

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		28/01/2016							
		N/A / attached		<b>Consultation Expiry Date:</b>		07/01/2016							
<b>Officer</b>				<b>Application Number(s)</b>									
Kate Phillips				2015/6874/P									
<b>Application Address</b>				<b>Drawing Numbers</b>									
82 Camden High Street London NW1 0LT				Refer to draft decision notice									
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>							
<b>Proposal(s)</b>													
Change of use of ground floor from retail (Class A1) to restaurant (Class A3)													
<b>Recommendation(s):</b>		Refuse											
<b>Application Type:</b>		GPDO Prior Approval Determination											
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice											
<b>Informatives:</b>													
<b>Consultations</b>													
<b>Adjoining Occupiers:</b>		No. notified		21		No. of responses		00		No. of objections		00	
						No. electronic		00					
<b>Summary of consultation responses:</b>		<p>A site notice was displayed on 16/12/2015 (consultation end date 06/01/2016) and the application was advertised in the local press on 17/12/2015 (consultation end date 07/01/2016)</p> <p>No consultation responses have been received.</p>											
<b>Camden Town CAAC</b>		No objection.											

## Site Description

No. 82 Camden High Street is a mid-terrace, 4 storey, brick building on the eastern side of the road. The building comprises a retail unit on the ground floor with residential accommodation on the upper floors. The retail unit is currently occupied by 'ghf' discount gift shop.

The application site is within the Camden Town Conservation Area. The application site also forms part of a designated Core Frontage in the 'Camden Town' town centre.

## Relevant History

J12/17/L/19963 – Installation of a new shopfront - Permission 10-03-1975

J12/17/9/6412 – The change of use for a limited period of the first floor of 82 Camden High Street, Camden, from a dental surgery to a dental laboratory - Conditional 05-02-1969

## Relevant policies

### National Planning Policy Framework 2012

Chapter 2 (Ensuring the vitality of town centres)

Chapter 4 (Promoting sustainable transport)

Chapter 7 (Requiring good design)

Chapter 12 (Conserving and enhancing the historic environment)

### The Town and Country Planning (General Permitted Development) (England) Order 2015

## Assessment

### The proposal

The proposal seeks to change the use of the ground floor of the building from a shop (Class A1) to a restaurant (Class A3).

### Procedure

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class C allows for the change of use of a building from a use falling within Class A1 (shops) of the Schedule to the Use Classes Order, to a use falling within Class A3 (restaurants and cafes) of that Schedule.

Class C (b) also allows for building or other operations for the provision of facilities for: (i) ventilation and extraction (including the provision of an external flue), and (ii) the storage of rubbish, which are reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.

The change of use is subject to a number of conditions listed within sub-paragraph C.1 [(a)-(e)] and a subsequent condition in sub-paragraph C.2 relating to the need for the developer to apply to the local planning authority for a determination as to whether prior approval of the authority is required for:

- (a) noise impacts of the development,
- (b) odour impacts of the development,
- (c) impacts of storage and handling of waste in relation to the development,

- (d) impacts of the hours of opening of the development,
- (e) transport and highways impacts of the development,
- (f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—
  - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
  - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
- (g) the siting, design or external appearance of the facilities to be provided under Class C(b),

Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required.

### **Compliance with Paragraph C.1**

#### **Development is not permitted by Class C if –**

- (a) the cumulative floor space of the existing building changing use under Class C exceeds 150 square metres;**

The proposal complies. The cumulative floor space of the existing building changing use does not exceed 150 square metres; it would amount to approximately 90 square metres (140 square metres, including the food preparation space and store at basement level).

- (b) the development (together with any previous development under Class C) would result in more than 150 square metres of floor space in the building having changed use under Class C;**

The proposal complies. No other part of the building has previously changed use under Class C and no other applications under Class C at the building are pending determination.

- (c) the land or the site on which the building is located is or forms part of—**

- (i) a site of special scientific interest;**

The proposal complies. The application site is not within in a site of special scientific interest.

- (ii) a safety hazard area; or**

The proposal complies. The application site is not within a safety hazard area.

- (iii) a military explosives storage area;**

The proposal complies. The application site is not within a military explosives storage area.

- (d) the site is, or contains, a scheduled monument; or**

The proposal complies. The application building is not a scheduled monument.

