

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPLICATION BY ALNAZIR THOBANI T/A THE HEALTH SPA SHOP

Site: Ground Floor Unit, 59 Camden High Street, London, NW1 7JL

Proposal: Change of use of premises to a Health Spa Shop comprising a mixed use of A1 and a *Sui Generis* use for health and beauty treatments (comprising facials, waxing, manicure, pedicure, reflexology and therapeutic massage)

A. Site description

1. The property comprises two storey building with offices on the 1st and 2nd floors, and forms part of a terrace of similar properties on the west side of Camden High Street. The general nature of the street is offices / services / shops at ground floor with offices (and occasionally residential) above.
2. The property is accessed off Camden High Street and the existing layout is set over to retail space with ancillary rooms to the rear. The internal area is 84m².
3. The location of the premises is in a quieter part of Camden High Street, with the busier part being found further to the north.
4. The premises is currently permitted for an A1 use and is let under a licence to a discount clothes shop at a subsidised rent so that the landlord can cover business rates. This was initially for a Christmas let only, but has been extended so that the landlord can continue to cover business rates until a proper tenant is found.

B. Proposal

5. The proposal is to change the use of the ground floor shop into a facility for the provision of selling alternative and complementary medicines / health services (such as homeopathy, herbal bath products, pillow sprays, incense, candles, aromatherapy oils, facial creams, beauty products, and asian artifacts and culture books) with the remainder of the premises being used for health and beauty treatments (comprising facials, waxing, manicure, pedicure, reflexology and therapeutic massage).
6. As can be seen from the enclosed plan (KS/2010/01) the existing access arrangements will be retained. However the general internal layout will change to provide an area dedicated to retail sales to the front and then three treatment rooms, separate toilet facilities / shower room, as well as a staff room (referred to on the plan as Treatment Room 4) to the rear. As can be seen from the plans the floorspace set over to the two uses is split equally between them.

7. In terms of revenue and sales, the income from the premises is expected to be split equally between the A1 use and the *sui generis* use. Due to the high rent and rates in the area both income streams are vital to secure a successful venture.
8. The proposal will result in the need for 8 employees.
9. The applicant wishes to be able to operate the premises from 11.00hrs – 23.00hrs Monday to Sunday.
10. There is in an existing ventilation unit which will be used so there is no need to install any additional extraction / ventilation plant. It should be noted that the existing unit, when coupled with natural ventilation (through doors and windows) and given that the walls are not to be built to full ceiling height will be sufficient to provide ventilation for the intended use.
11. There is no intention to provide any parking as part of the development.
12. The applicant is a reputable business owner. He is a qualified pharmacist with a pharmacy business in the Borough (Queens Crescent) and is also a postmaster with a major post office premises in Newman Street. The applicant also owns three other health spa businesses in City of Westminster and Royal Borough of Kensington and Chelsea. All of these businesses are operated to a very high standard and the applicant is well respected within each of the relevant Council areas.

C. Policy context

13. The Camden Replacement Unitary Development Plan adopted June 2006 ("the UDP") forms the policy basis for this application.
14. The application site has two designations applicable to it, specifically; it is located in a Conservation Area (Policy B7) and it is located in a Town Centre (Policies R1 – R8).
15. Consequently, in terms of the policy considerations in relation to the existing use the following strategic policies are relevant; S1 (which seeks, amongst other things, to maintain a viable economy), S2 (which seeks to ensure that development does not harm local amenity), S7 (which seeks to protect the Borough's historic environment), S9 (which seeks to reduce the amount of traffic on Camden's roads), S11 (which seeks to support the character, function, vitality and viability of centres), S12 (which seeks to protect shops, services and food and drink uses, inside and outside centres, where they contribute to the character and function of the area).

16. Policy SD1 (A) seeks to ensure that development fosters sustainable communities, while SD1 (B) seeks to promote regeneration of areas in need of environmental, physical, social or economic renewal. The premises falls within the Camden Central Neighbourhood Renewal Area and is therefore subject to the Camden Neighbourhood Renewal Strategy, one of the aims of which is 'stimulating work and enterprise'. Policies SD6 and SD7 require development to not cause harm to the amenity of occupiers and neighbours in terms of visual overlooking, noise, vibration and odour, amongst others.
17. Policy B7 requires development in a conservation area to preserve or enhance the special character and appearance of the area.
18. Policy R6 confirms that the Council will consider other town centre uses (being those not falling within A1, A2, A3, A4, A5, B1a or D2) where there would not be any harm caused to the character, amenity, function, vitality and viability of the area). Policy R7 states that the Council will resist the loss of A1 at ground floor level and will only grant permission for development that will not cause harm to the character, amenity, function, vitality and viability of the area. The application of Policy R7 is set out in the Food Drink and Entertainment Uses SPD (February 2008), which seeks to guide those uses to suitable locations, ensure there is no detrimental impact on function, character, viability and vitality and that no unacceptable harm is caused.
19. To the extent that they are a material consideration the following policies from the Local Development Framework (the Camden Core Strategy Submission Document 2009 and Camden Development Policies Submission Document 2009) are relevant;
 - a. CS5 & DP26 (protecting amenity of occupiers and neighbours)
 - b. CS7, DP10 & DP 11(promoting Camden's centres and shops)
 - c. CS11, DP16 to 19 (promotion of sustainable travel and reduction in parking etc)
 - d. CS14 & DP25 (conserving heritage)
20. Most relevant of the above are Policies CS7 and DP10 & DP11 relating to town centres. While re-iterating the existing policy position set out in the UDP and SPDs, the policies do seek to encourage a variety and choice of shops and services, with particular emphasis on encouraging small and independent shops as opposed to national multiple retailers. Policy DP10 specifically states the intention to encourage occupation of shops by independent businesses.

