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| Address: | Public conveniences Junction of Fortess Road and Highgate Road London | |
| Application Number: | 2014/1289/P | Officer: Sally Shepherd |
| Ward: | Kentish Town | |
| Date Received: | 18/02/2014 | |
| Proposal: Change of use of public conveniences (sui generis) to bar (Class A4). | | |
| Drawing Numbers: 100; 101.1; 102.1; 101; 102; 200; 250 Rev A; Noise Impact Assessment dated 30/05/2014 (Ref. 5736/NIA); Construction Management Statement for public lavatories at the junction of Fortess Road/Highgate Road; Operational Management Plan for Ladies and Gentlemen at public lavatories at the junction of Fortess Road/Highgate Road; Delivery and servicing management statement for public lavatories at the junction of Fortess Road/Highgate Road. | | |
| RECOMMENDATION SUMMARY: Granted Subject to a Section 106 Legal Agreement | | |
| Applicant: | Agent: | |
| C/O Agent | Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU | |

ANALYSIS INFORMATION

| Land Use Details: | | | |
|-------------------|-----------------------------------|-----------------|------------------|
| | Use Class | Use Description | Floorspace |
| Existing | <i>Sui Generis</i> | | 68m ² |
| Proposed | <i>A4 Drinking Establishments</i> | | 68m ² |

OFFICERS' REPORT

Reason for Referral to Committee: The proposal involves a change of use to A4 use [Clause 3 (iv)]

1. SITE

- 1.1 The application site is a triangular site located on the north side of the Highgate Road and Fortess Road junction, in front of no. 2 Highgate Road. The site comprises former subterranean male and female public toilets with railings and pavement lights at ground floor level. The male toilets are accessed via the entrance to the south of the site and the female toilets are accessed via the northern entrance.
- 1.2 The surrounding area comprises a range of uses. The site is within a designated town centre and therefore includes a number of retail shops, restaurants, drinking

establishments and hot food take-away outlets. Adjacent to the site is a mini-cab office at ground floor level with residential units above. To the south-east is the Bull & Gate Public House (Grade II listed) and to the north-east is The Forum music venue (Grade II listed).

1.3 The site is not located in a conservation area and is not a listed.

2. THE PROPOSAL

2.1 The proposal is for the change the use of the premises from public conveniences (Class Sui Generis) to a drinking establishment (Class A4). The total floorspace is 68m² and the bar would provide for 45 covers.

2.2 The proposed external alterations would include the installation of two air-conditioning units housed in a blackened metal acoustic enclosure located at high level on the existing wall of the staircase to the south. The existing railings and pavement lights would also be replaced and refurbished to match the existing as part of the application.

2.3 The proposed hours of opening are 10:00 - 23:30 Monday to Thursday, 10:00 - 00:00 Friday and Saturday and 11:00 - 22:30 on Sunday and Bank Holidays. The hours include for a 30 minute 'wind-down' time whereby the sale of alcohol will cease and the music will stop.

2.4 The bar will be accessed via the staircase to the north, whilst the staircase to the south will be closed with a gate which would only be used for deliveries and as an emergency exit.

3. REVISIONS

3.1 Following the premise licence approval on 8th May 2014, the proposed opening hours were revised (shown in the following table):

| | Originally proposed | Now proposed |
|-----------|----------------------------|---------------------|
| Monday | 10:00 to 00:00 | 10:00 to 23:30 |
| Tuesday | 10:00 to 00:00 | 10:00 to 23:30 |
| Wednesday | 10:00 to 00:00 | 10:00 to 23:30 |
| Thursday | 10:00 to 02:30 | 10:00 to 23:30 |
| Friday | 10:00 to 02:30 | 10:00 to 00:00 |
| Saturday | 10:00 to 02:30 | 10:00 to 00:00 |
| Sunday | 11:00 to 23:00 | 11:00 to 22:30 |

3.2 Three supporting documents were also submitted during the course of the application comprising a construction management statement; an operational management plan and a servicing management statement. The documents are all in draft form as they need to be secured via a s106 legal agreement.

4. RELEVANT HISTORY

4.1 None

5. CONSULTATIONS

Local Groups

5.1 Kentish Town Neighbourhood Forum and Kentish Town Road Action objected to the application:

- Area has a number of drinking establishments and object to the cumulative impact
- Bar in the middle of a junction of an extremely busy arterial road represents a public danger to local residents, patrons of the bar and to heavy traffic
- Adverse impact on residential amenity and they will suffer noise and disturbance
- Impact on the neighbouring Kentish Town Conservation Area
- It is also noted that the area is in need of public toilets and that the Kentish Town Neighbourhood Forum is proposing to re-instate this public convenience.

