

Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:	07/10/2010
		N/A / attached		Consultation Expiry Date:	15/09/2010
Officer			Application Number(s)		
Elizabeth Beaumont			2010/4385/P		
Application Address			Drawing Numbers		
74 - 76 Cromer Street London WC1H 8DR			Refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Retention of change of use of the ground and basement unit from Doctor Surgery (Class D1) to Retail (Class A1).					
Recommendation(s):		Grant planning permission			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	54	No. of responses	05	No. of objections	04
			No. Electronic	00		
Summary of consultation responses:	11 Edward Bond House – Object for the following reasons;					
	<ul style="list-style-type: none">I have no interest in working in butchers shop. I cannot stand all the fresh meat and fish smells. It makes me feel sick and I also get headaches. (Refer to 3.1)					
	6 Edward Bond House – objects for the following reasons;					
	<ul style="list-style-type: none">The traders may not adhere to any rules or procedures attached to the trading license. This shop has been trading as a sweet shop for the last 2 years. At Christmas 2009 the managers started to include meats and fish. It is obvious that the Council were not made aware of the change of trading. The managers have disregarded the legal processes in respect of the trading license. Why should the Council allow someone who has openly disregarded trading laws to continue to trade? (See below)It was previously agreed that the signage for the trading units would be consistent. This has been disregarded and the signage is detrimental to the look of the street. (See below)<u>Noise</u> - I have had to limit the use of my property. I have lived here since the 60s. Certain shops should not be sited in/over or under residential units. I have been affected by the smells and the noise from the meat chopper. This can last from minutes to hours. The chopping makes the building shake. It makes my home unpleasant to live in. During the night there is a sound from the shop which means that this bedroom unable to be used. This may be due to the number of refrigerators. (Refer to 3.3)<u>Smells</u> - The smells make it impossible to use one of my bedrooms and in the summer months I cannot open my window due to the smells. This shop has access via a door to the communal stairwell. The extractor fan has been removed and the smells enter the stairwell. (Refer to 3.2)<u>Rubbish</u> has been left outside the property with meat waste. (Refer to 3.4)					
	15 Edward Bond House – objects for the following reasons;					
	<ul style="list-style-type: none">The shop changed from a doctor's surgery to hairdressers and then a sweetshop which also sells cooked meats. This has now become a butcher/fishmonger. It has caused smells, noise and pollution. The raw meat and fish are stored on the premises. The smell of raw meat is evident at times. To increase ventilation the shop opens a back door directly into the ground floor of our block. (Refer to 3.2)Bits of raw meat have appeared on the pavement and cutting machines been heard at floors above the shop. We have a corner shop along Cromer Street and this creates piles of rubbish. I do not think we should have to put up with more of this. (Refer to 3.3-3.4)This retail use involves health and safety and environmental issues that are not compatible with a predominantly residential location.					
	1 Edward Bond House – object for the following reasons;					
	<ul style="list-style-type: none">It gives off smells, attracts rats, insects and cats. It is a health hazard as meat is being sold in such a small building. (Refer to 3.2)It looks like the basement is being used for some sort of school as there are children coming and going. (see below)					
	Officer's comments – the Council cannot refuse planning permission just because the application is retrospective to regularise its use. In relation to the concerns regarding the use of the basement for education uses, permission is sought to retain the use of the basement for storage with chillers for the meat/fish. Permission is not sought to use of the basement for any other use. This application does not include any advertisements. An informative would be attached to the decision notice informing the application that they made need advertisement consent for any new signs they have installed.					
	Councillor Hai – Supports the application for the following reasons; I am writing in support of Mr Rofique Ullah's application for change of use from D1 (Doctors Surgery). I have personally spoken to a number of people in the area who are supporting					

	the proposed change by Mr Ullah. Mr Ullah has also advised that, despite his agent advertising this unit for a long period, there was no demand for D1 use at this location. However, interested parties would make an offer subject to the landlord permitting A1 use. Mr Ullah has invested a considerable amount of money in the shop to run a family business to serve the local community. I hope the Council will give due consideration for the proposed planning application
CAAC/Local comments:	groups none

Site Description

The site is located on the north side of Cromer Street in between Loxham Street and Tankerton Street in the Kings Cross Central London Area. The site comprises a four storey building known as Edward Bond House with 4 commercial units on the ground floor and residential accommodation above. The building is not listed or located within a conservation area.