D. Planning considerations

21. The last occupier who occupied the premises under a proper lease was Home Connection Limited, who went into liquidation in September 2007. The property has been marketed for an A1 use since that time and the landlord has not been able to secure a tenant under a lease. As mentioned above the current occupier is a discount clothes shop who is occupying the property under a licence until the landlord is able to properly let the property. Attached is a letter from Christco & Co, which confirms the above and also details the extent of the marketing and amplifies the reasons why the property has not let.
22. This problem is not unique to this premises. Given the current economic climate there are a significant number of businesses that have been unable to keep trading and have had to vacate premises. Naturally re-letting properties is not easy in this climate and this has caused significant problems for the owner's of commercial property, in that properties can remain vacant for considerable periods. Often and in an attempt to secure some sort of income, commercial landlords let the properties to charity shops or temporary retailers (who do not care for refurbishing the shop or keeping a proper shop front but who just use temporary banners and sell goods out of boxes and from temporary displays) under a licence so that business rates are covered but occupation can be terminated on short notice.
23. If shops remain vacant, or if let to a particular type of occupier (in this case a temporary retailer), then there will clearly be an impact on the vitality and viability of shopping centres. In this short stretch of the west side of Camden High Street (No.s 43 – 73) there are 4 vacant properties and 5 charity stores. On the east side of Camden High Street there are 3 large vacant units. Clearly having 8 vacant units in close proximity and 5 charity stores is not satisfactory in terms of promoting viability and vitality of this shopping centre, a point eluded to in the letter from Christco & Co.
24. In terms of the current proposal, there is no similar enterprise within this area of Camden High Street, nor for some considerable distance around. Consequently this new proposal, from a an applicant with a proven track record even in this climate, will introduce a unique and exciting business into an area that much needs improvement in terms of its current offering. The property will be refurbished to a very high standard at significant cost to the applicant to provide an attractive and welcoming health and wellbeing facility. Consequently, it will present an attraction that will specifically draw customers to this area of the High Street, where they will then be able to avail themselves of the other shops, particularly those of a convenience nature.
25. It is important to remember that the intended use of the premises will be a mixed use with 50% of the floors space and income being from the retained A1 use. Clearly therefore a significant proportion of A1 will remain at ground floor level, which accords with all policies. To

the extent that the remainder is not A1 but *sui generis*, Policy R6 does confirm that the Council will be prepared to grant permission for non-A1 uses where it will not cause harm to the character, function, vitality and viability of the centre. This is reiterated by Policy R7 which although confirming the resistance to loss of A1 does state that permission will only be granted (for non A1 uses) where there is no harm to the character, amenity, function, vitality and viability of the area.

26. Policy R6 sets out a number of considerations relevant to determining whether a non-A1 use should be permitted. It is considered that the proposed use accords entirely with points a) – g), in that; the existing provision will not be adversely affected given the oversupply of charity shops and vacant premises (points a & b), there will be no amenity issues given the quiet nature of the intended use nor any impact on future development (point c), this is a unique use in the area and therefore there should be no record of harm but in any event the business will be promoting calm and wellbeing so there will be no noise or public nuisance issues arising (point d), there will be no fumes generated (point e), the intended use is very quiet by its very nature so there will not be any adverse effects (point f) and there will be no parking provided given the extremely good transport links (point g). Equally the supporting text does suggest that this type of use is appropriately located in a town centre, albeit that this may be in the less busier parts, which this location is, being right on the edge of the Main Shopping Frontage.
27. To the extent that it is relevant, given the retention of a significant proportion of A1 floor space and for the reasons set out above, it is also considered that there is no conflict with the SPD on Food, Drink and Entertainment Uses. In any event the site is in a suitable location, the character, function, vitality and viability of the Town Centre will not be affected (as the frontage would not drop below 75% A1 given the retained A1 element) and there would be no harm caused.
28. To the extent that the loss of A1 floor space may be considered undesirable, this more than mitigated for by the fact that an exciting new business is being introduced to help galvanise this stretch of the High Street, particularly given the oversupply of charity shops and vacant premises. This accords with Policy SD1 B as the site falls within the Camden Central Neighbourhood Renewal Area and is therefore subject to the Camden Neighbourhood Renewal Strategy one of the aims of which is 'stimulating work and enterprise'. Equally Policy CS7 and DP10 confirm support for the occupation of this premises by a small and independent business.
29. For the above reasons it is considered that particularly Policies R6 & R7 are complied with but so are Policies S1, S2, S11, S12, SD1, SD6 and SD7, the Food, Drink and Entertainment SPD and Policies CS5, CS7, DP10 and DP12.

