

Delegated Report	Analysis sheet	Expiry Date:	10/06/2014
	N/A / attached	Consultation Expiry Date:	16/05/2014
Officer		Application Number(s)	
Sally Shepherd		2014/0643/P	
Application Address		Drawing Numbers	
15 Chalton Street London NW1 1JD		Refer to decision notice	
Proposal(s)			
Change of use of basement and ground floors from shop/café (Class A1) to restaurant (Class A3) and installation of associated extract fan and duct to rear elevation.			
Recommendation(s):	Refuse Planning Permission		
Application Type:	Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	37	No. of responses	4	No. of objections	03
			Petitions	1		
Summary of consultation responses:	A site notice was displayed from 25/04/2014 to 16/05/2014					
	<u>Three objections were received from residents which are summarised below:</u> 1st floor flat, 15 Chalton Street (2) and Chalton Street resident: <ul style="list-style-type: none">Noise, smell and nuisance will be increasedImpact on parkingPotential to increase number of pestsDecrease in property valueMix of uses, already 3 restaurants, 2 pubs and 4 sandwich bars, another restaurant is not required <u>280 supports were received which are summarised below</u> Petition: <ul style="list-style-type: none">A petition with 279 signatures supporting the proposal was also submitted with the application stating ‘we, the undersigned call on Camden Planning Department to give planning permission to serve Halal hot food in 15 Chalton Street’. Councillor Roger Robinson: <ul style="list-style-type: none">As one of the ward councillors for the area, I fully support the application					
CAAC/Local groups comments:	N/A					

Site Description

The site comprises a three storey plus basement property located on the west side of Chalton Street. The ground floor is currently in use as a shop/café, whilst the associated basement is ancillary, albeit vacant at time of inspection. The upper floors are in residential use.

The site had previously been used as a sandwich bar/café (Class A1) with a limited amount of cooking involved (i.e. such that it does not require extraction equipment and no evening operation as controlled by conditions) and was vacant for some time before it recently opened again as a café.

The site lies within a terrace of buildings containing a mixture of food and drink; office; retail and sui generis uses which are typically located at the ground floor level with some residential and office uses above. To the rear is a school which 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.

Chalton Street lies within a designated Neighbourhood Centre and is located on the northern side of Euston Road between St Pancras and Euston stations.

The property is not listed and is not located within a conservation area.

Relevant History

9500094 – Planning permission refused on 03/03/1995 for change of use from retail shop (A1) to restaurant (A3).

9502045 – Planning permission granted on 08/02/1996 for the continued use of the ground floor and basement for mixed retail and cafe uses. *Planning permission was granted with the following conditions:*

- 1) the use shall be temporary until 01/03/1999;
- 2) the permission is personal to Mr R W Parrinson and when he vacates the use shall revert back to the lawful retail use
- 3) the preparation and sale of hot food hereby permitted shall not be carried out outside 7:30am to 5pm Monday to Saturday. It shall not be carried out at anytime on Sundays or Bank Holidays
- 3) No process shall be carried out on or machinery installed which is not such as could be carried out on or installed in any residential area without detriment to the amenity of that area.

P9602442 – Planning permission refused on 17/10/1996 for the removal of additional Condition 01 and amendment of additional Conditions 02 and 03 of planning permission granted on 08th February 1996 for the continued use of the ground floor and basement for mixed retail and cafe uses.

PS9604296 – Planning permission granted on 16/01/1997 for amendment of the condition (02) of planning permission granted on 8.2.96 for the continued use of the ground floor and basement for mixed retail and cafe uses to give permission to Kings Caterers instead of Mr Keith Parkinson.

PS9904216 – Planning permission granted on 20/08/1999 for the continued use of the ground floor and basement for mixed retail and cafe use. *Planning permission was granted with the following conditions:*

- The preparation and sale of hot food hereby permitted shall not be carried out outside the following times: 07.30 hours to 20.00 hours, Mondays to Saturdays. It shall not be carried out at any time on Sundays or Public Holidays.
- There shall be no cooking on the premises save for the use of hotplates, microwave ovens, rotisseries, bench-top fat fryers, and bake-off warming ovens.
- Notwithstanding the Council's responsibilities as Highways Authority, no more than 8 patrons

may eat on the forecourt of the property or the highway immediately adjacent.

- Once implemented, this permission supersedes the Council's previous decisions. Conditions which were applied to those permissions (i.e. the personal permission) no longer apply.

2011/4418/P – Planning permission refused on 14/10/2011 for change of use from sandwich bar/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.

