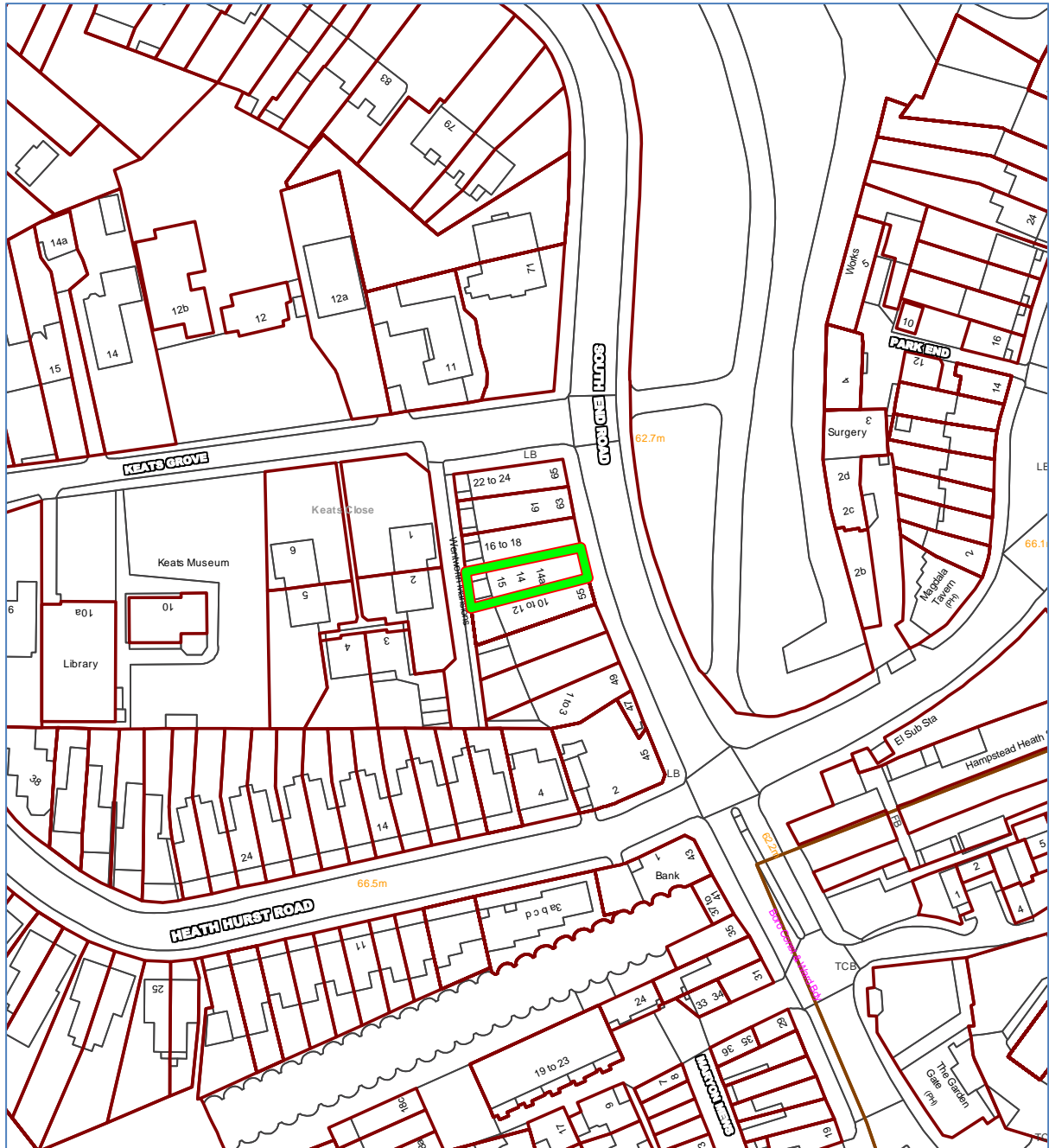


57 South End Road

2015/3447/P





Photograph One: View of front of unit with flats above



Photograph Two: Internal lightwell on first floor above ground floor unit



Photograph Three : (Left) residential entry to flats above (Wentworth Mansions), (right) the existing rear doors to the commercial ground floor units.



