

Delegated Report		Analysis sheet	Expiry Date:	10/07/2015
		N/A / attached	Consultation Expiry Date:	16/07/2015
Officer			Application Number(s)	
Ian Gracie			2015/2757/P & 2015/3428/L	
Application Address			Drawing Numbers	
47 Marchmont Street London WC1N 1AP			See Draft Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use of lower ground floor from office (Use Class B1) to restaurant (Use Class A3) and replacement and enlargement of rear lower ground and ground floor extension (including two new windows), installation of new front external staircase and door, following demolition of rear extension including removal of 1 rear window.				
Recommendation(s):		Refuse Planning Permission & Grant Listed Building Consent		
Application Type:		Full Planning Permission & Listed Building Consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	15	No. of responses	02	No. of objections	02
			No. electronic	00		
Summary of consultation responses:	<p>A site notice was displayed from 19/06/2015 to 10/07/2015 and the application was advertised in the Ham & High from 25/06/2015 for 3 weeks.</p> <p>The objections collectively raised the following issues:</p> <ul style="list-style-type: none"> • Noise – The disturbance to both basement flats at no.45 and no.49 would be too great. No measurements were taken from the neighbouring residential properties – <i>(Officer Response – See paragraphs 3.1 & 3.2 for further information);</i> • Loss of light and privacy – <i>(Officer Response – See paragraph 3.3 for further information);</i> • Over-abundance of A3 units on Marchmont Street – <i>(Officer Response – See paragraph 1.6-1.9 for further information).</i> 					
CAAC/Local groups comments:	N/A					

Site Description

The application site is a Grade II listed building which forms part of a terrace of 18 houses with later added shops, dating from c.1801-1806. The building stands 4 storeys in height, with basement, and is constructed in darkened stock brick. The basement level is currently vacant with a lawful B1 use, the ground floor is in use as a burger restaurant and the upper floors are residential. The site is located within the Bloomsbury Conservation Area.

Relevant History

47 Marchmont Street (application site)

2010/0847/P – Change of use of basement from office (Class B1) to two bedroom flat (Class C3) and alterations to roof of rear basement extension. – Granted Subject to a Section 106 Legal Agreement on 29 June 2010.

2010/0849/L – Internal alterations and replacement of roof to existing rear extension in connection with the change of use of basement from office (Class B1) to two bedroom flat (Class C3). – Granted on 28 April 2010.

2012/1526/P – Erection of two-storey rear extension at lower ground and ground floor levels, installation of plant and flue to rear elevation from first to third floor level, and alterations to shopfront all in connection with the existing use of the lower ground floor as an office (Use Class B1) and ground floor as a restaurant (Use Class A3). – Granted on 08 June 2012.

2012/1581/L – Erection of two-storey rear extension at lower ground and ground floor levels, installation of plant and flue to rear elevation from first to third floor level, and alterations to shopfront all in connection with the existing use of the lower ground floor as an office (Use Class B1) and ground floor as a restaurant (Use Class A3). – Granted on 08 June 2012.

Relevant policies

National Planning Policy Framework (2012)

National Planning Practice Guidance

The London Plan 2015 (consolidated with alterations since 2011)

LDF Core Strategy and Development Policies (November 2010)

CS1 – Distribution of growth

CS4 – Areas of more limited change

CS5 – Managing the impact of growth and development

CS7 – Promoting Camden's centres and shops

CS8 – Promoting a successful and inclusive Camden economy

CS14 – Promoting high quality places and conserving our heritage

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

DP13 – Employment sites and premises

DP24 – Securing high quality design

DP25 – Conserving Camden's heritage

DP26 – Managing the impact of development on occupiers and neighbours

DP28 – Noise and vibration

DP30 – Shopfronts

Supplementary Planning Guidance (updated July 2015)

Camden Planning Guidance (updated July 2015)

- 1 – Design
- 5 – Town Centres, Retail and Employment
- 6 – Amenity
- 8 – Planning Obligations

Conservation Area Statements

Bloomsbury Conservation Area Appraisal and Management Strategy (April 2011).

Assessment

1. Description of Proposed Development

1.1 The applicant seeks planning permission for:

“Change of use of lower ground floor from office (Use Class B1) to restaurant (Use Class A3). Demolition of rear extension, removal of one rear window, internal door and wall. Creation of rear lower ground floor extension and rear ground floor extension (including two new windows), installation of new front external staircase and door, and other associated works.”

- 1.2 It is noted in the supporting Planning Statement that the proposed A3 unit at basement level would operate independently from the ground floor A3 unit. However, customers in the basement restaurant would still be able to order food from the ground floor restaurant and vice-versa via the use of a food lift between the two floors. The ground floor and basement restaurants are therefore considered as a single unit.
- 1.3 The flue would be connected to the existing flue used by the ground floor unit. New ventilation equipment would therefore not be visible externally.
- 1.4 The extensions at basement and ground floor level will allow for an increase in floorspace by approximately 1.5sqm and 2.5sqm respectively.

