

Delegated Report		Analysis sheet		Expiry Date:		29/06/2016	
		N/A		Consultation Expiry Date:		03/06/2016	
Officer				Application Number(s)			
Tessa Craig				2016/2480/P			
Application Address				Drawing Numbers			
317 Gray's Inn Road London WC1X 8PX				See decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Change of use of ground and basement floors from A1 (retail) to A3 (restaurant) use and installation of associated extractor duct at rear.							
Recommendation(s):		Refuse Prior Approval					
Application Type:		GPDO Prior Approval Determination					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	56	No. of responses	00	No. of objections	00
				No. electronic	00		
Summary of consultation responses:		A site notice was displayed 13/05/2016 – 03/06/2016 and a press notice was advertised on 19/05/2016.					
CAAC/Local groups* comments: *Please Specify		Kings Cross CAAC- no response received.					

Site Description

The subject site is located on the south side of Gray's Inn Road opposite Kings Cross Bridge Road. The building is a mid-terrace three storey brick building. This application relates to the ground and basement levels of the building which are currently in A1 use. The property is within the Kings Cross St Pancras Conservation Area, but is not a listed building. The site is also within the designated Central London Frontage Area. The area is characterised by A1/A3 ground floor units and hotel/office accommodation on upper floors.

Relevant History

68556/17/03/53- The use of the first, second and third floors of No. 317, Gray's Inn Road, St. Pancras, for storage purposes. Refused, 13/05/1953.

68556/24/03/53- The use of the first, second and third floors of No. 317, Grays Inn Road, St. Pancras, as offices. Refused, 10/06/1953.

8401712- Change of use of first second and third floors from dwelling rooms to 6 one-bedroom self-contained flats and associated works of conversion together with the erection of single storey rear extensions to the ground floor retail shops. Refused, 28/11/1984.

8500974- Erection of a single storey rear extensions to ground floor retail shops and works of conversion in connection with the formation on upper floors of two flats and two maisonettes. Granted, 14/10/1985.

8501283- Change of use of the ground floor and basement from retail shop and ancillary accommodation to take-away hot food (fish and chip) shop and basement preparation area. Refused, 14/10/1985.

8601074- Change of use of the ground floor and basement from retail shop to restaurant with food preparation at basement level together with provision of a duct on the rear elevation and conversion of 1st 2nd and 3rd floors to a 3-bedroom residential unit. Refused, 05/11/1986.

2005/1647/P- Change of use from retail (Class A1) to a hot food takeaway (Class A5), installation of a new shop front and a vertical extract duct to the rear. Refused, 16/11/2005.

2006/3250/P- The Installation of an integral Automated Teller Machine (ATM) to existing retail unit (Class A1). Granted, 01/12/2006.

2007/4537/P- Alterations to the shopfront to include the installation of an Automated Teller Machine (ATM) and associated illuminated surround. Granted, 31/12/2007.

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

1.0 The proposal

- 1.1 The proposal seeks to change the use of the ground floor (approximately 62sqm) and basement (approximately 52sqm) of the building from a shop (Class A1) to a restaurant (Class A3) under permitted development. An extractor duct would be installed in the rear of the property and would reach from the first floor to the third floor/roof level. An acoustic report has not been provided.

2.0 Procedure

- 2.1 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.
- 2.2 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.
- 2.3 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),
- 2.4 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.

3.0 Compliance with Paragraph C.1

- 3.1 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 114 square metres.

- (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.

- 3.2 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.

4.0 Compliance with Paragraph C.2

- 4.1 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,

Due to the nature of the site location (a busy high street) and the relatively minor floor area of the proposed activity, it is not envisaged that there would be an increase in noise levels. An extraction flue would be erected at the rear of the property. The applicant has not submitted a noise report. In the absence of a noise report the applicant has not demonstrated the proposed plant would not have a harmful impact on neighbouring amenity.

- (b) odour impacts of the development,

As noted, the applicant proposes to install appropriate extraction equipment including a ventilation duct in the rear elevation. 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 the waste will be stored in the basement and collected each day as per the current arrangement. 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 has not stated the proposed opening hours, however the existing A1 use opens:

Mon: 08:00 - 00:00

Tue: 08:00 - 00:00

Wed: 08:00 - 00:00

Thu: 08:00 - 00:00

Fri: 08:00 - 01:00

Sat: 08:00 - 01:00

Sun: 09:00 - 00:00

The application site is within a frontage which mainly comprises Class A1, A2 and A3 uses. Given the street is busy and noisy, if the proposed A3 activity were to operate in these hours it would likely be acceptable in this location. If the application was otherwise considered to be acceptable, it would be possible to negotiate 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.