Photograph four: Internal view of unit

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|--|--|-----------------------|-------------------------------------|-------------------|
| Delegated Report | | Analysis sheet | Expiry Date: | 17/08/2015 |
| (Members' Briefing) | | N/A | Consultation Expiry Date: | 16/09/2015 |
| Officer | | | Application Number(s) | |
| Jennifer Chivers | | | 2015/3447/P | |
| Application Address | | | Drawing Numbers | |
| 57 South End Road London NW3 2QB | | | See Draft Decision Notice | |
| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature | |
| | | | | |
| Proposal(s) | | | | |
| Alterations to existing shopfront including installation of extraction vents and insertion of door on rear elevation | | | | |
| Recommendation(s): | Grant conditional planning permission | | | |
| Application Type: | Full Planning Permission | | | |

| | | | | | | |
|------------------------------------|--|----|------------------|----|-------------------|----|
| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice | | | | | |
| Informatives: | | | | | | |
| Consultations | | | | | | |
| Adjoining Occupiers: | No. notified | 27 | No. of responses | 61 | No. of objections | 00 |
| Summary of consultation responses: | <p>No. Electronic 00</p> <p>Press Notice 10/07/2015, expired 30/07/2015 Site Notice displayed 08/07/2015, expired 29/07/2015</p> <p>Initial Consultation period 06/07/2015 – 27/07/2015. Reconsulted from 02/09/2015 – 16/09/2015</p> <p>A petition of 26 signatures in opposition to the development has been signed by the surrounding shop owners.</p> <p>A petition of 30 signatures in opposition has been signed by surrounding residents.</p> <p>12 Individual Objections have been received raising the following concerns: from the following addresses:</p> <ul style="list-style-type: none"> The Council has an over-riding responsibility to consider key health risks even above planning. Officer Response: <i>The Council considers health impacts to residents as important and is a material planning consideration. Please see section 9 of this report.</i> There are residents who live above this site with severe breathing problems and Pets at Home have not addressed this in any way. The application is for five large vents below the windows of our flats, plus two at the bottom combined with the door opening all day coupled with the operating hours seven days a week will make this a severe hazard to our health and the people on the street. Officer Response: <i>The council is very mindful of the residents' health, and has considered the proposal under all relevant legislation being environmental health, building control and planning.</i> I request that should planning permission be granted the approval require the use of filters to remove all the materials and fumes and that these filters are professionally maintained and enforced at the expense of the occupier. Officer Response: <i>A condition will be attached to the permission requiring the applicant to monitor the external air quality and make these records available to the Council.</i> Concern in relation to the noise of the dogs that are being groomed. The noise of dogs barking in a building with poor sound-proofing where sound carries easily up the stairwells into the flats above. Officer Response: <i>The proposed use of the unit was considered under the lawful development certificate 2015/0882/P (further discussion is in the assessment in section 1.0 of this report). The area of dog grooming is limited to space for one dog and a cage area where a dog may wait to be collected. This application is not for a change of use. A condition is attached requiring further details of the internal sound insulation to be submitted to and approved in writing by the Council.</i> The filters proposed for use are not suitable for large quantities of pet hair and dander. Airclean' who sell the HEPA extraction filters, have stated that the filters are simply not capable of dealing with the kind of macro pollution that would come from such an establishment. Officer response: <i>The filtration system has been reviewed by</i> | | | | | |

environmental health and recommendations contained within Control of substances hazardous to health regulations 2002, which includes recommendations for maintenance and cleaning. There is no material objection to the use of this extraction system or filtration system

- Pets at Home have been featured on BBC Watchdog for serious complaints and cannot be trusted.

Officer Response: *This is not a material planning consideration.*

- The pet grooming parlour would entail a clear change of use, as patently it would not be used in any way like a simple retail shop.

Officer Response: *The Council assessed the lawful development certificate based on the information provided. The use has not commenced on site. Therefore, no assessment can be undertaken as to whether this use has materially changed on site, therefore there has been no breach of planning control.*

- The use of the store as dog groomers will adversely affect the adjacent flower store and café particularly in relation to smell and noise.

