

<b>Address:</b>	37 Theobalds Road, London, WC1X 8SP		5
<b>Application Number:</b>	2014/6674/P	<b>Officer: Neil Collins</b>	
<b>Ward:</b>	Holborn and Covent Garden		
<b>Date Received:</b>	21/10/2014		
<b>Proposal:</b> Change of use of front part of the ground floor from retail (Class A1) to restaurant use (Class A3) in association with the self-containment of the ground and basement floors, alteration of existing ground floor roof lights and installation of extract duct to rear elevation.			
<b>Background Papers, Supporting Documents and Drawing Numbers:</b>			
140905-01-P1; 140905-02-P1; 140905-03-P1; 3204-R1; 140905/SH, October 2014; Multicarb Activated Carbon Discarb Unit Specification; and 450-630mm Diameter Square Mix Flow Fan Extraction Motor Unit Details.			
<b>RECOMMENDATION SUMMARY:</b> Grant conditional planning permission			
<b>Applicant:</b>		<b>Agent:</b>	
Zohaib Khan Sfizio Ltd 37 Theobalds Road London WC1X 8SP		Saloria Architects Unit 27 Cygnus Business Centre Dalme London NW10 2XA	

## ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
<i>Existing</i>	<i>A1.</i>	<i>Shops</i>	<i>13.5m<sup>2</sup></i>
	<i>A3.</i>	<i>Restaurant</i>	<i>73.9m<sup>2</sup></i>
Proposed	<i>A3.</i>	<i>Restaurant</i>	<i>87.4m<sup>2</sup> - Total floor space (including 34.6m<sup>2</sup> Ground floor seated space)</i>

## **OFFICERS' REPORT**

**Reason for Referral to Committee:** The application is reported to committee as the proposal involves the extension of existing A3 floor space and the creation of a new planning unit.

### **1.0 SITE**

- 1.1. The application site is located on the southern side of Theobald's Road, close to its junction with Lamb's Conduit Street, and comprises a four-storey building with a further basement floor. The building is in commercial use on the ground and basement floors, whilst the upper (1<sup>st</sup> and 2<sup>nd</sup>) floors of the building accommodate residential flats.
- 1.2. Until recently, the ground/basement floors of both number 35 and 37 had been amalgamated through the removal of part of the ground floor party wall. The amalgamated unit was granted a change of use in 2006, predominantly as a café (A3) with a smaller element of retail (A1) restricted to the front of number 37 – amounting to 73.9m<sup>2</sup> and 13.5m<sup>2</sup> respectively. It is understood that the building has been used in this way until recently, when the buildings were separated from one another. As such, the application site is considered a new planning unit confined to number 37 Theobalds Road.
- 1.3. The application site is part of a larger parade comprising a variety of different commercial uses at street level, including shops, offices, financial services, food, drink and entertainment premises, with elements of residential on the upper floors.
- 1.4. The site is situated within the Bloomsbury Conservation Area, it falls within the Central London Area and it lies within a strategic viewing corridor. The site falls outside the designated Neighbourhood Shopping Centre of Lamb's Conduit Street (100m away) and the Central London Frontage of High Holborn, to the south (some 260m way). Theobald's Road is a classified road running from east to west between Gray's Inn Road and Southampton Row. The area benefits from a high level of public transport accessibility; Chancery Lane, Farringdon and Holborn underground stations are in close proximity to the site and a number of bus routes run along Theobald's Road.

### **2.0 THE PROPOSAL**

- 2.1 The application seeks permission for change of use of the retail (A1) floor space in the building, in order for the entire floor space of the ground and basement floors to be in restaurant (A3) use. The proposal would grant self-containment of the ground and basement floors of number 37, which has until recently been amalgamated with the adjacent unit at number 35 and used as a single commercial operation. The kitchen of the proposed restaurant would be located at basement level, along with storage space. The proposed plans indicate that the restaurant would accommodate 12 covers (seated spaces), which would be restricted to the 34.6m<sup>2</sup> ground floor seating area.

2.2 The application also proposes an extraction duct in relation to the cooking operation, which would exit the building at ground floor level at the rear and would be attached to the rear elevation, terminating at a height of 1m above the highest part of the roof.

