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PLANNING STATEMENT

Change of Use from Class A1 (Retail) Use to Class A2 (Financial & Professional Service)

225 Kentish Town Road

Keatons Estate Agents

July 2014



RTPI

mediation of space - making of place

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1 INTRODUCTION

- 1.1 This planning statements is submitted in support of the planning application proposing the change of use of 225 Kentish Town Road from a Class A1 retail use to a Class A2 financial and professional services use. The intention of this application is to undertake a use swap with the existing premises at No's. 168-172 which is where Keatons Estate Agents currently operate from. This will ensure that there is no loss of retail floor space within the vicinity as a result of this proposal. Further details of this use swap proposal is contained within this statement.
- 1.2 The existing premises operate as a restaurant (Class A3) which was granted a temporary use on appeal in 2007 (LPA Ref: 2006/1094/P) and was on condition that the temporary use operated for no more than three years and exclusively by the appellant. The temporary use expired in 2009 and the restaurant changed hands at a similar time. In 2010, a new application (LPA Ref: 2010/0063/P) was submitted to retain the restaurant use which was subsequently refused as the appeal conditions no longer applied. The lawful use of the premises therefore reverted back to Class A1 although has not become occupied as such. This application for a change of use is therefore made based on the lawful use of the property as A1 rather than the current use under A3.
- 1.3 The application is made as a change of use only and no operational development is proposed. The applicant is aware that any subsequent applications for advertisement consent and new shop frontage may apply when necessary.
- 1.4 As the proposal includes a use swap with nearby premises, which will ensure there is no loss of any retail floor space, we consider that the application is acceptable having regard to the development plan and other materials considerations with reference to the provisions of S38(6) of the Planning and Compulsory Purchase Act 2004.

2 SITE DESCRIPTION

- 2.1 The application site is located within a three storey mid-terraced property within an area comprising of retail, food and drink, and other professional services. The wider area comprises of residential properties. The application is made in respect of the ground floor only. The lawful use of the ground floor is Class A1 given the refusal of the 2010 application for the retention of the restaurant use. The property is identified as being within a core frontage of Kentish Town. A pedestrian crossing immediately fronts the property.
- 2.2 The property is not within a Conservation area nor does it form part of, or affect, a listed building.
- 2.3 With regard to the current use, the property has most recently been operating as a restaurant as temporarily permitted. Prior to this, the unit was used for retail (Class A1) which it reverted back to when the conditions of the 2007 planning appeal expired.

3 PROPOSED DEVELOPMENT

- 3.1 This planning application proposes the '*operation of No.225 Kentish Town Road within classes A2 of the use class order*'. However, the applicant understands the need to retain retail floor
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space within this important core retail area and the application also proposes that the current premises occupied by Keatons at 168-172 will revert to a Class A1 use (retail). However, as those premises currently operate under the provisions of Class A2, a change of use is not required for that change to Class A1 (retail). As the loss of lawful retail floor space is contrary to the Core Strategy Policies (2010) and Development Policies (2010), we acknowledge that the loss of retail would be unacceptable as a standalone proposal. It is for this reason that we are seeking a land use swap with Keatons existing premises.

- 3.2 This site swap can be achieved through the provision of a suitable legal agreement to ensure that the property at 168-172 is changed to a Class A1 (retail) use with the specification that it cannot be reverted back to the current Class A2 use once Keatons occupies the application site at No.225.
- 3.3 As a result of this land swap, the proposal would result in a significant increase in gross retail floor area (+218.5m²) as shown in the following table. This is a favourable outcome given the core retail function of the centre and the aims of local planning policy.

Land Use Table (M ²) GFA – Site Swap Comparison			
Existing Use	Class A1 (Retail)	Class A2 (F&P)	Retail GFA Difference
225 Kentish Town Road	66.5m ²	0m ²	-218.5m ² (-369.5m ² with basement)
168-172 Kentish Town Road	0m ²	285m ² (436 with basement)	
Proposed Use			
225 Kentish Town Road	0m ²	66.5m ²	+228.5m ² (+369.5m ² with basement)
168-172 Kentish Town Road	285m ² (436m ² with basement)	0m ²	

- 3.4 Both properties are within the same retail centre and this proposal would therefore ensure that the retail floor area would be maintained (actually increased as shown above) in the spirit of up-to-date planning policy.

4 PLANNING POLICY

Local Planning Policy

- 4.1 Both the Council' Core strategy and Development Policies were adopted in 2010 superseding the former 2006 Unitary Development Plan.

