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|---|---|---|--|
| <b>Address:</b>   | 44-46 Belsize Lane<br>London<br>NW3 5AR |   |  |
| <b>Application Number:</b>  | 2009/3702/P                             | <b>Officer:</b> Hannah Parker   |  |
| <b>Ward:</b>  | Frognal & Fitzjohns                     |   |  |
| <b>Date Received:</b>   | 04/08/2009                              |   |  |
| <b>Proposal: Change of use of ground floor and basement from a shop (Class A1) to a restaurant (Class A3) and associated plant.</b>                   |   |   |  |
| <b>Drawing Numbers:</b><br><br>EMTEC noise level survey; site location plan; EC101 ; EC302 ; EC201 ; EC301; A3PA302 ; A3P_A101revA ; A3P-A 301 rev A: |   |   |  |
| <b>RECOMMENDATION SUMMARY: Grant Permission</b>   |   |   |  |
| <b>Applicant:</b>   |   | <b>Agent:</b>   |  |
| c/o Agent   |   | SLLB Architect Ltd<br>Dunluce House<br>4-8 Canfield Garden<br>Camden<br>NW6 3BS |  |

## ANALYSIS INFORMATION

| Land Use Details: |                          |                 |                    |
|-------------------|--------------------------|-----------------|--------------------|
|                   | Use Class                | Use Description | Floorspace         |
| Existing          | A1 Shop                  |                 | 103 m <sup>2</sup> |
| Proposed          | A3 Restaurants and Cafes |                 | 103 m <sup>2</sup> |

## OFFICERS' REPORT

**Reason for Referral to Committee: The proposed development involves the creation of a Class A3 Use (Clause 3iv).**

### 1. SITE

- 1.1 The application site is located at the junction of Belsize Lane and Belsize Place. The building comprises basement, ground and first to third floor. The building is not listed, but is situated within the Belsize Conservation Area. The site lies east of the Finchley Road Town Centre, within a neighbourhood centre. The building itself is currently undergoing renovation as part of the previously granted scheme.
- 1.2 No.44-46 is the most northerly commercial premises on the western half of the road. This proposal refers to the ground and basement floors. The upper floors have already been

granted permission for conversion into three residential units and associated works. The ground floor use is currently vacant and has been boarded up.

## **2. THE PROPOSAL**

### **Original**

- 2.1 Planning permission is sought for the change of use of the ground floor and basement floor at no. 44-46 from a shop (Class A1) to a restaurant (A3 use) and associated plant for the A3 Use.

## **3. RELEVANT HISTORY**

### **3.1 9201042**

Planning permission was refused on 01/04/93 for change of use of the rear part of the ground floor and the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors from bedsitting rooms and works of conversion including the erection of a roof extension to provide 2 self-contained flats and 2 self-contained maisonettes. The application was refused on the grounds that it would result in over sub-division of the property and the roof extension would have an adverse impact on the character and appearance of the building and the conservation area.

### **9401305**

Planning permission was granted on 16/12/04 for change of use of the upper floors into 3 self-contained flats including erection of a roof extension for the upper flat and infilling of the rear ground floor yard as an extension to the shop.

### **PW9903029**

Planning permission was granted on 01/02/00 for renewal of planning permission granted 16<sup>th</sup> December 1994 (PL9401305) for change of use of the upper floors into 3 self-contained flats including the erection of a roof extension for the upper floor flat and infilling the rear yard to create an extension to the shop unit.

### **2006/3329/P**

The Council resolved to grant planning permission on 13/10/06 for extensions at basement, ground, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floor levels to provide an additional residential unit (1 x 1-bedroom) to the rear of the ground floor shops and maisonette above and alterations to the Belsize Place elevation. It was subject to a S106 agreement which was not completed. The application was eventually withdrawn on 19/08/08.

### **2006/2389/P**

An application was submitted on 19/06/06 for erection of a 2-storey extension to the rear, plus change of use of three bed-sits at rear 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors to provide a self-contained dwelling unit. The application was withdrawn on 19/07/06 by applicant.

