)

Camden Planning Guidance (2011)

Revised Planning Guidance for Central London-Food, Drink and Entertainment, Specialist and Retail uses (2007)

Assessment

Proposal:

The applicant seeks to extend an existing use operating at nos.17-19 Chalton Street into the basement and ground floor areas of the application site. The applicant has described the existing/proposed use as being a health club within Class D2 of the Use Classes Order 1987 (as amended); however on closer inspection of the existing use and its operation, officers consider the use to be, what can be loosely described as, a 'massage parlour' which does not fall within any particular use class and is thus 'Sui Generis'. No planning permission exists for this use although it is probably lawful as it has existed for over 10 years (see history).

No external alterations are proposed and patrons would access the application site via an internal corridor within no. 17-29 Chalton Street, out into a rear courtyard area and through a rear door at no. 15 Chalton Street that was previously used for a fire exit. The courtyard adjoins a children's play area for the school at 1-5 Christopher Place that is separated from the courtyard by an existing trellis, within which sits the access gate to the play area. The fire exit is now proposed to be located at the front entrance to no. 15 Chalton Street.

The existing use has a license to operate between 1500hours to 0500 hours, and it is proposed that the hours of operation will be carried over to the extended part of the operation at no. 15 Chalton Street. A licensing application has been submitted to Regulatory Services and is due to be heard by the Licensing Panel sometime in November.

The issues to therefore consider are:

- Land use- loss of retail use and extension of an entertainment use
- Amenity from proposed operation of use

Land Use:

The site lies within a designated neighbourhood centre. The unit is considered to be a Class A1 use and the proposed use is deemed as an entertainment use for the purposes of the Guidance.

Core strategy policy CS7 seeks to promote successful and vibrant centres to serve the residents, workers and visitors by:-

f) providing for, and maintaining, a range of shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice.

g) protecting and promoting small and independent shops, and resisting the loss of shops where this would cause harm to the character and function of a centre;

h) making sure that food, drink and entertainment uses do not have a harmful impact on residents and the local area, and focusing such uses in Camden's Central London Frontages, Town Centres and the King's Cross Opportunity Area. Development policy DP12 further supports this by stating that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

Policy CS7 also states in relation to Neighbourhood Centres that the Council will resist schemes that result in less than 50% of ground floor units being in retail use or in more than 3 consecutive premises being in non-retail use.

Revised Planning Guidance for Central London 2007 gives further guidance on Neighbourhood Centres and specifically to this Chalton Street centre. In relation to the latter, para 16.19 recognises that there is generally a low level of demand for retail uses in the centre. The introduction of a variety of uses including non-shopping uses such as offices and residential are normally accepted. However, to protect residential amenity, it states that permission may only be granted for the development of food, drink and entertainment uses normally up to a maximum of 25% of total units- this applies both generally to all neighbourhood centres and specifically to this centre. There are 29 premises within the neighbourhood centre. Nos. 1-37 and 53-69 on the western side of Chalton Street and nos. 16- 46 on the eastern side are designated as frontages within the Neighbourhood centre. There are currently 8 premises within food, drink and entertainment uses which make up 28% of the total frontage; this proposal to extend an existing use into another single unit will increase this total up to 31%, which

would be contrary to the Revised Planning Guidance, although it is recognised that the current ratio is already above this maximum. The RPG on Chalton St further states in para 16.19 that this maximum is subject to assessment of impacts of the proposed use. This issue of amenity is further discussed below.

