

Mr. Stephen Matthews
Bidwells LLP
Seacourt Tower
West Way
Oxford
OX2 2JJ

Application Ref: **2016/3074/P**
Please ask for: **Robert Lester**
Telephone: 020 7974 **2188**

6 October 2016

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
3 Windmill Street
London
W1T 2HY

Proposal:

Change of use from Class A1 (retail) to a mixed use (Sui Generis) of Class A1 (retail) and Class A3 (food and drink) plus retention of kitchen extract at rear (retrospective application)
Drawing Nos: Site Location Plan (No Ref); Floorplans (09080.1 B); Proposed Floorplans (09080.2 B); Plant and Vent Details (1 A); Agent's emails dated 4/7/16, 5/7/16 & 12/7/16, Revised Application Form received 25/8/16.

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 shall be carried out in accordance with the following approved plans- Site Location Plan (No Ref); Floorplans (09080. B); Proposed Floorplans (09080.2 B); Plant and Vent Details (1 A); agent's emails dated 4/7/16, 5/7/16 & 12/7/16, Revised Application Form received 25/8/16.

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



- 2 The mixed use hereby permitted shall not be carried out outside the following times 08:00 - 23:00 daily.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The use hereby approved shall operate as a mixed use restaurant and retail unit (Sui Generis) only, in accordance with floorplans and supporting statements hereby approved with a designated retail sales counter in the front part of the unit, and shall be used for no other purpose in the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, without first obtaining planning permission, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the occupation of the building does not adversely affect the immediate area and the primary retail frontage in terms of its retail function, vitality and viability and of local amenity, in accordance with policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 4 Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 5 No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1 Reasons for granting permission:

This retrospective application is for the retention of a restaurant as a Sui Generis mixed use (A1/A3) unit. The use has been operating at the site for 3 years as permitted on 30th September 2013 for 3 years only under Part 4 (Temporary Uses) of the Town and Country Planning General Permitted Development Order. The former use of the site was a retail unit (A1 use) therefore the application is effectively a retrospective application for the change of use from a Class A1 (shop) to a mixed use of Class A1 (retail) and Class A3 (food and drink) use together with the retention of kitchen extract at rear.

The restaurant use is considered to be a mixed use A1/A3 unit as the operation involves approximately 40% retail sales of food items for consumption off the premises as the unit has 2 retail sales counters at front and rear.

The site is located on a primary retail frontage within the Fitzrovia Local Area where Council policies CS7 and DP12 and guidance in CPG5 seek to protect retail uses and prevent an over-concentration of food and drink uses in the interests of the vitality, viability and amenity of the area. A development should not normally result in less than 80% of units in A1 retail use, or more than 25% being food and drink use. The level of retail use on the parade as a result of retaining this use would be 22% and the level of food and drink use would be 33%.

Although the development would not adhere to this CPG5 guidance, the use is considered to be acceptable for the following reasons: the level of retail use is already below 80% (excluding the application site); the proposal is for a mixed use restaurant/retail unit involving a substantial portion of retail trade and with a designated retail counter at the front part of the unit to passing trade; the front retail part of the unit will contribute to the appearance and function of the primary retail frontage; the level of existing retail uses in the area including on the northern side of Windmill Street provides an effective link between Tottenham Court Road and Charlotte Street; the restaurant use has been operating at the site for 3 years without any harm to local amenity, vitality or viability; it would not result in an over-concentration of food and drink Class A3 uses as it is a mixed use, the adjacent units are not in A3 food and drink use, and another A3 use on this parade also operates with a high proportion of off-site cold food retail sales. Overall, the development has not harmed the vitality or viability of the Fitzrovia Local Area.

The use has been operating without harm to local amenity for 3 years and no objections have been received to noise, vibration or smells from its operation. The proposal includes the retention of the rear extract system. Subject to a condition requiring its operation in accordance with the Council's minimum noise standards, the development is not considered to harm the amenity of neighbours.

The development is located in a highly accessible location and would not result in a harmful impact on transport conditions.

The development involves no external alterations and therefore would not harm the

character and appearance of the host building, streetscene or conservation area.

Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area under s.66 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

- 2 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).
- 3 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.
- 4 You are advised that this application has been assessed and considered to be acceptable as a mixed use restaurant/retail unit (Sui Generis) only. The site is located on a primary retail frontage and the development is only considered to be acceptable as a mixed use restaurant/retail unit with a designated retail area at front which results in an acceptable impact on the retail parade's vitality and viability and on local amenity, in accordance with London Borough of Camden policies and guidance. Any future proposal that results in further loss of retail from this mixed use is likely to be refused planning permission.
- 5 Reasons for granting permission (continued):

The planning history of the site, have been taken into account when coming to this decision. No objections were received to this application.

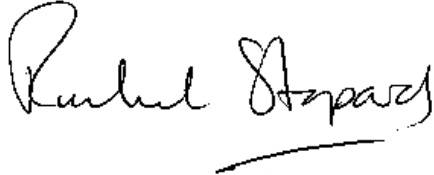
As such, the proposed development is in general accordance with policies CS5, CS7, CS11 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP12, DP16, DP17, DP24, DP25, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with The London Plan 2016; and the National Planning Policy Framework.

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

A handwritten signature in black ink, appearing to read 'Rachel Stopard', with a horizontal line underneath the name.

Rachel Stopard
Executive Director Supporting Communities