### **2008/0837/P**

An application was submitted on 07/04/08 for erection of roof extension with front roof terrace, part single-storey basement extension with rooflight and part 2-storey basement/ground floor level extension to infill rear yard, enlargement of existing rear projecting wing at basement to fourth floor level. Alterations to shopfront including new entrance doors with canopies, installation of windows at ground to third floor on Belsize Place and installation of pavement lights onto Belsize Lane and Belsize Place all in connection with change of use from basement and ground floor retail (Class A1) with

ancillary office accommodation and residential (Class C3) on the upper floors to retail (Class A1) at basement and ground floor and 5 x 1-bedroom and 1 x 3-bedroom residential units at ground to 4<sup>th</sup> floor level. The application was withdrawn on 24/07/08 by applicant.

#### **2008/3597/P**

Planning permission was granted on 31/10/08 subject to a S106 agreement for erection of 2-storey basement/ground floor level extension to infill rear yard, enlargement of existing rear projecting wing at basement to 4<sup>th</sup> floor level, alterations to shopfront including new entrance doors and canopy, installation of windows at ground to 3<sup>rd</sup> floor on Belsize Place and installation of pavement lights onto Belsize Lane and Belsize Place all in connection with change of use from basement and ground floor retail (Class A1) and residential (Class C3) on the upper floors to retail (Class A1) at basement and ground floor and 3 x studios, 1 x 2-bedroom and 1 x 3-bedroom residential units at ground to 4<sup>th</sup> floor level.

#### **2008/5288/P**

An application for planning permission was submitted on 07/11/08 for the erection of roof extension with front roof terrace, part single-storey basement extension with rooflight and 2-storey basement/ground floor level extension to infill rear yard, installation of 2 air conditioning units at rear ground floor level and 4 air conditioning units at rear first floor level, alterations to shopfront including new entrance doors and canopy, installation of windows at ground to 3<sup>rd</sup> floor on Belsize Place and installation of pavement lights onto Belsize Lane and Belsize Place all in connection with change of use from basement and ground floor retail (Class A1) and residential (Class C3) on the upper floors to retail (Class A1) at basement and ground floor and 2 x 2 bedroom flats and 1 x 3 bedroom maisonette at ground to 4<sup>th</sup> floor level. The application was withdrawn on 19/05/09.

#### **2009/2118/P**

Amendments to planning permission granted 31/10/08 subject to a legal agreement (2008/3597/P) for erection of roof extension with front roof terrace, part single-storey basement extension with rooflight and part two-storey basement/ground floor level extension to infill rear yard, enlargement of existing rear projecting wing at basement to fourth floor level, alterations to shopfront including new entrance doors and canopy, installation of windows at ground to third floor on Belsize Place and installation of pavement lights onto Belsize Lane and Belsize Place all in connection with change of use from basement and ground floor retail (Class A1) and residential (Class C3) on the upper floors to retail (Class A1) at basement and ground floor and 3 x studios, 1 x 2-bedroom and 1 x 3-bedroom residential units at ground to fourth floor level namely, enlargement of roof extension, omission of enlargement of rear projecting wing, alterations to ground floor entrance doors onto Belsize Place, replacement of window with door at rear first floor level and reconfiguration of the internal layout to retail (Class A1) basement and (part) ground and 2 x 2 bedroom flats and 1 x 3 bedroom maisonette on (part) ground to fourth floor level.

## **4. CONSULTATIONS**

### **4.1 Local groups**

### **4.2 Belsize Conservation Area Advisory Committee:** More details are required on the proposed extract and air-conditioning which raise concerns about visual amenity and impact on conservation area.