The guidance in para 16.5 further says that permission would not be granted for development which results in the number of ground floor premises in retail falling below 50%. There are 24 shop units within the Neighbourhood Centre and currently 11 are in Class A1 usage which equates to 46% of the total units in retail use. The proposed change of use would reduce this ratio further to 42%, although as mentioned above, it is accepted that this ratio is already below the recommended minimum. The RPG acknowledges that the neighbourhood centre has been in decline for a considerable time and that no objection would be raised to the introduction of a variety of uses including non-shopping uses. Nevertheless it is considered that the loss of another retail unit in a centre which has already a low ratio of retail uses, as well as the growth of non-retail uses further beyond the recommended maximum of 25%, would further add to the erosion of retail character and vitality of this centre and to its longterm decline. Although it is accepted that the lawful use is a mixed A1/A3 one, it had a strong retail element (ie. takeaway trade) and the use both contributed to the retail character of the centre as well as providing an active frontage. It can be further argued that the current Sui Generis use as a massage parlour (unlike say a car showroom or laundrette) does not support the retail function of the centre and thus any extension to it would further fail to contribute to this character. Thus on balance it is considered that the proposed change of use would be harmful to the viability and vitality of the neighbourhood centre.

Policy CS7 in its section on Neighbourhood Centres stipulates that the Council should take into account any history of vacancy in shop units and the prospect of achieving an alternative occupier of vacant premises. The unit has only been vacant since June/July of this year and no marketing evidence has been provided to substantiate whether the unit is viable for continued use as A1 or not.

The RPG in paragraph 5.3 seeks to preserve traditional plot sizes and prevent long runs of non-retail uses. Paragraph 16.9 further states in relation to neighbourhood centres that, in order to avoid the creation of clusters of food, drink and entertainment uses that could create a harmful impact as well as to protect the retail viability of such centres, planning permission will not normally be granted for development which results in the occupation of more than 2 consecutive units in non-retail usage. In this case, the proposal does not comply with this guidance as it would result in the occupation of 3 consecutive units in non-retail use (on the basis that nos 17-19 are counted as 2 units in the same use). There are several properties along the western side of Chalton Street that are in non-retail usage with inactive frontages e.g., nos, 17-19, 25-27, 59, 61, 63, 65, 48-58 Chalton Street.

The cumulative impact of the proposed intensification of the use is considered to have a negative impact on the character and viability of the centre by providing a further inactive frontage. This is partly due to the proposed relocation of the existing fire exit from the rear of the property to the front entrance which would create a dead frontage and partly due to the private nature of the existing use necessitating the requirement for blacked out windows; if this theme is carried over to no. 15 Chalton Street it is considered that it would exacerbate the existing problem of dead frontages and further detract from the character and appearance of the area and the vitality and viability of the centre.

Amenity:

Policy CS7 in paragraph 7.18 acknowledges that food, drink and entertainment uses can add vibrancy to Camden's centres. However it also acknowledges that local residents can be affected by disturbance and anti-social behaviour associated with some of the people visiting such establishments, which in turn should be managed to ensure that they do not cause harm to surrounding communities and the local environment. An objective of the Revised Planning Guidance for Central London (2007) is to protect and enhance the role, character and diversity of the Central London Area, balancing the growth of business, commercial and institutional development with the interest of conservation and the protection of residential amenity. Para 6.19 in the RPG recognises the importance of the diversification of evening activities in the Central London Area subject to

amenity, but discourages the creation of a concentration of alcohol-based uses such as A4 and Sui Generis night club uses, although it is recognised that this proposal is probably not an alcohol-based use. The Central London Guidance in para 6.20 further states that, in predominantly residential areas, entertainment uses will generally not be permitted to operate later than midnight. Although the area is characterised by a mixture of uses, the Council has to take into account whether the intensification of the use would have a harmful impact on residential amenity.

In this case, the upper floors of the application site are occupied as two self contained residential flats over the first and second floors. The proposed use is likely to operate between 1500 hours to 0500 hours in line with the existing use. The proposed access to the site is via a door leading off the rear external courtyard area, which adjoins a children's play area connected to a school. Given the above, it is considered that the use is likely to generate noise nuisance at unsociable hours by virtue of the comings and goings of the patrons, which is already being experienced by virtue of the existing use. It is considered that the intensification of the use at night time and early hours of the morning is likely to be detrimental to residential amenity of neighbours and the proposed use is thereby considered to be unacceptable.

Recommendation: Refuse on grounds of loss of retail use, creation of inactive frontage and harm to residential amenity.

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