5.2 Evangelist Road Residents Association objected to the application:

- Unsuitable site for a late night bar
- Area already has five late night drinking establishments and the area is not a late night economy like Camden Town.
- Issues with entering and leaving the bar which is situated at an extremely narrow bit of pavement with busy roads either side
- People hanging around outside will cause obstruction and noise
- Smokers would block the pavement for local residents returning home in the evening.

5.3 Ward Councillor Georgia Gould objected to the application:

- Residents are already disturbed by noise and disruption from a number of late night venues in the surrounding area
- Whilst there are a mix of different use, it is primarily a residential area and residents do not want to see it turn into a late night economy
- The proposal would push the balance too far the other way and damage the amenity

Adjoining Occupiers

| | |
|---|----|
| <i>Number of letters sent</i> | 63 |
| <i>Total number of responses received</i> | 64 |
| <i>Number in support</i> | 53 |
| <i>Number of objections</i> | 7 |

5.4 In addition to the adjoining occupiers being formally consulted, sites notices were displayed on Fortess Road and Highgate Road from 05/03/2014 to 26/03/2014.

5.5 8 objections were received from residents in: Highgate Road (3), Fortess Road (1), Lady Somerset Road (1), Leverton Street (1) and 1 where no address was provided.

The main areas of objection are summarised below:

- Area is predominantly residential
- Area is already well served with late night drinking establishments and should not be an extension of Camden Town
- Congestion on pavement from smokers
- Noise impact on nearby residents
- Safety concerns associated with proximity to busy junction and narrow pavement
- Increase in parking in Fortess and Highgate Road
- Toilets are needed in the area
- Potential fire hazard
- Recycling and rubbish collections are noisy

5.6 54 letters of support were received from residents in Falkland Road (3), Brecknock Road (2), Fortess Road (3), Bayham Street (1), Kentish Town Road (2), York Mews (1), Leighton Road (1) Leverton Place (3), Alma Street (1), Prince of Wales Road (1), Royal College Street (1), Bartholomew Villas (1), Leighton Place (1), Grafton Crescent (1), Evangelist Road (2), Grove Terrace (1), Highgate Road (3). The other letters of support did not provide address or were addresses outside of the borough.

The main areas of support are summarised below:

- Add value to businesses and real estate in Fortess Road
- Bring trade into the area
- Enhance the high street

6. POLICIES

6.1 LDF Core Strategy and Development Policies

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centre and shops)

CS8 (Promoting a successful and inclusive Camden economy)

CS10 (Supporting community facilities and services)

DP10 (Helping and promoting small and independent shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

DP15 (Community and leisure uses)

DP20 (Movement of goods and materials)

DP24 (Securing high quality design)

DP26 (Managing the impact of development on occupiers and neighbours)

DP28 (Noise and vibration)

6.2 Camden Planning Guidance 2011/2013:

CPG1 Design
CPG5 Town Centres, Retail and Employment
CPG6 Amenity
CPG7 Transport

7. ASSESSMENT

7.1 The principal consideration material to the determination of this application are summarised as follows:

- Land use
- Impact of the proposed use on neighbouring amenity
- Hours of opening
- Transport
- Design

Land use

7.2 The public conveniences were last in use in the 1990s and have been closed since. Policy CS10 (para. 10.16) states that many of the public toilets within the borough have been closed due to the high maintenance costs and problems with vandalism especially connected with underground Victorian facilities, such as those at the application site. It goes on to state that to accommodate for the loss of the closure of the toilets, the Council has been running a scheme in Kentish Town since 2007 where local business allow public access to their toilet facilities.

7.3 The Kentish Town Neighbourhood Forum was formally approved in April 2013 and an objection was received from the Forum as they want to re-instate the toilets as part of their forthcoming neighbourhood plan. They are currently working towards preparing this neighbourhood plan for their area. However they have not submitted a formal draft to the Council nor has their plan been out for consultation and therefore, as the plan is in very early stages and in line with the NPPF, the neighbourhood forums policy proposals do not hold weight as a material consideration.

7.4 The site is located within the Kentish Town Centre (as defined by Map 4 in CPG 5 – Town centres, retail and employment). As the site is wholly subterranean and is in Sui Generis use, it is not protected by any planning policies. The principle of the loss of the public toilets is therefore considered to be acceptable and the main consideration is the principle of the A4 use.

7.5 Policy DP12 of the LDF seeks to ensure that the development of food, drink, entertainment and other town centre uses do not cause harm to the character and function, vitality and viability of a centre, the local area or the amenity of neighbours. It also states that new food, drink and entertainment uses are most appropriately located in Camden's Central London Frontages, Town Centres and the King's Cross Opportunity area.