#### 4.3 **Adjoining Occupiers**

|                               | <b>Original</b> |
|-------------------------------|-----------------|
| <i>Number of letters sent</i> | 26              |
| <i>Number of responses</i>    | 2               |
| <i>Number of objections</i>   | 2               |

4.4 A site notice was displayed from the 09/30/2009 until the 30/09/2009. 2 objections were received.

- 10 air units have already been installed making an annoying noise
- Potential problem of smell
- The village is small, parking is problem, late night noise would be intolerable
- Close proximity to Belsize Place
- Possibility of tables on pavement

#### 5. **POLICIES**

##### **Replacement Unitary Development Plan 2006**

SD6 Amenity for occupiers and neighbours

SD7B Noise/vibration pollution

SD8 Disturbance

B1 General design principles

B3 Alterations and extensions

B7 Conservation areas

R1 Location of new retail and entertainment uses

R2 General impact of retail and entertainment uses

R3 Assessment of food and drink uses and licensed entertainment

R7 Protection of shopping frontages and local shops

Appendix 1 Noise and vibration thresholds

##### 5.1 **Camden Planning Guidance 2006**

#### 6. **ASSESSMENT**

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

- Loss of retail floor space
- Impact of food and drink use
- Impact on host building
- Amenity
- Plant
- Other Issues

##### 6.2 **Loss of retail floor space**

6.3 The site is located within a local neighbourhood shopping parade that includes properties in Belsize Lane. Policy R7 'Protection of shopping frontages and local shops' has a broad presumption against the loss of shopping floorspace within the Neighbourhood Centres, and the Council will only grant planning permission for development that it considers will not cause harm to the character, function, vitality and viability of the centre, and will not

grant planning permission for development that would prevent the centre from being capable of providing for a range of convenience shopping.

- 6.4 The frontage which Belsize Lane forms part of runs from 44-62 Belsize Lane and consists of 8 units.

6.5

| Shop Number | Existing Use | Proposed Use |
|-------------|--------------|--------------|
| No. 62      | A1           | A1           |
| No. 60      | A1           | A1           |
| No. 58      | A3           | A3           |
| No. 56      | A1           | A1           |
| No. 54      | Sui Generis  | Sui Generis  |
| No.52       | A1           | A1           |
| No. 50-48   | A3           | A3           |
| No-46-44    | A1 Vacant    | A3           |

6.6

| Uses   | Existing  | As proposed |
|--------|-----------|-------------|
| A1     | 5 = 62.5% | 4 = 50%     |
| Non A1 | 3 =37.5%  | 4 = 50%     |
| Total  | 8         | 8           |

- 6.7 5 out of the 8 units have a lawful A1 use. It is considered that the frontage No. 44 -62 Belsize Lane would retain a sufficient number of A1 units so that the conversion of one of these units into an A3, as proposed in this application, would not be detrimental to the vitality and viability of the Belsize Lane centre. There will not be a row of 3 consecutive non A1 units. There are no valid permissions with potential to be implemented for change of use away from Class A1 Retail in this frontage. Therefore, given that 50% of the units retained as A1, the application in percentage terms satisfies Camden's policy and guidance. The application therefore complies with Policy R7 of the UDP.

### Impact of Food and Drink Use

- 6.8 Policy R2 states that the Council will only grant permission for retail and entertainment uses including Class A3 uses where the use will not harm the character, amenity, function, vitality and viability of the area or of other areas it affects and which is readily accessible by a choice of means of public transport.
- 6.9 Policy R3 states that the Council will not grant permission for food and drink uses or licensed entertainment (in Use Classes A3, A4, A5, D2 or sui generis) that it considers would cause individual or cumulative harm to an area and provides guidance with regard to the potential effect on nearby residential uses and amenity, noise pollution, the potential effect on highway conditions, the potential for anti-social behaviour and potential effects of a concentration of food and drink uses.
- 6.10 Belsize Lane is a well used local centre. Although it does not lie directly on a bus route it is a short walk from both Belsize Park and Swiss Cottage tube stations and town centres. The area is surrounded by residential properties and Class A3 uses are typically found within parades of shops such as this and a mix of uses within neighbourhood centres is

broadly encouraged within the UDP. The neighbourhood centre has a variety of shops and restaurants already. The additional A3 use is not considered to have a detrimental impact to the surrounding area or to the upper residential units. The nearest residential units will be directly above the proposed A3 unit and directly behind the premise.