Reason for refusal:

- The proposed change of use from Class A1 to Sui Generis use, by reason of the loss of a retail unit without evidence to demonstrate that it is no longer viable as such, and the creation of an inactive frontage in conjunction with 2 other consecutive non-retail units, would be detrimental to the local character, function, viability and vitality of the Chalton Street Neighbourhood Centre.
- The proposed change of use, by reason of the proposed hours of operation and proposed access arrangements, would be likely to be harmful to residential amenity by creating noise nuisance at unsociable hours.

EN11/0517 – An enforcement case was opened on 29/06/2011 for a potential change of use from a cafe to a massage parlour without planning permission. No enforcement action was taken as the breach ceased and the site remained vacant for over a year after the complaint was made and was monitored closely. The case was closed on 12/10/2012.

2011/5445/P – Planning permission refused (with warning of enforcement action) on 18/01/2012 for change of use from sandwich bar/cafe (Class A1) to massage parlour (Sui Generis) at basement level to be used in association with the existing premises at 17-19 Chalton Street, with the erection of a single storey extension (corridor) at rear lower ground floor level.

Reasons for refusal:

- The proposed change of use of the basement area from associated retail/café use (class A1) to a Sui Generis use is likely to prejudice the re-use of the ground floor unit for retail/café (class A1) purposes by reason of the resultant lack of space for the provision of staff and customer facilities and storage, which would be detrimental to the local character, function, viability and vitality of the Chalton Street Neighbourhood Centre.
- The proposed change of use, by reason of the proposed hours of operation is likely to be harmful to residential amenity by exacerbating the problem of noise nuisance at unsociable hours by reason of the intensified use.

2013/6393/P – Certificate of Lawfulness for existing use withdrawn on 10/12/2013 for use of basement and ground floor as a cafe (Class A3). *Application was withdrawn as it was going to be refused by the Council as the Council had evidence to contradict or undermine the applicant's version of events.*

16-20 Chalton Street

PSX0104687 – Planning permission refused and dismissed at appeal on 19/09/2002 for the change of use from use Class A1 (retail) to Class A3 (restaurant), together with the installation of a ventilation grill within the flank wall, and a new ventilation grill with fixed glazing below within an existing window frame to the rear.

- The proposed use would be likely to have a detrimental effect on the amenities of occupiers of neighbouring residential properties by reason of noise, smells, and business activity associated with the use,
- It is considered that the introduction of a non-retail use in this location would have an adverse effect on the quality and character of the shopping parade

2007/1516/P – Planning permission refused on 27/07/2007 for change of use from sandwich bar (A1) to cafe/coffee shop (A3).

Reasons for refusal:

- The proposed change of use would cause harm to the vitality and viability of the eastern side of the Chalton Road neighbourhood centre and would result in an accumulation of A3 uses within the neighbourhood centre.

Relevant policies

National Planning Policy Framework (NPPF) 2012

London Plan (2011)

LDF Core Strategy and Development Policies

Core strategy

CS1 - Distribution of growth

CS3 - Other highly accessible areas

CS5 - Managing the impact of growth and development

CS7 - Promoting Camden's shops and centres

CS8 - Promoting a successful and inclusive Camden economy

CS11 - Promoting sustainable and efficient travel

Development policies

DP10 - Helping and promoting small and independent shops

DP12 - Strong centres and managing the impact of foods, drinks or other uses

DP19 - Managing the impact of parking

DP16 - Transport implications of development

DP21 - Development connecting to the highway network

DP26 - Managing the impact of development on occupiers and neighbours

DP30 - Shopfronts

Camden Planning Guidance 2011/2013

CPG5 - Town Centres, retail and employment – Sections?

CPG6 – Amenity - Sections?

Assessment

Background

The site was in use as a mixed retail and café use (Class A1) from 1996 to 2009. The A1 use was limited with conditions restricting the sale of hot food between 07.30 and 20.00 hours Mon-Sat and no cooking on the premises save for the use of hotplates, microwave ovens, rotisseries, bench-top fat fryers, and bake-off warming ovens.

In 2011, permission was sought to change the use from A1 to a massage parlour (Class SG) and this was refused due to the loss of an A1 unit and the impact of the proposed use on residential amenity.

A certificate of lawfulness was applied for in 2013 to establish the use as A3. This was withdrawn as the Council had evidence to contradict or undermine applicant's version of events.

A site visit was carried out on 1st November 2013 and the premises appeared to have been vacant for sometime. The site was vacant when this application was submitted in January 2014, however during the course of the application the site was converted to a shop/café use. A site visit on 3rd November 2014 confirmed that no primary cooking was taking place on site and there was a limited amount of seating. Hot food was being served, however foods were being cooked off site and only re-heated on the premises. Camden officers were satisfied that the current shop/café could be considered as A1 use, however should matters change (e.g. the provision of more seating/primary cooking undertaken

on site) then the use would likely fall under Class A3 and require the requisite permission.