2. Principle

Loss of B1 Floorspace

2.1 As noted above, planning permission for the change of use of the application site from B1a to C3 was granted in June 2010. However the three years in which to implement this decision have passed. Planning permission is now being sought for a change of use of the B1 unit to a restaurant (Class A3). The officer's report for the previous planning permission noted that:

“Policy E2 allows for the loss of office premises, as an exception to the general rule, in areas where there is a surplus of office accommodation with a preference for a change of use to residential and/or community uses. It has been acknowledged that this area does not have a surplus of office accommodation given the large number of recent developments for purpose built, modern office accommodation.”

2.2 This planning permission was, however, granted pursuant to previously adopted planning policy and a different planning policy context that was apparent in early 2010, prior to the adoption of Camden's currently adopted Local Development Framework (November 2010).

- 2.3 Policy DP13 seeks to retain land and buildings that are suitable for continued business use. A change of use from business use will be resisted unless it can be demonstrated that the site is no longer suitable for its existing business use and the possibility of retaining the unit has been fully explored over an appropriate period of time.
- 2.4 Camden Planning Guidance 5 (Town Centres, Retail and Employment) adds to this policy noting that a marketing assessment may be required when it would be difficult to assess the suitability of the existing office space. The marketing assessment would need to include a number of elements such as continuous marketing over at least 2 years; reasonable advertised rents; attractive lease terms; and a commentary on the interest shown in the building.
- 2.5 The applicant's supporting planning statement notes that planning permission was previously granted in 2010, as noted above, due to the site's inflexibility on account of the fact that the building is Grade II listed which would make alterations for a flexible use difficult. Further to this, the applicant notes the various office developments that have resulted in a stock of circa 3.8 million sqm of office space across the borough. As a result, the applicant considers that there is no overwhelming demand to protect the site.
- 2.6 However, Policy DP13 requires that the possibility of retaining the unit is fully explored over an appropriate period of time in the form a "*thorough marketing exercise, sustained over at least two years (paragraph 13.5).*" Whilst it is appreciated that planning permission for the change of use of the unit to C3 was secured in 2010 and that there would have been no inclination to market the unit, there has been 2 years since the expiration of that permission in which a full marketing exercise could have been undertaken. What's more, policy DP13 states that "*when it can be demonstrated that a site is not suitable for any business use other than B1(a) offices, the Council may allow a change to permanent residential uses or community uses.*"
- 2.7 Paragraph 7.4 of CPG5 provides some further criteria with which to assess applications from office to a non-business use. Whilst the Council accepts that some features of the unit may make it unattractive to a potential office tenant, there has been no evidence submitted which demonstrates the lack of demand for this type of office space. Therefore, it is considered that there is insufficient evidence to convince the Council that the loss of the B1 unit is acceptable.

Creation of an A3 Unit

- 2.8 Policy DP12 seeks to ensure that the development of food, drink and entertainment uses (amongst other town centre uses) does not cause harm to the character, function, vitality and viability of a centre. The Council will therefore consider the cumulative impact of food, drink and entertainment uses taking into account the number and distribution of existing uses and non-implemented planning permissions.
- 2.9 CPG5 provides further detail to this policy and notes that the Council will resist schemes that result in:
- Less than 50% of ground floor premises being in A1 retail use; or
 - More than 25% of premises being in food, drink and entertainment uses;
 - More than 2 consecutive food, drink and entertainment uses; and
 - Proposals that result in individual units being larger than 100sqm on frontages that are opposite frontages which contain a significant amount of housing.
- 2.10 As of July 2015, the Council has updated the retail survey for the borough. As a result of the proposal, the proportion of A3 units within the Marchmont Street/Leigh Street/Tavistock Place Neighbourhood Centre would remain at 23.08% (constituting 15 of the 65 ground floor units) and therefore beneath the 25% threshold. The proposal would also not affect the percentage

of A1 ground floor premises within the centre.

- 2.11 It is noted in the applicant's supporting statement at paragraph 6.13 that the 49 Café is operating under an A1 use class. It is noted that the planning history for the site would indicate that the site's use class is A1.
- 2.12 The ground floor unit of the application building is an A3 unit, next door to that is the 49 Café at no.49 (A1 Use Class – although there is some concern as to whether the unit is operating unlawfully as A3. This is to be investigated by the enforcement team.), the 'China House' restaurant is located at no.51, and the 'Motijheel Tandoori' restaurant is at no.53, both of which have an A3 Use Class. Whilst the proposal is to change the use of the basement, the conversion of the unit would not change the number of consecutive A3 units being created along this part of Marchmont Street. This would therefore pass the tests as set out within policy DP12 and guidance CPG5.
- 2.13 Due to the fact that customers in the basement restaurant would be able to order food from the ground floor restaurant and vice-versa, via the use of a food lift between the two floors, the ground floor and basement restaurants are considered as a single unit. This is despite the fact that two separate restaurant operators will operate out of the ground and basement floors respectively. As a result of this, the addition of the floorspace from the basement will increase the size of the unit to 115sqm. This therefore surpasses the 100sqm threshold as set out in CPG5 which sets a limit on the maximum gross floor area for new and expanded food, drink and entertainment uses on town centre frontages that are opposite frontages that contain significant amounts of housing. It is therefore considered that the creation of the A3 unit at basement level is unacceptable as it is contrary to policy DP12 and the criteria as set out in paragraphs 3.19 and 4.84 of CPG5.