### 3. RELEVANT HISTORY

3.1 **2006/4663/P:** The installation of a new shopfront and a larger rear rooflight to serve the Class A3 use granted planning permission on 3/7/06 (ref 2006/1080/P). Granted 15/12/2006

3.2 **2006/1080/P:** Change of use of part of the ground floor and basement of No. 37 from retail (Class A1) to restaurant use (Class A3) including alterations to the shopfronts at both No.35 & 37. Granted, 13/12/2012

### 4.0 CONSULTATIONS

#### 4.1 Special Interest Groups

*Bloomsbury Conservation Area Advisory Committee*

4.1.1 No response has been received from the Bloomsbury Conservation Area Advisory Committee.

#### 4.2 Public consultation

4.2.1 An objection has been received from Councillor Olad, which details concerns with the disturbance to neighbouring occupants from the proposed change of use and extraction equipment. In particular, the objection highlights concerns with the change in character from the existing café use, which serves pre-baked goods, compared to the proposed cooking operation, which requires extraction equipment.

4.2.2 A site notice was displayed at the site on 15/05/2015, expiring 05/06/2015, and a press advertisement published on 21/05/2015, expiring 11/06/2015.

<i>Number of letters sent</i>	15
<i>Total number of responses received</i>	8
<i>Number in support</i>	0
<i>Number of objections</i>	4

4.2.3 8 letters of objection have been received from 4 residential flats and are based on the following grounds:

- Noise and disturbance to residential occupiers, both from general activity and the proposed extraction unit;
- Loss of shop and a detrimental impact upon the character of the area;
- Over dominance of food related uses;
- Odour nuisance;

- Fire hazard resulting from grease deposits on the roof of the building; and
- The appearance of the extraction unit would be detrimental to the area.

## 5.0 **POLICIES**

### 5.1 **National and regional policy**

NPPF 2012

London Plan (FALP) 2015

### 5.2 **Local Development Framework**

Core Strategy and Development Policies 2010

CS1 (Distribution of Growth)

CS3 (Other Highly Accessible Areas)

CS5 (Managing the Impact of Growth and Development)

CS7 (Promoting Camden's centres and shops)

CS11 (Promoting sustainable and efficient travel)

CS14 (Promoting High Quality Places and Conserving Our Heritage)

CS18 (Dealing with our waste and encouraging recycling)

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)

DP16 (The transport implications of development)

DP17 (Walking, cycling and public transport)

DP20 (Movement of goods and materials)

DP24 (Securing High Quality Design)

DP25 (Conserving Camden's heritage)

DP26 (Managing the Impact of Development on Occupiers and Neighbours)

DP28 (Noise & vibration)

### 5.3 **Supplementary Planning Documents**

CPG 5 Town Centres Retail and Employment

## 6.0 **ASSESSMENT**

### 6.1 Land use

6.1.1 The application seeks an extension of A3 floor space, although it should be noted that this would comprise a very small area of 13.5m<sup>2</sup>. The application site is located within the Central London Area, but does not fall within any designated shopping frontage or neighbourhood centre, as defined by the adopted LDF (2010). As such, LDF policies DP10 and DP12 are relevant to the consideration of this application.

6.1.2 Policy DP10 seeks to protect small shop units and states that, where shop units are located outside a designated centre, the Council will only allow its loss provided that: alternative provision is available within 5-10 minutes walking distance; there is clear evidence the current use is not viable; and within the Central London Area, the use contributes to local character, function, viability and amenity. In this case, the site is within a 5-10 minute walk of other shopping provision; within the same parade on Theobald's Road; at Lamb's Conduit Street, to the north; and within the Central London Frontage of Holborn, to the south. As such, there is a wealth of

alternative shopping provision in the vicinity and the loss of a very small proportion of retail floor space at the application site is not considered to significantly change the character and function of the area.

- 6.1.3 Policy DP12 primarily seeks to protect the character, function, vitality and viability of neighbourhood centres and designated shopping frontages. However, whilst the application site is neither located within a designated neighbourhood centre nor a designated shopping frontage, DP12 is still relevant in assessing the potential impact on the vicinity and the amenity of neighbouring occupants due to the food and drink nature of the use.
- 6.1.4 The proposed unit comprises 87.4m<sup>2</sup> total floor space set over the ground and basement floors and is very small. As such, the proposal would not lead to any significant concerns about the impact due to the size of the unit. Taking into account the established use of the property, which comprises use of all but 13.5m<sup>2</sup> of the available floor space as a café (A3), the proposal would amount to a very small increase upon the existing arrangement. More importantly, the change in character resulting from a very small loss of retail floor space would not be significant to the character of the parade as a whole. To clarify the uses within the parade that the application site forms part, a survey of the ground floor units has been undertaken and is detailed in the table below:

<b>Building Number</b>	<b>Use</b>	<b>Use Class</b>
25-27	Betting shop	Sui Generis
29	Sandwich bar	A1
31	Hairdressers	A1
33	Sandwich bar	A1
35-37	Café/restaurant (with small A1 element)	<b>A1/A3</b>
39	Health Centre	D1
41	Lettings Agency	A2
43	Hot Food Take Away	<b>A5</b>
45	Shop (Retail)	A1
47	Solicitors	A2
49-51	Conway Hall	D1
53	Travel Agents	A1
57	Sandwich/Salad/Coffee bar	A1
67	Offices	B1

- 6.1.5 Taking into account the range uses within the wider parade on Theobald's Road, which retains significant retail presence, the proposal would not create a concentration of units that would be harmful to the character of the area itself, in terms of its function or residential amenity. In addition to the application site and the adjacent (formerly amalgamated) number 35, there is only one other dedicated food related use within the parade (43 – Hot food Take Away – Use Class A5). It is noted that there are three other units currently serving food within the parade (29, 33 and 57) but these fall within the A1 use class due to their limited cooking

operation (sandwiches, salads and heated foods). In addition, the extended food related use of the site could feasibly contribute to the vitality and viability of the neighbouring area, which primarily protects retail function the overarching objectives of policy DP12.

6.1.6 On balance, it is considered that the grant of planning permission in this case would not cause harm to the character and function of the area, or to neighbouring designated areas, and is considered to be acceptable in these terms.

## 6.2 Design

6.2.1 Policy DP24 requires all developments to be of the highest standard of design and to consider the character and constraints of the site and impact on views and vistas. In addition, CPG1 suggests that in assessing building service equipment where, because of its nature, it cannot be integrated within the building should not be a dominant feature of the building and cause visual blight.

6.2.2 The proposed extraction unit would be located at the rear of the property in an area enclosed by neighbouring buildings. The duct would be visible from neighbouring properties but would not appear out of character in the immediate vicinity given the commercial nature of buildings and the presence of existing air conditioning units. The proposed duct, in this context, would not significantly harm the appearance of the host building or the surrounding area.

## 6.3 Residential Amenity

6.3.1 Both policies DP12 and DP26 require that the amenity of neighbouring occupants be adequately protected from the harmful impacts of proposed development. DP12 sets out a wide range of considerations on the principle of new food and drink uses, summarised as follows:

- a) *the effect of non-retail development on shopping provision and the character of the centre in which it is located;*
- b) *the cumulative impact of food, drink and entertainment*
- c) *the impact of the development on nearby residential uses and amenity*
- d) *parking, stopping and servicing;*
- e) *noise and vibration;*
- f) *fumes;*
- g) *the potential for crime and anti-social behaviour, including littering.*

These matters have been considered in providing this recommendation, as follows:

### *General disturbance/cumulative impact*

6.3.2 There are a number of residential units occupying upper floors of buildings within the same parade on Theobald's Road, with the nearest residential flat being located on the upper floors of the application building. The existing use of the ground and basement floors of the building includes a large proportion of A3, which until recently had been amalgamated with number 35 and had operated for a number of

years. The proposal incorporates the subdivision of the units, which would separate their operation. The existing use is curtailed by opening hours, which the applicant proposes to maintain as part of the proposed use. The approved opening hours are 07.00 – 23.00 hours Mondays – Saturdays and 07.00 – 21.00 hours on Sundays and Bank Holidays. A condition restricting the proposed use to the established hours above is recommended and would maintain the existing arrangement.

- 6.3.3 The general activity associated with the use, the potential for people to gather on the pavement outside the building and the resulting impact upon the amenity of residential occupants has been considered. The established use of the ground floor includes A3 use within restricted hours and this could continue without the requirement for a planning application. As such, whilst it is accepted that activity may change with new ownership, the likelihood of people gathering outside (in arriving, leaving or smoking) would remain unaltered from the existing arrangement when taking into account the permitted use of the building. This application proposes to remove the small amount of retail floor space at the front of the unit and the small increase in A3 floor space is not considered to be significant in terms of disturbance, given that the resulting increase in covers would not be significant.
- 6.3.4 In the interest of the amenity of neighbouring occupants, a condition is recommended to ensure that any music played in association with the operation is controlled.

#### *Noise from extraction equipment*

- 6.3.5 The Environmental Health Officer has considered the submitted Acoustic Report in relation to proposed external duct and considers that there would be no significant noise disturbance to neighbouring residential occupiers. However, conditions are recommended to ensure that the unit performs to the acoustic standards outlined in the submitted report, when installed, and maintained in accordance with the submitted performance specification. This is considered to suitably control the impact of the extraction unit upon neighbouring occupants and would therefore meet policy objectives.