7.6 There are a number of different town centre uses in the immediate vicinity on the island between Fortress Road and Highgate Road including a mini-cab office (class SG), retail (class A1), estate agents (class A2), dental clinic (class D1), launderette (class SG), takeaway (class A5) and residential (class C3). There are two other A4

uses within the vicinity comprising The Bull & Gate public house which is located approximately 17m to west of the site across Highgate Road and The Forum located approximately 50m north of the site on Highgate Road.

- 7.7 The proposed bar is located at basement level with the entrance at ground floor level. CPG 5 refers to town centre ground floor frontages as primary and secondary and the site is set within an area of secondary frontages. The policy states that there should be a minimum of 50% A1 uses in each secondary frontage. As the site is located at basement level, the change of use would not have an impact on the frontages in the area and this part of the policy does therefore not apply.
- 7.8 The proposed use would bring the derelict site back into use which has been vacant for over 20 years. The area has an existing small night time cluster of drinking establishments, with relatively few noise complaints (see para 7.18). The proposed use is considered to be acceptable in this location as it is small in scale when compared with the neighbouring Bull and Gate pub and The Forum and it is considered to contribute to the existing function, vitality and viability of the Kentish Town centre.

Impact of the proposed use on neighbouring amenity

- 7.9 Policy DP26 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. Further to this Policy DP28, seeks to ensure that noise and vibration is controlled and managed and that planning permission will not be granted where development is likely to generate noise pollution.
- 7.10 The closest residential accommodation is located to north of the site above nos. 2-4 Highgate Road, approximately 4.5m from the site. As the site is completely subterranean, relatively small in scale and no live amplified music is proposed, it is unlikely that any noise generated from the premises itself would have an impact on the nearest residential occupiers. In addition, to ensure that any noise generated from the premises is kept to a minimum any planning approval should be accompanied by a condition restricting that music should be not audible within any adjoining premises or the adjoining highways.
- 7.11 The proposal includes the installation of two air-conditioning units which would be mounted externally on the wall of the delivery entrance stairwell. An acoustic report titled 'Ladies and Gentlemen, Kentish Town - Noise Impact Assessment' dated 30/05/2014 (Ref. 5736/NIA) was submitted with the application. The report concludes that mitigation measures such as an acoustic enclosure would need to be installed to achieve an acceptable sound level in accordance with policy DP28. A condition will be added to the application requesting details of the mitigation measures are submitted to the Council before the air-conditioning units are installed to ensure that they comply with policy DP28 (Noise and vibration).
- 7.12 The bar would offer a limited food menu, however no cooking would take place on site. No ventilation equipment would therefore be required and there would be no impact on amenity with regards to odours.

- 7.13 The main issues associated with the proposed change of use relate to the noise and disturbance generated by patrons of the bar either smoking outside the front of the premises or when they are required to leave the premises. In order to address these issues the applicant has agreed to submit an Operational Management Plan (OMP) which will be secured by a Section 106 Agreement. A draft OMP has been submitted as part of the application which provides details on how the premises will be managed including door staff, smoking and dispersal, opening hours and leaving the premises.
- 7.14 The draft OMP states that one door supervisor would be employed to manage the entrance/exit of patrons Thursday, Friday and Saturday evenings from 20:00 until all patrons have left. The premise licence was granted on 8th May 2014 which states that the capacity shall not exceed 45 patrons. The smoking area would be located in the stairwell of the southern exit which would only be used for deliveries and emergency access and so no patrons would be smoking at ground floor level. Limiting the smoking area to the stairwell and the number of patrons smoking at one time would reduce any potential disturbance and noise to neighbouring residential occupiers. Door staff would ensure that no more than 5 patrons are permitted to smoke outside the premises at any one time. Signs would be displayed at the exit requesting that patrons respect their neighbours when leaving and staff would not allow patrons to loiter outside.
- 7.15 The acoustic report titled 'Ladies and Gentlemen, Kentish Town - Noise Impact Assessment' dated 30/05/2014 (Ref. 5736/NIA) also contains a noise assessment regarding potential noise from patrons based on the worst case scenario. The report demonstrates that the proposal use would comply with Camden's noise policy DP28 with regard to break-out noise from the premises and from customers leaving the premises.
- 7.16 Through applying appropriate planning conditions and securing a OMP via a Section 106 Agreement, it is considered that the potential impact on the amenity of neighbours can be reduced and managed in accordance with c), e), f) of DP12 of the LDF.