3. Design & Heritage

Front

- 3.1 This application also runs in tandem with an application for Listed Building Consent (Ref: 2015/3428/L).
- 3.2 The proposed replacement metal staircase into the lower ground lightwell is considered to be appropriately detailed, scaled and positioned. There will be no loss of historic fabric involved in this aspect of the proposal.
- 3.3 Signage may be required but this has not been shown on the elevation and may need separate LBC and advert consent – An informative reminding the applicant of this fact would need to be attached to any planning permission.

Rear

- 3.4 It is proposed to slightly extend the depth of a non-original rear extension at upper ground level by 1.2m. This is proportioned between two closet windows and will not project beyond the depth of these. The additional depth, and the detail and material of this aspect is not considered to cause harm to the building's appearance, character or special interest. The proposed window detail is considered acceptable.
- 3.5 At lower ground level, the replacement of the existing poor quality timber and polycarbonate structure with something more appropriate is welcomed. The form, depth and simple detail of a simple metal-framed glass conservatory-type addition in this position is considered to preserve the building's special interest, and enhance the conservation area through improved materials.
- 3.6 In summary the proposal is considered to preserve the special architectural and historic interest of the listed building, and enhance the character and appearance of this part of the

Bloomsbury Conservation Area, in line with legislation, and local and national policy and guidance.

4. **Amenity**

- 4.1 Where development that generates noise is proposed, the Council will require an acoustic report to ensure neighbouring amenity is not harmed (Policy DP28).
- 4.2 The Acoustic Assessment Report submitted in support of this application, which considers the potential noise from adjacent plant on the existing, neighbouring residential uses, states at paragraph 2.6 that “*access to neighbouring residential properties was not possible*” in order to take sound insulation performance readings from the adjoining premises. However, both the residents of the basement dwellings at no.45 and no.49 both noted in their objections that no attempt had been made to take readings from their premises. Paragraph 28.3, in support of policy DP28, states that the Council will require an acoustic report to ensure compliance with PPG24 (now superseded by the National Planning Practice Guidance). Paragraph 003 of the Noise Guidance states that local planning authorities should identify whether the overall effect of the noise exposure is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. It is therefore considered that it would be prudent for the applicant to gain access to the adjacent basement premises to carry out additional acoustic information to support their application. This additional acoustic information should therefore be provided in order to satisfy the requirements of policy DP26 and DP28.
- 4.3 No detail or discussion has been provided, in either the supporting Planning Statement or Acoustic Report, in terms of the impact of the increased number of customers that will use the premises. The proposed ground floor plan indicates that a total of 28 customers could be catered for to use the premises at any one time. It is therefore considered that there is insufficient detail provided as to the operation of the unit and its potential impacts on the surrounding residential properties which is contrary to policy DP26 and DP28.
- 4.4 It is considered that the proposed connection to the existing flue in the restaurant above is considered acceptable as it will not cause any further impact to the residential properties above.
- 4.5 In terms of loss of light and privacy, as a result of the design measures set out above, it is not considered that the rear extensions or the result of an additional window at rear ground floor level will have a detrimental impact on the amenity of the adjoining neighbours in terms of loss of light or privacy. This is due to the fact that the proposed rear extension at ground floor level will not extend beyond the building line of no.45 Marchmont Street whilst the rear extension at basement level will not be appreciable from the residential dwellings at no.45 or no.49 Marchmont Street.

5. **Transport**

- 5.1 Policy DP12 considers the effect of the development in terms of parking, stopping and servicing. In terms of transport matters, it is considered unlikely that there will be any net increase in scale of transport impacts from the proposed A3 unit in this location. Due to the site's 'Excellent' PTAL rating (PTAL 6b) it is likely most customers will arrive and leave using public transport. Russell Square underground station is located in close proximity to the application site and there are several nearby bus routes. No parking is proposed on or near to the site.
- 5.2 It is considered that servicing requirements would be similar to the ground floor A3 unit. Therefore it is not considered necessary to request a servicing strategy.

6. **Conclusion**

- 6.1 The lack of marketing evidence demonstrating a full exploration of retaining the unit is contrary to policies CS8, DP13 and paragraph 7.4 of CPG5.
- 6.2 The change of use of the basement from B1(a) to A3 would constitute an extension to the existing A3 unit at ground floor level. As a result, the unit would increase its floorspace to 115sqm would cause harm to the character, amenity, function and vitality of the town centre which is contrary to policies CS7, DP12 and paragraphs 3.19 and 4.84 of CPG5.
- 6.3 The acoustic report submitted in support of the application lacks sufficient acoustic information from the adjacent basement premises and the potential operation of the site and is therefore contrary to policies CS5, DP28 and paragraph 003 as set out within the Noise chapter of the National Planning Practice Guidance.

7. **Recommendation**

- 7.1 Refuse planning permission and Grant Listed Building Consent.