Officer response: *Environmental health officers have reviewed the submitted information and consider there is no objection in relation to noise or smell. This is also controlled further by the Environmental Protection Act 1990.*

- As residents we want stores that cater for local resident's needs. Any use of the shop premise needs to be compatible with the existing (residential) use of that environment.

Officer Response: *While the Council supports the view that stores need to cater for local needs, the lawful use of the unit is A1, this would encompass a wide range of potential shop types and there is no current control over the A1 uses that could be implemented. The use of the unit is not part of this current planning application and therefore cannot be assessed.*

Councillor Currie has objected on the following basis

- It has been confirmed that a resident of Wentworth Mansions (directly above 57 South End Road) is a severe asthmatic and that even slight exposure to animal dander and hairs would be detrimental to his health. It has been confirmed by his doctor that his patient's health should be a consideration in the planning decision.

Officer Response: *Officers are sympathetic to the residents' concerns in relation to the potential health impacts additional information has been provided and assessed to ensure that these concerns have been adequately addressed. Further, please see sections 7.0 and 8.0 of this report for further discussions.*

- The applicant has not provided any assessment against Development Policy DP32 which assesses air quality.

Officer Response: *Please see discussion in section 7.0 of this report.*

- The proposed HEPA filters are not suitable or capable of dealing with macro-pollution that would arise from dog grooming. These filters are designed to be operated as micro-filters in a sterile, clean air environment where pollution levels are already extremely low. The filters would require constant cleaning and once removed to be cleaned it would be impossible to isolate the accumulated dander and hair and prevent it from heavily polluting the surrounding environment.

Officer Response: *The type of filtration system is controlled through environmental health regulations. Environmental health officers have reviewed the provided information and have no objection to the system.*

The application was reconsulted on 06/07/2015 as the rear door was altered to include mesh grills and the following objections were received:

- The reconsultation does not address the previous objections.
Officer Response: *The application was reconsulted due to the additional changes proposed to the rear door only. These changes are assessed as part of this decision.*
- The rear doors are fire doors and the proposed doors are not suitably rated to be resistant to fire and protect residents above.
Officer Response: *The changes to the door are assessed in terms of design in section 4.0 of this report. The issue of fire rating has been raised with the applicant and is assessed under building regulations.*
- The proposed ductwork inside the rear door would appear that the applicant may be planning to take air in or push air out through the top of the door. This is unacceptable; the door is only a fire exit and not a service facility. It is directly in the middle of a residential building where the door is next to entrance doors and below windows of the flats.
Officer Response: *The changes to the rear door are for an inflow of cold air to enable cooling of the internal condenser units.*
- The applicants cannot use the rear of the building to aid their extraction units. We do not want hair dander noise and smell in our entrance/garden and lane area.
Officer Response: *The applicants have been made aware of the freehold and leasehold requirements and for this reason the proposed extraction units are located internally.*
- None of the other three Barkers stores are near residential properties.
Officer Response: *There is no evidence to support this statement. This is not a material planning consideration for an application for external alterations. The application must be assessed against relevant planning policy.*
- The dog grooming element is not ancillary it is a dog grooming business with retail, function 7 days a week, long hours. This is not in accordance with the approved lawful development certificate especially given the additional machinery not present when the certificate was granted.
Officer Response: *The use of the property has been confirmed by the lawful development certificate under reference 2015/0882/P (further discussion is the assessment in section 1.0 of this report). The use is a matter of fact and degree and as the use has not yet commenced on site there is no information that the business will operate contrary to the approved certificate. Additionally the internal machinery does not require planning permission and as such there are no planning controls over any extraction and air conditioning units or other alterations inside the building.*
- The windows to the rear of the store could be opened at any stage.
Officer Response: *In order for the ventilation units to operate correctly the windows will need to remain closed. A condition will be included to ensure the windows to the rear are fixed shut and permanently maintained.*

A letter has been prepared by Kingsley Smith Solicitors on behalf of the occupiers of 14A Wentworth Mansions which:

- Urges the Council when considering the balancing exercise to give significant weight to the environmental harm, as well as social harm, either of which significantly and demonstrably outweigh any economic benefit to the applicant, there being no 'public benefit'.