Core Strategy

- 4.2 Policy CS7 seeks to protect and enhance Camden's Town Centres through a range of aims which are summarised as follows:

- Ensuring that new development is of an appropriate scale and character for the centre.
 - Providing for, and maintaining, a range of shops, services, food, drink and entertainment and other suitable uses.
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- Protecting and promoting small and independent shops, and resisting the loss of shops where this would harm the character and function of the centre.
- Making sure that food, drink and entertainment uses do not impact on residential amenity.
- Supporting and protecting Camden's shops, markets and areas of specialised shopping.
- Pursuing the objectives of each centre through environmental, design, transport and public safety matters.

Development Policies

4.3 Policy DP12 sets out 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. We will consider:

- a) The effect of non-retail development on shopping provision and the character of the centre in which it is located;
- b) The cumulative impact of food, drink and entertainment uses taking into account the number and distribution of existing uses and non-implemented planning permissions, and any record of harm caused by such uses;
- c) The impact of the development on nearby residential uses and amenity, and any prejudice to future residential development;
- d) Parking, stopping and servicing and the effect of the development on ease of movement on the footpath;
- e) Noise and vibration generated either inside or outside of the site;
- f) Fumes likely to be generated and the potential for effective and unobtrusive ventilation;
- g) The potential for crime and anti-social behaviour, including littering;

National Planning Policy Framework

- 4.4 Paragraph 14 of the NPPF sets out that the presumption is in favour of sustainable development which goes to the heart of the Framework.
 - 4.5 Paragraph 19 underlines that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. It states that planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
 - 4.6 Paragraph 20 states that LPA's should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
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- 4.7 Paragraph 23 states that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up plans, LPAs must recognise town centres as the heart of their community and pursue policies to support their viability and vitality; and promote competitive town centres that provide customer choice and a diverse retail offer.

5 PLANNING JUSTIFICATION

- 5.1 The starting point for determining planning applications is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

CORE STRATEGY POLICY CS7 – PROMOTING CAMDEN’S CENTRES AND SHOPS

- 5.2 Core strategy Policy CS7 emphasis the need to protect existing shops in existing centres. The proposal is consistent with this objective as no retail space will be lost as a result of the change of use. Keatons already operates within this retail centre and the principle of this particular A2 use in the centre is therefore established. The proposed relocation will not result in an increase on A2 floor space and the existing Keatons office will be changed to a retail use using the benefit of permitted development. As a result there will be no material change in the respective floor areas within this centre.

DEVELOPMENT POLICY DP12 - SUPPORTING STRONG CENTRES AND MANAGING THE IMPACT OF FOOD, DRINK, ENTERTAINMENT AND OTHER TOWN CENTRE USES

- 5.3 Development Policy DP12 sets out a number of consideration points that the LPA will refer to in assessing an application.
- 5.4 The proposed use is a non-retail use within the established centre. However, the proposal does not seek an additional A2 use in the centre but rather it is proposing a relocation. This does however create a vacant A2 use at the existing premises occupied by Keatons and to be occupied by another similar use would result in an increase in non-retail uses in the centre. This can be addressed through the provision of a legal agreement that sets out that the existing premises will sacrifice its existing A2 classing and instead revert to an A1 retail use through the permitted development order. The change of use through the legal agreement would not require planning permission as this would fall under permitted development. The purpose of the legal agreement would however ensure that the existing Keatons premises could no longer be occupied by another Class A2 use. This approach would ensure that shopping provision is maintained whilst preserving the character of the area.
- 5.5 Through the provision of a legal agreement to manage the class use swap, this would prevent a cumulative increase in Class A2 uses in the retail centre. In essence, there would be no increase in A2 uses as a result of the proposal.
- 5.6 During consideration of the Class A3 (Food and Drink) applications for the premises, there were a number of local objections from residents. A number of these objections related to the loss
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of retail floor space and the potential for “chain restaurant” operators to move into the area. The proposed A2 use would address a number of the concerns relating to the restaurant use whilst the legal agreement would maintain the amount of retail floor space in the centre. The nature of the A2 operation is such that it would not impact on nearby residents by virtue of it being a less intensive use than the unauthorised A3 use.

- 5.7 The proposed use is purely a site swap and highway considerations would remain unchanged. There would be no obstructions to the footpath as there are no proposed engineering or operational works to the fabric of the building.
- 5.8 The proposal would not result in any noise or vibration.
- 5.9 There would be no fumes as a result of the proposal. It is likely that the proposal will reduce fumes as expected from the closure of the restaurant use. There is little difference between the operation of an A2 use and an A1 use in respect of fumes (if any).
- 5.10 The proposal will likely result in a reduction of opportunities for anti-social behaviour, crime and littering that can sometimes be associated with food and drink establishments and retail uses. Keatons operate as an estate agents which would draw in a specific and targeted clientele compared to these alternative uses.
- 5.11 It is considered that the proposed change of use, subject to an agreed legal agreement, would comply with the provisions set out within Policy DP12.