The application relates to a corner unit on the ground and basement floor.

Relevant History

12/03/1992 – **p.p. granted (9200059)** for the change of use from retail shop (Class A1) to doctors surgery (Class D1).

17/06/2010 – **p.p. refused (2010/0866/P)** for the retention of change of use of the ground and basement unit from Doctor Surgery (Class D1) to Retail (Class A1). **Reason for refusal** - In the absence of sufficient evidence and justification to demonstrate that the previous use as a community use was surplus to requirements, or has been re-provided elsewhere or there is no demand for another suitable community use of the site, use of the site as a retail unit is considered to be contrary to the principal aim of Policy C2 (Protecting community uses) of the London Borough of Camden Replacement Unitary Development Plan 2006.

Relevant policies

Replacement Unitary Development Plan 2006

SD6 (Amenity for Occupiers and Neighbours), R1 (Location of New Retail and Entertainment Uses), R2 (General Impact of Retail and Entertainment Uses), C2 (Protecting Community Uses)

Camden Planning Guidance 2006

LDF Core Strategy and Development Policies

The Inspector's Report into the Camden Local Development Framework Core Strategy and Development Policies Development Plan documents ("DPD"s) was published on 13th September and found the policies in the DPDs to be sound. This means "considerable weight" can now be given to these LDF policies even though at this stage they have yet to be formally adopted by the Council. Where there is a conflict between UDP policies and these LDF policies the Planning Inspectorate would consider it reasonable to follow the latter. However prior to formal adoption UDP policies should still be taken into account as the Council's adopted Development Plan.

LDF Core Strategy

CS1 (Distribution of growth)
CS5 (Managing the impact of growth and development)
CS7 (Promoting Camden's centres and shops)
CS10 (Supporting community facilities and services)
CS16 (improving Camden's health and wellbeing)

Development Policies Development Plan

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)
DP15 (Community and leisure uses)
DP26 (Managing the impact of development on occupiers and neighbours)

Assessment

1. Proposal

- 1.1 Permission is sought for retrospective permission for the change of use from a doctor's surgery (Class D1) to a shop (Class A1) on the ground floor premises.
- 1.2 Permission was previously refused (2010/0866/P) for the retention of the property as a retail unit due to the absence of sufficient evidence and justification to demonstrate that the previous use as a community use was surplus to requirements, or has been re-provided elsewhere or there is no demand for another suitable community use of the site.
- 1.3 There are no external alterations proposed as part of the application. It is noted that advertisements may have been installed within the benefit of advertisement consent. An informative is recommended to be attached to the decision notice to inform the applicant that advertisement consent is required for the retention of the signs.

2. Principle of development – change of use

- 2.1 The site is not located within any designated town or neighbourhood centre, but is located within the Central

London Area. This application follows a previously refused scheme. The original scheme was refused due to the lack of justification for the loss of the D1 use on site. The applicants have now submitted further information as part of this application to try and address this. In addition they submit (as previously submitted for the refused application) a list of signatories supporting the application as well as 2 letters from Kings Cross Brunswick Neighbourhood Association and Bengali Men's Project supporting the need for a local halal butcher and frozen fish shop.

2.2 Policy C2 of the UDP seeks to protect community uses, within which doctors surgeries are included, and states that the Council will not grant planning permission that results in the loss of a community use unless it is demonstrated that;

- An adequate replacement facility has been provided in a location accessible to the users of the facility; or
- The specific use is no longer required and it can be demonstrated that there is no demand for another suitable community use of the site.

2.3 The applicants have indicated that there are alternative facilities in the immediate area, and a list has been provided within the submitted Design and Access Statement. This indicates that there are indeed a number of alternative facilities available in this area, including a new D1 space recently granted consent at 80 Cromer Street. In addition to this the applicants have provided marketing information which suggests that attempts were made to market the premises for alternative D1 occupiers without success. This may in part be due to the constrained nature of the site, but also may be due to the number of alternative D1 premises nearby. Given the additional information submitted, it is now considered that sufficient justification has been provided for the change of use and that adequate replacement facilities are provided elsewhere.