Doctors' Letters

Additional letters have been provided in opposition by the consulting doctors of the occupiers at 14A Wentworth Mansions. It is highlighted that the resident who lives directly above the proposed works has been diagnosed with brittle asthma. The consulting doctors have confirmed that the occupier has known allergies to domestic allergies and their dander, exposure to this could exacerbate his condition and would be detrimental to his health.

Additionally, Professor Corrigan, clinical scientist in the field of asthma's and allergens at Guys and Thomas hospital has provided a personal opinion stating that:

'There is abundant evidence in the medical scientific literature that allergic sensitisation to animals is a major risk factor for the appearance and severity of asthmas in children...in a situation where an asthma sufferer, and particularly a sufferer with brittle/unstable disease, whether or not sensitised to dogs is exposed repeatedly to a source of dog allergen/entoxin, there is a tangible possibility of exacerbation of symptoms of asthma which may include acute, sever attacks.

Officer Response: *This is discussed and considered as part of the report below. The health impacts on neighbouring residents has been considered by both planning and environmental health officers as set out below.*

CAAC/Local groups
comments:

South End Green Association has objected on the following grounds:

- The application entails mechanised processes and creates trade effluent and waste management; these processes are not incorporated within a retail use. None of these crucial matters have been addressed in any of the current applications. The ventilation in the exterior of the building would result in external works and therefore a certificate of lawfulness is no longer the appropriate route.

Officer Response: *The mechanised processes have been assessed by Council's Environmental health officer. The processes are small scale and can be incorporated within the ancillary use. This has been assessed in section 7 below.*

- We do not accept that it is adequate for the applicant to conform with Camden's Environmental Health Regulations. It is unacceptable that noxious waste should be created in the first place and then extracted onto the pavement blow resident's windows and in the breathing space of passers-by.

Officer Response: *The emissions are controlled by the Environmental Protection Act 1990 and have been considered by the environmental health officer as part of this planning application with no objection being raised to the installation proposed.*

The Heath and Hampstead Society has objected to the application on the following grounds:

- The application is not just for design alterations to a shop front, it involves a ventilation system for a dog grooming parlour which could be a serious danger to public health. No specialist engineering advice has been put forward or proposed; we ask that this application not be determined until satisfactory design advice is presented

Officer Response: *The external manifestations being the extraction vents require planning permission. The internal systems have been reviewed by the environmental health officer and there is no objection to the proposal.*

Site Description

The subject site is located within the South End Green Neighbourhood Centre within a row of commercial units. The commercial unit, the subject of this application, is located at ground and basement level, with three flats located above. The flats are only accessible from the rear of the unit from a private road known as Wentworth Mansions (being 14, 14A and 15). The front elevation above the shopfront contains three levels of residential windows to the flats living areas and bedrooms.

The surrounding commercial units include a hair salon, shoe store, veterinary clinic, a local convenience store, florist, café, stationers, book store, restaurant and estate agent. Located on the opposite side the road is the Hampstead Heath overground station and Hampstead Heath.

The site is located within Hampstead Conservation Area and identified as being a positive contributor. The building is not listed or subject to any other designations.

Relevant History

PWX0203078- Installation of a new shop front – granted 14/01/2003.

PWX0203012 – Change of use for a launderette (Sui Generis) to retail use (class A1) – granted 17/12/2002.

2015/1319/A - Display of 1x externally illuminated fascia sign and 1x externally illuminated projecting sign - granted 07/04/2015.

2015/0882/P - Use of part of ground floor as pet grooming facility (Sui Generis) ancillary to the A1 retail use at ground and basement level- granted 09/06/2015.

Relevant policies

LDF Core Strategy and Development Policies

National Planning Policy Framework

The London Plan March 2015, consolidated with alterations since 2011.