- (e) the land or building is a listed building or is within the curtilage of a listed building.**

The proposal complies. The application building is not statutorily listed and neither is it within the curtilage of a listed building.

The proposal constitutes permitted development, pursuant to the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Part C.1.

### **Compliance with Paragraph C.2**

Where the development proposed is development under Class C(a) together with development under Class C(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –

#### **(a) noise impacts of the development,**

The accompanying Planning Statement notes that the proposed restaurant would have approximately 20 seats inside and due to the nature of its location (a busy high street) and the small amount of covers, it is not envisaged that there would be an increase in noise levels.

There are no other Class A3 uses within the same frontage as the application site (see more information about the different uses in the frontage in section 'f' below); however, Camden High Street is a busy street with an evening economy and it is agreed that the use of the premises as a restaurant would be unlikely to significantly impact on noise levels in the surrounding area.

The accompanying Planning Statement notes that appropriate extraction equipment would be installed to comply with Policy DP26 of the Camden Local Development Framework Development Policies and DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems.

Part W (13) of the legislation notes that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. If the application was judged to be acceptable, a planning condition could require the submission and approval of details of the external noise level emitted from plant/ machinery/ equipment and mitigation measures as appropriate; and also details of anti-vibration measures. The proposal is therefore considered to be acceptable in this regard.

#### **(b) odour impacts of the development,**

As noted, the applicant proposes to install appropriate extraction equipment. If the application was judged to be acceptable, a planning condition could require the submission and approval of details of the proposed equipment. The proposal is therefore considered to be acceptable in this regard.

#### **(c) impacts of storage and handling of waste in relation to the development,**

The accompanying Planning Statement notes that an external waste storage facility is designed within the rear patio, under staff control, and collections will be arranged daily. Taking into consideration the constraints of the application site, this is considered to represent an appropriate solution to waste storage and handling and the prior approval of the Council is not considered to be necessary in this respect.

#### **(d) impacts of the hours of opening of the development,**

The applicant proposes the following opening hours: 0900 hours to 0400 hours every day.

As demonstrated below (see section 'f'), the application site is within a frontage which mainly comprises Class A1 / A2 uses with daytime opening hours. Whilst it is accepted that there are uses in the wider area with longer opening hours (for example, pubs, restaurants and music venues), it is not considered to be appropriate to allow a relatively isolated restaurant or café to remain open until 0400 hours every day as this may give rise to anti-social behaviour in the local area, which would be to the detriment of the residential amenities of nearby residents. If the application was otherwise considered to be acceptable, it would be possible to negotiate shorter opening hours, which could be controlled via a planning condition.

**(e) transport and highways impacts of the development,**

The application site has a PTAL rating of 6b (the highest), which means it is highly accessible by public transport. The proposal is unlikely to generate significant travel demand and the scale of development is not large enough to warrant the provision of staff or customer cycle parking facilities. The proposal is considered to have an acceptable impact in this regard.

**(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—**

- (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or**
- (ii) where the building is located in a key shopping area, on the sustainability of that shopping area.**

The retail unit is currently occupied by 'ghf' discount gift shop. The accompanying Planning Statement notes that the unit was vacant for a long time before the existing occupier moved in. Financial reports have also been submitted, to indicate that the existing business is not viable. Nevertheless, the evidence provided does not prove that there is no reasonable prospect of the building being used for Class A1 (retail) use in the future (i.e. by another tenant).

The application site is within 'Camden Town' town centre (as defined by the LDF), which is the largest of the borough's town centres and is well known for its markets and music venues. The application building is within a designated Core Frontage and CPG5 notes that the Council's primary objective here is to ensure that new developments do not cause harm to the character, function, vitality and viability of the centre, particularly its shopping function.

The Council considers that any reduction in the stock of premises suitable for retail purposes in the 'Camden Town' town centre would harm the retail function and character of the centre. CPG5 advises that, in the Core Shopping Frontages South (south of the junction of Jamestown Road, Hawley Crescent and Camden High Street) the Council will not grant planning permission for development which results in the number of ground floor premises in retail use falling below 75%. Where the number of retail premises in these frontages is already less than the preferred minimum, no further loss of retail will be permitted.