2.4 Para.8.31 outlines circumstances for disposal of sites that were previously in community use. It states that if it can be shown that there is no local need for a community use, the priority use for the Council would be the provision of housing, and in particular affordable housing. Whilst in normal circumstances we would seek residential uses as a priority, we should also acknowledge that the premises were historically in retail use and is set out (at ground floor level with a shop frontage) for commercial use. This end of Cromer Street, although not in a designated centre, is also characterised by a number of retail/commercial uses at ground floor. In light of this, and given the special circumstances of this case, we can accept provision of a retail unit as opposed to residential, subject to the requirements of other UDP policy as outlined below.

2.5 Turning to the proposed retail use, Policy R1 of the UDP seeks to locate new retail uses within the designated town and neighbourhood centres, as these locations are best served by a range of means of transport and are less likely to cause harm to residential amenity. Para. 6.15 makes an exception to this rule, and recognises that small shops outside of the designated centres can make a contribution to meeting local requirements for convenience shopping etc. Therefore, as an exception to R1a the Council will support small shops of 100sqm or less outside centres where the proposals meet the requirements of R2.

2.6 Policy R2 states that the Council will only grant permission for retail uses where it does not harm the character, function, vitality and viability of an area, and is readily accessible by a range of transport modes. Given the relatively small scale character of this development, it is considered unlikely that the proposals will have a significant impact on the character, function, vitality and viability of the area.

2.7 The Council has received and published the Inspector's Report into the LDF, which states that the Core Strategy and Development Policy documents are 'sound'. The LDF can now be given considerable weight in the determination of planning applications, although the UDP will remain the Development Plan for the borough until the LDF documents are formally adopted on the 8th November.

2.8 CS10 of the Core Strategy states that the Council will support retention and enhancement of existing community etc facilities. CS16 states that the Council will protect existing health facilities. DP15 of the Development Policies document specifically relates to Community and Leisure uses. This states that the Council will protect community uses unless it can be demonstrated that either a) a replacement facility that meets the needs of the local population is provided; or b) the specific community use is no longer required. If the further information outlined above can be secured then these proposals could meet clause a) of the policy, at which point we would consider alternative provision. The supporting text to the policy does consider the need to provide affordable housing as a priority when looking at alternative use. This is on the basis that community uses have a lower land value therefore it is likely that they would come under pressure for redevelopment to higher value uses. However, given the circumstances of this case as outlined above, it is considered reasonable to allow the re-provision of a retail unit in this site as opposed to seeking residential floorspace.

3. Amenity

3.1 There are residential units located above the application site on the first floor with windows and a balcony in close proximity to the front of the unit. A number of objections have been received in relation to smells and noises from the use of the premises as a meat and fish shop. In relation to the smells from the meat and fish, this matter would be enforced and monitored by the Council's Environmental Health Team. There are limited planning controls or

restrictions that could be placed on a retail unit in relation to any smells from fresh produce, noting that no cooking takes place on the site.

3.2 A number of concerns were raised in response to the storage of rubbish of the site. It is proposed that the meat waste will be collected by private contractors. Furthermore an informative would be attached to the decision notice to state that refuse sacks shall not be deposited on the public footpath, or forecourt area until within half an hour of collection.

3.3 A number of objections have been received in relation to noises from the meat shop. A meat/fish shop is not normally a use that would generally be associated with noise and disturbance as there are no activities directly associated with the use that would typically result in a constant and serious noise nuisance such as from plant and machinery. However, there is residential accommodation on the upper floors of the premises and given this context it is therefore considered reasonable to apply a condition stating that no noise should be audible from the adjoining premises (in accordance with UDP policy SD6 and LDF Policy DP26). The application form states that opening hours would be between 08:30am to 20:00pm. It is therefore considered applicable to denote the hours of operation to the times specified which given the audible noise condition recommended should be sufficient to prevent further disturbance to the units above.

4. Transport

4.1 Given the size of the unit is considered unlikely that the retail use generates significantly more transport demands. Furthermore, it is located in close proximity to existing public transport facilities. It is considered that given the proximity and ranges of transport available the proposed development would not harm the existing transport system.

5. Recommendation

5.1 Grant planning permission

DISCLAIMER

Decision route to be decided by nominated members on Monday 4th October 2010. For further information see

<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>