Core Strategy

CS5 Managing the impact of growth and development

CS14 Promoting high quality places and conserving our heritage

Development Policies

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

DP32 Air quality and Camden's Clear Zone

Camden Planning Guidance

CPG1 Design 2015

CPG 6 Amenity 2011

Hampstead Conservation Area Statement 2001

Other relevant legislation

The Human Rights Act (1998)

Environmental Protection Act 1990

Assessment

1.0 Background

- 1.1 A lawful development certificate was granted in 2015 (application reference: 2015/0882/P) for the use of part of the ground floor as a pet grooming facility (Sui Generis) ancillary to the Class A1 retail use at ground and basement level. The following assessment was undertaken as part of the lawful development certificate application:
- The primary use of the unit would be retail sale of pet supplies. This falls within Use Class A1 as defined in the Town and Country Planning Act (Use Classes) Order 1987 (as amended). The existing use of the unit is A1 (formerly a charity shop).
 - Dog grooming is classified as Sui Generis as defined in the Town and Country Planning Act (Use Classes) Order 1987 (as amended). However, in this instance the dog grooming use is considered ancillary to the main use.
 - The test is a matter of fact and degree and each case must be determined on its own merits.
 - The dog grooming element occupies 14% of the retail floor space and submitted turnover reports indicate that approximately 15% of sales were derived from the grooming facility, with retail occupying the remaining 85%.
 - The certificate may be issued based on the information that the LPA are provided with at the time of application.
 - The dog grooming use was assessed and it was concluded that it was to ancillary to the main retail use of the unit.
- 1.2 Additionally, concerned residents have noted that the ancillary use of part of the store to contain a dog grooming is not a use that is compatible with residential. Under a lawful development certificate the compatibility of uses cannot be assessed. The only assessment is whether the use is lawful under the Town and Country Planning Act.
- 1.3 As noted above, the owners/occupiers of 14A Wentworth Mansions (the first floor flat directly above the retail unit) has been diagnosed with brittle asthma. The consulting doctors of the occupier have provided an opinion on the effects of the use on the resident.
- 1.4 The council officer visited the site and the residential unit above on the 28th April 2015.

2.0 Proposal

- 2.1 Planning permission is sought for the external changes incorporating five high level vents and two low level vents to the front elevation and the replacement of the rear door of the existing shop.
- 2.2 The proposed external changes are the only requirement for planning permission. The use of the unit does not form part of the planning application and is not considered as part of the below assessment
- 2.3 It is proposed to install five high level extraction vents within the proposed altered shopfront. The proposed grills will sit approximately 3.4 metres above the footpath. Each extraction vent is 1.1 metres wide and 0.3 metres high and will be powder coated Grey Brown. The extraction vents each contain five louvres that face down towards the footpath with approximately 75mm spacing between each louver.
- 2.4 In addition to the high level extraction vents, it is proposed to install two low level ventilation grills at ground level which will sit approximately 0.1 metres from ground level. Each vent will be 1.2 metres wide and 0.2 metres high.
- 2.5 A new section of glazing is proposed located above the existing glazing on both windows. The

additional glazing will have frosted vinyl applied internally.

- 2.6 It is also proposed to replace the existing rear door with a new door containing glazing and mesh panels. The panels in the door are required to allow for cooling to the condensing units internally. There will be no extraction from this door.
- 2.7 There are no overnight kennelling provided at the premises and as such animals will not be kept on the premises longer than the shop hours. If animals were to remain on site overnight this would represent an intensification of the use and may change the ancillary nature of the sui generis use and would require planning permission. Therefore an informative will be included to this effect.