- 6.11 As no tenant has been confirmed opening hours have not been specified. Therefore it is considered necessary to condition opening hours to 09:00 and 23:00 Monday to Saturday and 09:00 to 22:30 on Sunday in order to keep opening hours consistent with the other premises in the parade. These hours of operation are considered to be appropriate for this location. The Council's Licensing Department have been consulted and have confirmed the acceptability of these opening hours.
- 6.12 The application has not included details of bin collection/storage, however it is considered there is ample space within the site. An informative has been attached regarding refuse collection.
- 6.13 The proposal is not considered to cause individual or cumulative harm to the area and is considered to be consistent with Policy R2 and R3.

### **Visual Impact**

- 6.14 It is also noted that currently there is no signage on the property. If the applicant were to introduce signage that fell outside the Advertising regulations 2007 they would be required to apply for permission. An informative will be placed on the decision notice to this effect.
- 6.15 This application only applies to a change of use and the addition of plant. The change of use in itself is not considered to have any significant impact on the appearance of the host building.
- 6.16 The plant and associated ventilation and ducting is located to the rear of the building in an external courtyard/ lightwell. It is not visible from public realm. The rear of the property abuts the properties at 1 Belsize Lane. Although it is acknowledged that the appearance of the plant will be large and bulky the impact on surrounding dwellings is not considered significant. The property most likely to be affected is 1 Belsize Lane. The outlook from this property onto the plant is not significantly reduced because the windows facing the plant are obscured glazed, are at a high level and there is limited existing outlook. The plant is therefore not considered to significantly affect the amenity of 1 Belsize Lane. The frontage untouched by the plant preserving the appearance of the conservation area from the public vantage points on the front elevation.

### **Amenity**

- 6.17 It is considered that the works concerning the change of use element of the proposal would not adversely impact on the amenity of the adjacent properties with regard to access to sunlight, daylight, visual bulk or sense of enclosure. The main concern from the amenity perspective is noise from the plant.
- 6.18 An acoustic report has been submitted and verified by the Council's environmental health department. The proposed plant at ground level operates at 45dBA and therefore will require an acoustic enclosure to be fitted around the enclosure. With an acoustic louvre in front of the discharge and a purpose built attenuated inlet in place a 22 dBA noise is achievable. The acoustic report demonstrates that with mitigating measures of acoustic enclosures over the two units, Camden's planning noise conditions would be met.

- 6.19 However, the acoustic report only refers to the plant units and not the kitchen duct, due to the fact that no tenant has yet been determined the exact requirements for the ducting are yet to be specified. Therefore a condition will be placed on this permission for a revised acoustic report that demonstrates that the extract to be in place would meet Camden's planning noise conditions. The condition will also require manufacturer /installation specific details to be provided when an A3 lease was signed. These details will be required before the commencement of the A3 unit to ensure the amenity of the surrounding occupiers is preserved.
- 6.20 Plant for the residential units above has recently been installed. This is what the objections refer to. This plant has not got permission which is why it is not shown on the drawing. The applicants have been advised to apply for this plant separately and the enforcement team have been notified.

### **Other Issues**

- 6.21 The issues regarding table and chairs being placed on the highway is dealt under Highways regulations

## **7. CONCLUSION**

- 7.1 It is considered that the proposed Class A3 use would not harm the character, function, vitality and viability of the centre and would be consistent with Camden's retail policies (R1, R2, R3 and R7) and the requirements contained in the 'Revised planning guidance for Camden Town: Food, Drink and Entertainment Uses' meeting all three core requirements, namely the proportion of Class A1 units retained within the frontage, the number of food and drink units within the frontage and the number of consecutive non-retail uses in the frontage. The proposal is also considered to be consistent with the design and amenity policies contained in the UDP. It is therefore recommended that planning permission be granted.

## **8. LEGAL COMMENTS**

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.