30. While there is no specific policy relating purely to the creation of jobs, this proposal will result in the creation of 8 jobs, which will benefit the local economy and any proposal creating jobs should therefore be encouraged and supported. This proposal therefore accords with Policy S1 and SD1 and the general thrust of the Core Strategy. It should be noted that all the therapists working at the premises are (or will be) members of the International Professional Therapists International (IPTI) which is a highly regarded body and a body recognised by Camden Council's Licensing Department.
31. It is intended that the hours of operation will be from 11.00hrs to 23.00hrs. However given the nature of the intended use and that this is not a residential area (indeed there are very few residential uses in this street) the opening of the premises until this time is not going to cause any issues of impact on amenity. In terms of noise from the use of the premises, by virtue of the very nature of the intended use (i.e. quiet and relaxing treatments, the promotion of calm and wellbeing) there will not be any noise or other environmental issues. Accordingly it is our opinion that there will not be any material disturbance or nuisance caused by this use and that therefore Policy S2, SD6, SD7, CS7 and DP27 are complied with.
32. The property is located in a Conservation Area, but since the proposal relates to a change of use where there are no alterations or extensions to the property and thereby no material impact on the frontage, our opinion is that the Conservation Area is preserved. Consequently the intended use will not create any harm to the appearance of the building or to the character of the building and will therefore preserve the Conservation Area and accordingly Policies S7, B7, CS14 and DP25 are complied with.
33. The site is well located in terms of potential use by residents, workers or visiting members of the public. It is envisaged that most people will walk or will use the excellent public transport links that are easily accessible and close to property, comprising a number of bus stops (on Camden High Street and surrounding streets), two tube stations (Mornington Crescent and Camden Town) and the main line stations of Kings Cross and St Pancras. There would be no material increase in traffic or parking and given the excellent public transport links it is considered unnecessary to provide parking with this proposed development. Should anyone wish to travel by car then there is paid parking in Delancey Street. Consequently, the UDP policies of S9 and Chapter 4 as well as Policies CS11, DP16 and 19 are complied with.
34. Finally it is important to note that this application is being made by a reputable business owner (qualified pharmacist and postmaster) who also runs three similar health spa facilities in the neighbouring Boroughs of City of Westminster and Royal Borough of Kensington and Chelsea. In terms of those health spas, it is important to note that they are of a similar nature but not exactly the same and there have been no complaints with regard to any aspect of how

these premises are being run. Both Westminster City Council Licensing Department and Royal Borough of Kensington and Chelsea have been extremely happy with the way the health spa facilities have been run and have had no problems in the period they have been operational for.

E. Conclusion

35. Overall it is considered that the change of use of this property to a mix use of A1 and a *sui generis* Health Spa use is supported by the Council's policies and should therefore be approved.
36. There will be a significant proportion of A1 use remaining (both in floor space and income terms).
37. Fundamentally the development will not detrimentally affect the character and function or the vitality and viability of the area, rather it will enhance vitality and viability as it will result in an additional service for visiting members of the public that was not present or available previously in the immediate vicinity or in the wider area. Equally given that there are a large number of vacant units and an over supply of charity shops, this new use will therefore provide an improved mix of facilities / business for the area and will therefore result in increased visitors to the immediate location and to the Town Centre generally.
38. It is considered that there will not be any issue in respect of impact on the character of the area and that moreover the Conservation Area will be preserved. In terms of noise and other amenity issues, again given the nature of the intended use (promotion of calm and wellbeing) it is not considered that there will be a detrimental impact on amenity.
39. The applicant has a track record of high standard, professional and reputable businesses which are all thoroughly professional and operate to a very high standard. The applicant is intending to invest a considerable amount of money to create a genuinely exciting and attractive new business for the area. This facility will improve the vitality and viability of this stretch of Camden High Street.
40. In light of the above we do not see that there are any material considerations that justify any conclusion other than to grant permission and we would therefore urge the Council to grant consent for this proposal.

Blake Lapthorn

18 March 2010