Current Application

- 2.8 During the course of the application, officers discussed all possible locations for the external ventilation grills. Due to the property being situated within a commercial parade with properties on either side, the possible location of the external ducting is limited to either the front or rear of the commercial unit. The rear of the store forms part of the residential frontages of the flats above referred to as Wentworth Mansions. The retail high street is therefore considered a more appropriate location for external ducting where it is more common place.
- 2.9 As a result, the external ventilation grills are proposed to be located on the front façade, at a high level. The louvres are positioned facing down towards the footpath and away from the upper floor windows.
- 2.10 Two different ventilation systems are proposed to operate within the unit, a heating/cooling system to maintain temperature and a ventilation system to move air around the commercial unit. As the condenser units are located internally, they require a system that is more powerful than a standard configuration and require the air to be extracted externally. The requirement for ventilation is not specifically a requirement of the dog grooming element of the internal uses and the ventilation is required to meet Part L of the Building regulations. The external manifestations being the ventilation grills require planning permission and the internal units do not require planning permission.
- 2.11 The heating and cooling system comprises three air conditioning units and the associated ductwork connected to those units. The ventilation system will pull air externally through the ductwork where this air will pass through a standard filter and an HEPA (High Efficiency Particulate Air) filter. The ductwork moves the air to the back of house area and expels air into the store. The air is then extracted through further ductwork using a vent axia acoustic extract fan and further filtration system, whereby the air is then expelled out the grilles located above the shopfront.
- 2.12 The application was sent out for further consultation on 2 September 2015 due to the additional alteration proposed to the rear door. The specific changes to the rear door are to allow for an inflow of air for cooling of the internal ventilation units. The door is proposed to be constructed of wood with metal mesh panel inserts.

3.0 Assessment

The main issues for consideration within this application are:

- Design
- Amenity
- Other material considerations

4.0 Design

- 4.1 The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy DP25 'Conserving Camden's Heritage' states that within conservation areas, the Council will only grant permission for development that 'preserves and enhances' its established character and appearance.
- 4.2 Policy DP30 (Shopfronts) states that if a shop front is altered the design should respect the characteristics of the building and where appropriate, shopfront windows, and framework features should be retained or restored. When considering proposals the Council will consider, amongst other things, the existing character, architectural and historic merit of the building and its shopfront; the relationship between the shopfront and the upper floors of the building and the general characteristics of shopfronts in the area.
- 4.3 This parade area of shop fronts are identified within the Hampstead Conservation areas being of very poor quality (with the exception of Nos.23, 31, 45 South End Green). The existing shopfront was replaced in 2003 and is not original (council reference: PWX0203078).
- 4.4 The external changes to the front elevation are limited to the installation of the extraction vents at high level and two air conditioning vents at low level, within the existing spaces of the frame of the shopfront. The grills will be paint finished to match the rest of the shopfront and would blend within the existing frame.
- 4.5 The changes would retain the traditional elements of the existing shopfront whilst upgrading the front to provide ventilation grilles to the stall riser and above the transom. These are historically accurate locations and established features of the traditional shopfront.
- 4.6 The proposed rear door has taken references from the adjacent windows and doors and would be sympathetic in style to the rear elevation of the buildings.
- 4.7 The proposed alterations to the existing shopfront and the rear elevation of the building would be in accordance with CPG1, DP24, DP25 and DP30. Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013 and will preserve the character and appearance of the Hampstead Conservation Area.

5.0 Amenity

- 5.1 Policy CS5 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Policy DP26 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, overlooking, outlook and implications on daylight and sunlight. Furthermore, Policy DP28 seeks to ensure that noise and vibration is controlled and managed and will only grant planning permission for plant or machinery if it can be operated without causing harm to amenity and does not exceed noise thresholds.
- 5.2 It is recognised that there is likely to be some noise generated by the extraction units. The extraction units would, however, be located internally and are of a design that would not generate unacceptable levels of noise. Due to the closest noise sensitive window being located at the first floor, a condition is recommended requiring that the external noise levels emitted from plant, machinery or equipment at the development be lower than the lowest existing background noise level by at least 10dBA as assessed with the machinery operating together at maximum capacity. This will ensure the amenity of occupiers of the surrounding properties is not adversely affected by noise from the equipment. Subject to this condition, the Council's environmental health officer has raised no objection to the proposal which would be in accordance with policies DP26 and DP28.

5.3 The proposal is therefore not considered to cause harm to the amenity of neighbouring occupiers particularly as the units will not be in operating during the night time and the units are located internally. A condition is included to restrict the hours of operation of the equipment.