Licensing/hours of opening

- 7.17 An application for licensable activities was approved at the licensing sub-committee on Thursday 8th May 2014. The following activities and times were approved with conditions:

a) Supply of Alcohol (For consumption on the premises)

10:00 – 23:30 Monday to Thursday
10:00 – 00:00 Friday and Saturday
11:00 – 22:30 Sunday

b) Supply of Alcohol (For consumption off the premises)

10:00 – 23:00 Monday to Thursday
10:00 – 23:00 Friday and Saturday
11:00 – 22:30 Sunday

c) Recorded Music

d) Late Night Refreshment

10:00 – 23:30 Monday to Thursday

10:00 – 00:00 Friday and Saturday

11:00 – 22:30 Sunday

- 7.18 CPG 5 states that ambient noise levels reduce around midnight, and consequently residential amenity can be badly harmed by amplified music, plant and machinery and on-street activity that continue late at night.
- 7.19 The proposed hours of opening are 10:00 until 23:30 Monday-Thursday, 10:00 until 00:00 Friday-Saturday and 11:00 until 22:30 on Sunday. The hours include for a 30 minute 'wind-down' time whereby the sale of alcohol will cease and the music will stop.
- 7.20 The opening hours align with the premise licence and similar licensing hours nearby and are considered to be both reasonable and appropriate given the context of the town centre location and nearby residential premises. In addition, the Council's Environmental Health team have confirmed that no noise complaints were received for the Bull & Gate. Noise complaints have been received for the nearby Forum regarding amplified music and patrons, however the premises is much larger than the proposed site and none of the complaints were substantiated by the Council's Environmental Health wardens.
- 7.21 The proposed opening hours are considered to safeguard residential amenity as far as is possible within a town centre location with a variety of other nearby licensed premises. A condition specifying the opening hours of the premises is recommended, together with an informative stating that such a condition means that no customers shall be on the premises and no activities associated with the use will be permitted outside of these hours.

Transport

- 7.22 The site has a PTAL rating of 6a (excellent) and is located approximately 150m from Kentish Town underground and national rail station and regular bus services operate along Highgate Road, Fortess Road and Kentish Town Road. The site is therefore regarded to be well served by public transport links. Whilst vehicle parking within the area is very limited, due to the nature of the proposal, the change of use is unlikely to result in increasing existing parking pressures within the area.
- 7.23 Camden's cycle parking standards require cycle parking for new A4 (Drinking establishment) uses at a ratio of 1 cycle space per 250sqm from a threshold of 500sqm. The proposed floorspace of the bar would be 68sqm and so cycle parking would not be required as part of the proposal.
- 7.24 The application site is a constrained site due to its location on the island between Highgate Road and Fortess Road. Policies DP20 seeks to minimise the impact of the movement of goods and materials on local amenity, traffic and the environment. The proposed works would include the replacement of the pavement lights and internal

strip out and refurbishment. As the works are relatively minor in nature and mainly comprise internal works, the works are not likely to result in any construction implications. A draft Construction Management Statement (CMS) has been submitted with the application which the Council considers to be acceptable and the CMS will need to be secured via a S106 legal agreement.

- 7.25 The proposed use would require new servicing, collection and delivery provisions. Delivery and servicing vehicles will access the site via Fortess Road's single yellow line parking, outside No.1-3 Fortess Road. The area is designated as the deliveries and waste/recycling collection point and it is therefore common for vehicles to stop here. Deliveries would then be trollyed along the pavement to the site and taken down the steps to the southern entrance. A draft Servicing and Delivery Statement has been submitted with the application which is considered to be acceptable and the final document will need to be secured via a S106 legal agreement.

Design

- 7.26 Permission is sought for the installation of two air-conditioning units housed in a blackened metal acoustic enclosure located at high level on the existing wall of the staircase to the south. The unit would protrude by 0.7m above the existing ground level and would be located behind the railings. The proposed units and housing are considered to be acceptable in design terms due to the limited visibility as they are not considered to have a detrimental visual impact on the character and appearance of the site and surrounding area.
- 7.27 The pavement lights and railings would be refurbished to match the existing and are considered to be acceptable.

8. CONCLUSION

- 8.2 The proposal would bring a currently vacant unit into an active use which would improve the vitality and viability of the area. The proposed use is located in a town centre where food, drink and entertainment uses are regarded appropriate and adds to the general mix of commercial uses within the locality. The proposed air-conditioning units would not have a detrimental visual impact on the area. In order to protect the amenity of neighbouring residents from any potential noise and disturbance, conditions will be imposed on the planning permission and an Operational Management Plan, Service Management Statement and Construction Management Statement will be secured through a Section 106 Agreement
- 8.3 Planning Permission is recommended subject to a S106 Legal Agreement covering the following Heads of Terms:-
- Operational Management Plan
 - Service Management Statement
 - Construction Management Statement

9. LEGAL COMMENTS

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