The applicant has compiled a table of the uses within the frontage (Nos. 48-98 Camden High Street); however, the table is inaccurate insofar as it includes 16 units instead of 17 (Halifax occupies Nos. 96 and 98 and The Little Baker occupies No. 94 whereas the table indicates that Halifax occupies all 3 of these units), and the table wrongly identifies Prontaprint (No. 60) and the key cutting and shoe repair shop (No. 84) as Class A1 uses, whereas they actually fall under Class A2. [See Appendix 1]

Whilst the applicant's research suggests that the proposed change of use would not result in the number of ground floor premises in retail use falling below 75%, the Council's research suggests that only 70.5% of the ground floor premises in the frontage are currently in retail use and the proposed development would result in this figure falling to 64.7%. (NB. At the time of writing this report there are no change of use applications relating to properties in the in the frontage pending a decision).

It would be undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) because the loss of the retail unit would have a detrimental impact on the sustainability of 'Camden Town' town centre as a shopping destination. Prior approval is therefore refused on this basis.

**(g) the siting, design or external appearance of the facilities to be provided under Class C(b), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.**

Class C (b) allows for building or other operations for the provision of facilities for: (i) ventilation and extraction (including the provision of an external flue), and (ii) the storage of rubbish, reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.

The proposed galvanised steel extract flue would be sited to the rear of the host building and the top of the flue would be 1 metre above the highest part of the existing roof, and set apart from the roof itself. Given its design and siting, the flue would be prominent in views of the rear of the host building and because the application site is within the Camden Town Conservation Area, wherein the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area, in accordance with Section 72 of The Planning (Listed Buildings and Conservation Areas Act) 1990, the siting, design and external appearance of the extract flue is not considered to be acceptable. Prior approval is refused on this basis.

As noted above, waste storage would be accommodated within the rear patio area. Insofar as the patio area is well screened from public view, this represents an acceptable solution.

### **Conclusion:**

Prior approval is refused for the following reasons:

1. The proposed change of use would have a detrimental impact on the sustainability of the Camden Town town centre thereby failing to comply with Schedule 2, Part 3, Class C.2(1)(f)(ii) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 and would be contrary to the aims of the National Planning Policy Framework, chapter 2.
2. By virtue of the size, siting, design and external appearance of the extract flue, the proposal would have a detrimental impact on the character and appearance of the Camden Town Conservation Area, thereby failing to comply with Schedule 2, Part 3, Class C.2(1)(g) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, and would be contrary to the aims of the National Planning Policy Framework, chapter 2.

**Recommendation:** Refuse.

## **APPENDIX 1 – SHOPS WITHIN FRONTAGE**

<b>No.</b>	<b>Current occupier</b>	<b>Use Class</b>
<b>48-50</b>	Belushis PH	A4
<b>52-56</b>	Pound shop	A1
<b>58</b>	Newsagent	A1
<b>60</b>	Prontaprint	A2
<b>62</b>	William Hill Bookmaker	Sui generis
<b>64-70</b>	Lidl	A1
<b>72-76</b>	Argos	A1
<b>78</b>	(vacant)	A1
<b>80</b>	Topcuts hairdresser	A1
<b>82</b>	**APP SITE** - gift shop	A1
<b>84</b>	Key cutting and repairs	Key cutting = A2 Shoe repair = A2
<b>86</b>	Subway sandwich bar	A1
<b>88</b>	Melissa Patisserie	A1
<b>90</b>	Pawnbroker	A1
<b>92</b>	Tusk Hairdresser	A1
<b>94</b>	The Little Baker	A1
<b>96</b>	Halifax	A2
<b>98</b>	Halifax (96b)	A2
<b>TOTAL</b>	<b>17</b>	

<b>Percentage of uses within frontage</b>				
<b>Use</b>	<b>Current number in frontage</b>	<b>Current percentage</b>	<b>Resultant number in frontage</b>	<b>Resultant percentage</b>
<b>A1</b>	12	<b>70.5%</b>	<b>11</b>	<b>64.7%</b>
<b>A2</b>	3	17.6%	3	17.6%
<b>A3</b>	0	0%	1	5.8%
<b>A4</b>	1	5.8%	1	5.8%
<b>Sui gen</b>	1	5.8%	1	5.8%
<b>Total</b>	17		17	