5.4 Residents have raised amenity concerns in relation to the air that will be extracted onto the street in close proximity to their windows. The type and filtration of the extracted air is not within the remit of this planning assessment and would be considered separately under Environmental Health legislation (The Environmental Protection Act 1990). Notwithstanding this, the environmental health officer has reviewed the submitted information and taken on board the concerns of the objectors and the submitted professional opinions and have no objection to the installation on the basis of odour or pollutants has been raised. This is discussed in more detail in the air quality section below.

6.0 Other Material considerations:

6.1 The National Planning Policy Framework (NPPF) in paragraph 11 states,

‘Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise’.

6.2 Concerned residents have stated that there is the potential for harmful discharge from the vents. The planning considerations pertinent to this application are limited to the visual appearance of the changes to the external elements of the shop. In addition, the air conditioning plant has been reviewed by Council’s environmental health officers who have raised no objection to the works.

6.3 Taking this into consideration the following assessment has been undertaken in addition to the above assessment on planning matters.

7.0 Air Quality

7.1 Policy DP32 (Air Quality and Camden’s Clear Zone) highlights the need to promote higher standards of air quality within the borough. The Council will require an air quality assessment where development could potentially cause significant harm to air quality. Mitigation measures will be expected in developments that are located in areas of poor air quality. The intention of DP32 is the control further emission of PM10 (Particulate Matter) and NO2 emissions as part of the Air Quality Action Plan. It is recognised that parts of Camden have some of the poorest air quality levels in London and consequently the whole of the borough has been declared an Air Quality Management Area. As the application is for external vents in a small retail unit, it is not anticipated that this would have an impact on PM10 and NO2 emissions and would not trigger the necessity for an air quality assessment.

7.2 Policy DP26 states that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity including odour, fumes and dust. The Council will also require all development likely to generate odours to prevent them from being a nuisance by installing appropriate extraction equipment and other mitigation.

7.3 The installation of extraction equipment is the subject of this planning application. The Council’s environmental health officer has reviewed the submitted information and confirmed that they have no objection to the application in relation to the impact on air quality.

7.4 In order to ensure the extraction equipment will work to its maximum efficiency it is considered that the rear windows would need to remain shut. A condition will be attached to ensure the existing rear windows cannot be opened and remain permanently fixed shut.

7.5 The applicant has stated they will be undertaking air quality testing to ensure that the air quality

is of no greater detriment than the existing air quality. A condition will be included to ensure that these tests are undertaken and a record is kept on site which should be accessible to Council Officers should a request for this information be made.

- 7.5 The operation of the unit will also need to comply with Environmental Health regulation including health and safety and Environmental Protection Act 1990. Environmental Health officers have reviewed the submitted information and have not objected to the proposal.

8.0 Health Impact

- 8.1 As discussed above, the occupier of 14A Wentworth Mansions has been diagnosed with brittle asthma. The Council has received and reviewed the records provided by the consulting doctors and the personal opinion of Professor Corrigan (clinical scientist in the field of asthma's and allergens).

- 8.2 The Council has accounted for the objections to this application in this report, and the Council has been sent letters from medical experts explaining the sensitive nature of the condition in this regard.

- 8.3 The potential adverse health impacts from the proposed development to the sensitivity of this particular occupier, as well as to other local residents and the public, would need to be assessed against the rights of the applicant.

- 8.4 In this regard it is noted that the assessments that have been submitted by the Applicant suggest that there will be

'...no measurable pollution emitted from this system, and certainly nothing that would be sufficient to trigger an asthma attack', 'prior to starting work on site, we will be looking to undertake air quality assessments to establish the current levels for this area and following use of the premises we will look to monitor this to ensure that there is no increase in pollutant levels due to our use'.

- 8.4 The Council has sought further assessments from Environmental Health, which have found that the filtration system is satisfactory and are the both environmental health officers and health and safety officers are of the opinion that any health effects would be minimal from this development.

9.0 The Human Rights Act

- 9.1 The Human Rights Act (HRA) 1998 incorporates key articles of the European Convention on Human Rights into domestic law. These include the following:

(a)Article 6: Right to a fair trial -- 6(1) In the determination of his civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(b) Article 8 – Right to respect for private and family life. 8(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(c)Article 1 of the First Protocol: Protection of property - Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

(d)Article 14: Prohibition of discrimination - The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

- 9.2 As the local planning authority, there is a statutory duty placed on the Council to consider the

provisions of this Act against the adopted planning policies. The HRA would also have been taken into account when the policies were drafted.