Proposal

Planning permission is sought to change the use from a shop/café (Class A1) to a restaurant (Class A3) on the basement and ground floors to allow for primary cooking on site with 28 covers at ground and basement levels.

Alterations to the rear include the installation of extract flue located from basement to roof level.

Assessment

The main issues for consideration are:

- Land use
- Impact on amenity
- Design

Land use

The lawful use of the existing unit is A1 (sandwich bar/café) and was vacant when this planning application was submitted in January 2014. It has since become occupied and used as a café (Class A1 use) following submission of the application.

The premises is located within the Chalton Street neighbourhood centre which itself is in the Central London Area.

Policy DP12 (Supporting strong centres and managing the impact of food, drink and entertainment uses) and Camden Planning Guidance (CPG 5 – Town Centres, retail and Employment) seek to retain a certain proportion of premises in designated centres in retail use. CPG 5 refers to Chalton Street stating that it has a 'High number of non-town centre uses, little less than one third of premises in retail, higher than average vacancy rates and breaks in continuity due to change of use to office or residential' (chapter 4). For central London neighbourhood centres and Chalton Street specifically, CPG 5 advises that development will be resisted that results in:

- less than 50% of ground floor premises being in retail use;
- more than 25% of premises being in food, drink and entertainment uses;
- more than 3 consecutive premises being in non-retail use;
- food, drink and entertainment premises being larger than 100sqm; and
- more than two consecutive food, drink and entertainment premises.

The site lies within a parade of 8 units (running from Christopher Place to the Chinese restaurant at no. 37). The uses of which are listed below:

Address	Premises	Use class
15 (application site)	Cafe	A1
17-19	Offices	B1
25	Gallery	D1
29	Estate agent	A2
31	Hairdresser	A1
33	Massage clinic	D1
35	Residential	C3
37	Restaurant	A3

Currently only 25% of the parade is in A1 (retail) use and so it is already under the minimum threshold for A1 uses. The proposed change of use would result in 12.5% of the parade being in retail use which is well below the 50% threshold. It would also result in more than 3 consecutive premises being in non-retail use. The applicant has failed to submit evidence to demonstrate that there is no demand

for the sites continued retail use. As such, the proposed change of use would result in a reduction in retail provision in the frontage and a concentration of non-retail uses which is considered to harm the function, viability, vitality and character of the Neighbourhood Centre and would be contrary to policy DP13 and CPG5.

The previous application at the site to change the use to a massage parlour (2011/5445/P) was also refused due to the impact that the loss of a retail use would have on the neighbourhood centre. The proposed loss of retail was also a reason for refusal for the application to change the use from A1 to A3 at 16-20 Chalton Street (see planning history above).

Amenity

Policies CS5 and DP26 are principally concerned with neighbouring amenity, although DP10 also provides guidance in respect of food and drink uses. Although the area is characterised by a mix of uses, the upper floors of the building are occupied as two self-contained residential flats. The site has been in use as a café in the past and is currently in use as a café which falls within the A1 use class. It is not considered that a change to an A3 use would have a greater impact on neighbouring amenity than the current use, particularly as the restaurant would only cater for 28 covers. No information has been provided with regards to the proposed opening hours. Irrespective of the impact on land use, it is considered that any impact on neighbouring properties could be controlled via suitable conditions in respect of soundproofing, opening hours, tables on the forecourt etc. A similar approach was taken at no. 16-20 Chalton Street which is across the road from the application site (see planning history above).

Permission is sought for the installation of two kitchen extract flues running up the rear elevation of the building from the basement and ground floor levels. Both flues terminate above the roofline in accordance with Camden Planning Guidance. An acoustic report (ref. 11011.PCR.01 dated 07/04/2014) was submitted with the application. The Council's Environmental Health team have assessed the information submitted and have confirmed that the proposed flue is acceptable, however a set of conditions regarding noise, anti-vibration methods, cooking odour control would be required if the application were to be approved.

Design

The only external alterations would be the installation of the flue on the rear elevation. There is a small courtyard to the rear of the property which adjoins a courtyard connected to the school to the rear of the site. There are already examples of extract ducts and ventilation equipment in the area and this type of development is not completely out of character. Due to the location at the rear, the proposed flues are not considered to have a detrimental impact on the visual appearance and character of the host building. The flues would have some impact on the visual amenity of the adjoining school, however whilst regrettable, it is not considered to be sufficient enough to warrant a reason for refusal.

Traffic and parking

Irrespective of the principle of the A3 use, it is considered that the proposal would not result in any adverse impacts upon parking and traffic conditions.

Recommendation

Refuse Planning Permission