NATIONAL PLANNING POLICY FRAMEWORK

- 5.12 Paragraph 14 of the NPPF sets out that the presumption is in favour of sustainable development which goes to the heart of the Framework. The loss of retail space within the Kentish Town retail centre is a valid concern and is reflected in the various refusal and appeal decisions for this particular property to retain the Class A3 use. It is for this reason that the site swap with no.168-172 is proposed which can be achieved through a legal agreement under Section 106 of the T&CPA. This approach will ensure that appropriate retail floor space is retained which is consistent with the presumption in favour of sustainable development.
 - 5.13 With regard to paragraph 19, the proposed site swap will ensure that economic growth is supported by providing new accommodation to Keatons which is suitable to their needs whilst maintaining retail floor space in the centre. The site at no.225 (application site) has been used as a restaurant for a number of years and has been the subject of a continued planning dispute for over ten years. For whatever reason, this has meant the property has not been utilised under its lawful use as a retail unit. The proposed solution we are offering will allow Keatons to relocate to a more suitable property to meet their needs without introducing any further non-retail uses in the established centre.
 - 5.14 Again, the proposal is consistent with what paragraph 23 is seeking to achieve by allowing an existing operator in the established centre to remain without introducing further non-retail uses. At the same time, this will allow a new planning chapter for the property at 168-172 by introducing a new retail opportunity which has otherwise been absent whilst the restaurant at no.225 has been in situ.
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6 CONCLUSIONS

- 6.1 The application premises are located within an established centre on Kentish Town Road. The proposal will allow an existing A2 operator to remain in Kentish Town in premises more suitable to their needs. The applicant is conscious that the proposal will result in an additional A2 use in the centre where the preference is to retain retail (A1) as the primary function. On this basis it is intended to change the use of their existing premises at no.168-172 from A2 to A1 through the provisions of the permitted development order. This can be secured through an agreement under Section 106 of the Town and Country Planning Act. This will ensure the integrity of the centre is maintained as a primary retail function.
- 6.2 There is no proposed operational development as the premises at 225 Kentish Town Road is suitable in its current layout for the purposes of Keatons Estate Agents. Any requirements for new signage will be sought through a separate application for advertisement consent as will any operational development as necessary
- 6.3 The property has a lawful use as an A1 unit following the expiration of the temporary consent as a restaurant (A3). This is reflected in the planning history for the site including appeals, and enforcement action taken by the planning authority. There is currently no interest from a retail operator to occupy the premises and this proposal will allow the unit to remain operational thus avoiding a dead frontage. This will not result in the loss of any retail floor space through the proposed use swap with Keatons existing premises as set out above.
- 6.4 The NPPF highlights that planning should operate to encourage and not act as an impediments to sustainable growth, and that significant weight should be placed on the need to support economic growth through the planning system. This is a significant material consideration which supports the proposal and accords with the provisions of the development plan. This application will support the growth of Keatons whilst also allowing a new retailer to operate in Kentish Town.
- 6.5 The assessment of the proposal against Development Policy DP12 demonstrates our view that the proposal accords with up-to-date policy:
- The use swap between the two premises will increase shopping provision and maintain the character of the centre in which it is located.
 - Retail floor area (Gross) will increase by 218.5m² in the established and popular retail centre.
 - There will no cumulative increase in non-retail uses as a result of this proposal and no harm on the retail function of the centre would occur.
 - The proposal will improve conditions of nearby residential properties with the removal of the unauthorised A3. There would no additional impacts on residential amenity when compared to a retail use with the only possible difference being the absence of store deliveries.
 - There would be no impacts on parking, stopping and servicing. Nor would the proposal obstruct the footpath.
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- There would be no noise or vibration as a result of the change of use.
- No fumes would be generated as a result of the proposal.
- The proposal would not result in anti-social behaviour due to the nature of its operation.

6.6 The immediate character of the area is not dominated by non-retail uses and the road continues to be vibrant and popular. The benefits associated with the proposal are that it would contribute to the mixed character of the area whilst also bringing a new retail use into the area via the property use swap as set out in this statement. It would also allow the unit at no.225 (the application site) to be brought back into beneficial use.

6.7 There are no adverse impacts which would significantly and demonstrably outweigh these benefits in our view. The NPPF is clear that significant weight should be attached when supporting economic growth.

6.8 For the above reasons, we consider that the proposal accords with the development plan and national planning policy in the form of the NPPF. The proposal represents a sustainable development which is the golden thread running through the NPPF. We therefore respectfully request that planning permission be granted in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004.