- 9.3 The HRA has to be taken into account in all determinations but needs to be applied and considered in a proportionate manner, and whilst objections raised against this proposed development are material considerations to be taken into account during decision making, they would need to be given appropriate weight, and balanced alongside other consideration. These objections do not automatically lead to a refusal of a planning application in every case because there are implications on personal circumstances.
- 9.4 These convention rights are not absolute and set out circumstances when an interference with a person's rights can be permitted. Any interference with any of rights contained in the Convention must be sanctioned by law, be proportionate, be aimed at pursuing a legitimate aim and must go no further than is necessary.
- 9.5 The Council considers that there has been an appropriate assessment and consideration of these issues which represent an balance between the rights of the owner (to enjoy their land subject to reasonable and proportionate controls by a public authority), the interests and rights of those who argue that they will be adversely affected by the proposed development (the respect for private life and their home and the peaceful enjoyment of their properties) and the wider public interest.

10.0 Conclusion

- 10.1 In accordance with the National Planning Policy Framework the Council has considered the harm of the development in balance with the positives. The principle of the shop front alterations is acceptable and the proposal will preserve and enhance the Hampstead Conservation Area. The council has taken into account other material planning considerations including the adverse health impacts from the proposed development to the sensitivity of the occupier and the human rights act. There were a number of objections which were addressed and taken into account when coming to this decision.

Recommendation: Grant Conditional Planning Permission.

DISCLAIMER

Decision route to be decided by nominated members on Monday 22th February 2016. For further information please click [here](#)

Mr Philip Marsden
Savills (UK) Limited
33 Margaret Street
London
W1G 0JD

Application Ref: **2015/3447/P**
Please ask for: **Jennifer Chivers**
Telephone: 020 7974 **3303**

18 February 2016

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
57 South End Road
London
NW3 2QB

DECISION

Proposal:

Alterations to existing shopfront including installation of extraction vents and insertion of door on rear elevation

Drawing Nos: Location Plan 558.00.4; Existing Shopfront 558.00.3 Rev C; Proposed Shopfront 558.03.3; Ground AC Layout 360-00-AC01 Rev E; Proposed Rear Elevation 558.03 Rev B; Shopfront Grille detail 558 03.5 Rev I; Rear Door Details 558.03.4;

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

Director of Culture & Environment



- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans

Location Plan 558.00.4; Existing Shopfront 558.00.3 Rev C; Proposed Shopfront 558.03.3; Ground AC Layout 360-00-AC01 Rev E; Proposed Rear Elevation 558.03 Rev B; Shopfront Grille detail 558 03.5 Rev I; Rear Door Details 558.03.4;

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 The existing rear windows located at ground floor shall be permanently fixed shut and maintained in perpetuity.

Reason: To safeguard neighbours amenity in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 5 The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with machinery/plant operating together at maximum capacity.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment.

- 6 The extraction and ventilation units shall only operate during shop hours and shall not be permitted to operate outside the hours of 8:30 to 20:00 Mondays to Fridays, 9:00 - 18:00 on Saturdays, Sundays and Public/Bank Holidays.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment.

- 7 Prior to use, plant or equipment, the extract/ ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by vibration.

- 8 Prior to implementation exploratory air monitoring (internal and external) should be undertaken by the applicant to determine the existing background air quality levels. After implementation further monitoring of the internal and external air quality should be undertaken. These records shall be kept on site and available to view to the Council.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 Your attention is drawn to the need for compliance with the requirements of the Environmental Health regulations, Compliance and Enforcement team, [Regulatory Services] Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 4444) particularly in respect of arrangements for ventilation and the extraction.
- 4 You are advised that should animals remain on the premises after shop hours and/or overnight this would represent an intensification of the lawful use and planning permission may be required.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Culture & Environment

DRAFT

DECISION