Camden Core Strategy policy CS7 – Promoting Camden's centres and shops sets out the Council's overall strategy for our centres and associated uses. It seeks to promote successful and vibrant centres, for example by:

- designating a hierarchy of town centres, Central London Frontages and neighbourhood centres;*

- promoting new retail development at King's Cross, Euston and Camden Town, with additional retail in the growth areas at Tottenham Court Road, Holborn and West Hampstead and in existing centres;
- seeking to protect the character and role of each of Camden's centres; and
- resisting the loss of shops where this would cause harm to the character and function of a centre or shopping provision in the local area.

Core Strategy policy CS7 also seeks to make sure that the impact of food, drink, entertainment and other town centre uses on residents and their local area is minimised. This is particularly important in Camden given the borough's wide range of bars, restaurants and entertainment venues, which are concentrated in our centres and central London, areas with significant residential communities.

Policy DP12 builds on Core Strategy policy CS7 and the advice contained in the NPPF by setting out our detailed approach to managing the impact of food, drink and entertainment uses and other uses suitable for centres. Two key considerations given in Policy DP12 are:

- a) the effect of non-retail development on shopping provision and the character of the centre in which it is located; and
- b) the cumulative impact of food, drink and entertainment uses taking into account the number and distribution of existing uses and non-implemented planning permissions, and any record of harm caused by such uses.

CPG5 Town Centres, Retail & Employment contains specific guidance for Central London Area food, drink and entertainment, specialist and retail uses relevant to the proposal. The guidance advises 'The eastern part of the Frontage (which includes the subject site) has an important local retail role that the Council seeks to protect. As there has already been fragmentation of shopping uses in this location, planning permission will not be granted for further loss of retail (Use Class A1).

This area has a high proportion of food, drink and entertainment uses and includes residential accommodation located above commercial facilities. It has seen intense pressure for development of food and drink uses over the last ten years, particularly on Gray's Inn Road. Many applications for change of use have been refused on the grounds that they would cause harm to the character and function of this area, and create unacceptable cumulative impacts. It is considered that further development of food, drink and entertainment uses would undermine the area's mix of uses'.

The retail unit is currently occupied by 'Kings Cross Food & Wine'. The A1 unit is currently operating at the site, appears to have been in A1 use for over 10 years and is within a frontage of sixteen ground floor units. The application site is within 'Central London Frontage Area' (as defined by the LDF). 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.

No	Current Occupier	Use Class
311	Subway Sandwiches	A1
313	Metro Express Newsagent	A1
315	Munchtime Café/Pizzeria	A3

317	Kings Cross Food and Wine (subject site)	A1
319	Tips and Toes Nail Salon	A1
321	Computer Centre	A1
323	Best Mangal Bar and Restaurant	A3
325	Euro Tandoori Indian Restaurant	A3
327	Eddies Fish Bar and Best Turkish Kebab	A3
329-331	Franchi Hardware Store	A1
333	Costcut Express	A1
335-337	Nisa Local	A1
339	Case Mama Restaurant	A3
341	Tandoori	A3
343	Indian Lounge Restaurant	A3
345	William Hill	A2

Use	Current number in frontage	Current percentage	Resultant number in frontage	Resultant percentage
A1	8	50%	7	43.75%
A2	1	6.25%	1	6.25%
A3	7	43.75%	8	50%

The tables above illustrate an excess of A3 uses. 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 character and function of this Central London Area. 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. Given its design and siting, the flue would not be visible from the street.

As noted above, waste storage would be accommodated within the basement level, this represents an acceptable solution.

5.0 Conclusion

Prior approval is refused for the following reason:

1. The proposed change of use would have a detrimental impact on the character and function of the Central London Frontage 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. In the absence of a noise report, the applicant has not demonstrated that the proposed extractor duct would not have a harmful noise impact, thereby failing to comply with Schedule 2, Part 3, Class C.2(1)(a) 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 11.

Recommendation: Refuse Prior Approval.