#### *Odour*

- 6.3.6 The Environmental Health Officer has confirmed that there is no specific concerns with regard to odour and that the proposed unit specification. The proposed unit specification, coupled with the unit discharge above roof level, would ensure neighbouring occupants are not significantly impact by odours generated by the cooking operation within the proposed restaurant. It is acknowledged that there is a roof light located within the valley on the roof the building, which is used for ventilation of the residential flat above the ground floor unit. The Environmental Health Officer has confirmed that the proposed unit, which includes carbon filtration, would prevent odour nuisance to all neighbouring windows, including the roof light. Conditions are recommended to ensure that the unit is installed in accordance with the submitted details and that its performance is maintained for as long as the unit is in operation.

#### 6.4 Servicing

6.4.1 The site has very good public transport accessibility (PTAL 6a). The main issue in terms of transport is the impact of servicing the restaurant (deliveries and refuse and recycling collection on the transport network). Given the size of the proposed A3 use it is not anticipated that a significant level of deliveries and servicing activity would be likely to take place. The proposal is considered to be acceptable in transport terms.

#### 6.5 Refuse/Recycling

6.5.1 It is considered that there is sufficient space within the ground floor unit to accommodate the necessary refuse/recycling storage requirements for the food and drink use, however a condition would be included to secure details of the refuse and recycling storage prior to commencement of the use.

#### 6.6 CIL

6.6.1 The existing shop unit had been occupied for its lawful use for 6 months of the 12 previous months and no additional floor area is proposed. Given this, it is not considered that a CIL payment would be required.

### 7. **CONCLUSION**

7.1 This proposal comprises minor alterations to the existing arrangement, deriving from splitting two amalgamated units and changing the use of a very small amount of floor space (13.5 m<sup>2</sup>). Taking into account that the unit already has permission predominantly for A3 use, the cooking and sale of food could continue on site without the requirement for planning permission. The main considerations for this application focus specifically upon self-containment, the small increase in A3 floor space and the proposed extraction equipment.

7.2 Land use has been fully considered, including the loss of retail floor space cumulative impact of food related uses in the vicinity. The site does not fall within a designated shopping frontage and retail floor space is not protected providing there is alternative retail offer within 5 minutes walk. The parade, of which the application site forms part, would retain significant retail presence and would not include large groups of A3 uses.

7.3 The impact of the proposed extraction equipment upon the character and appearance of the Bloomsbury Conservation Area is considered to be acceptable. The area is commercial in nature and its character comprises other commercial servicing equipment to the rear of buildings in the parade. As such, the proposed equipment is not considered to be detrimental to the general appearance of the area.

7.4 In terms of residential amenity, the proposed exclusive use of the unit for A3 purposes would not be significantly different to the permitted mixed A3/A1 use. The imposition of a restrictive opening hours condition, which maintains the permitted opening hours, would prevent any significant impact upon residential amenity resulting from general operation. In addition to this, the application adequately



demonstrates by way of submitted information, that the proposed extraction equipment would prevent noise and odour nuisance. This is secured by conditions ensuring that the equipment would be installed and maintained in accordance with the details, as submitted and assessed.

- 7.5 Planning permission is recommended subject to conditions to ensure residential amenity is adequately protected.

## 8. LEGAL COMMENTS

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

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).

- 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 policy 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: 140905-01-P1; 140905-02-P1; 140905-03-P1; Noise Assessment Report - 3204-R1, produced by Clover consultants; 140905/SH, October 2014; Multicarb Activated Carbon Discarb Unit Specification; and 450-630mm Diameter Square Mix Flow Fan Extraction Motor Unit Details.

Reason:

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

- 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 Prior to commencement of any hot food cooking, the odour & fume control and associated plant equipment shall be installed in accordance with the approved details and fitted with the noise and vibration attenuation measures recommended in report ref: 3204-R1. All such measures shall thereafter be retained and maintained in accordance with the manufacturers' recommendations.

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.

- 6 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 [if A3/A4/A5 use] of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 and DP12 the London Borough of Camden Local Development Framework Development Policies.

7. The use of the premises and the operation of the extract duct hereby permitted shall not be carried out outside the following times 07:00 - 23:00 hours Mondays - Saturdays and 07:00 - 21:00 hours on Sundays and Bank Holidays.

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 policy DP26, DP28 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

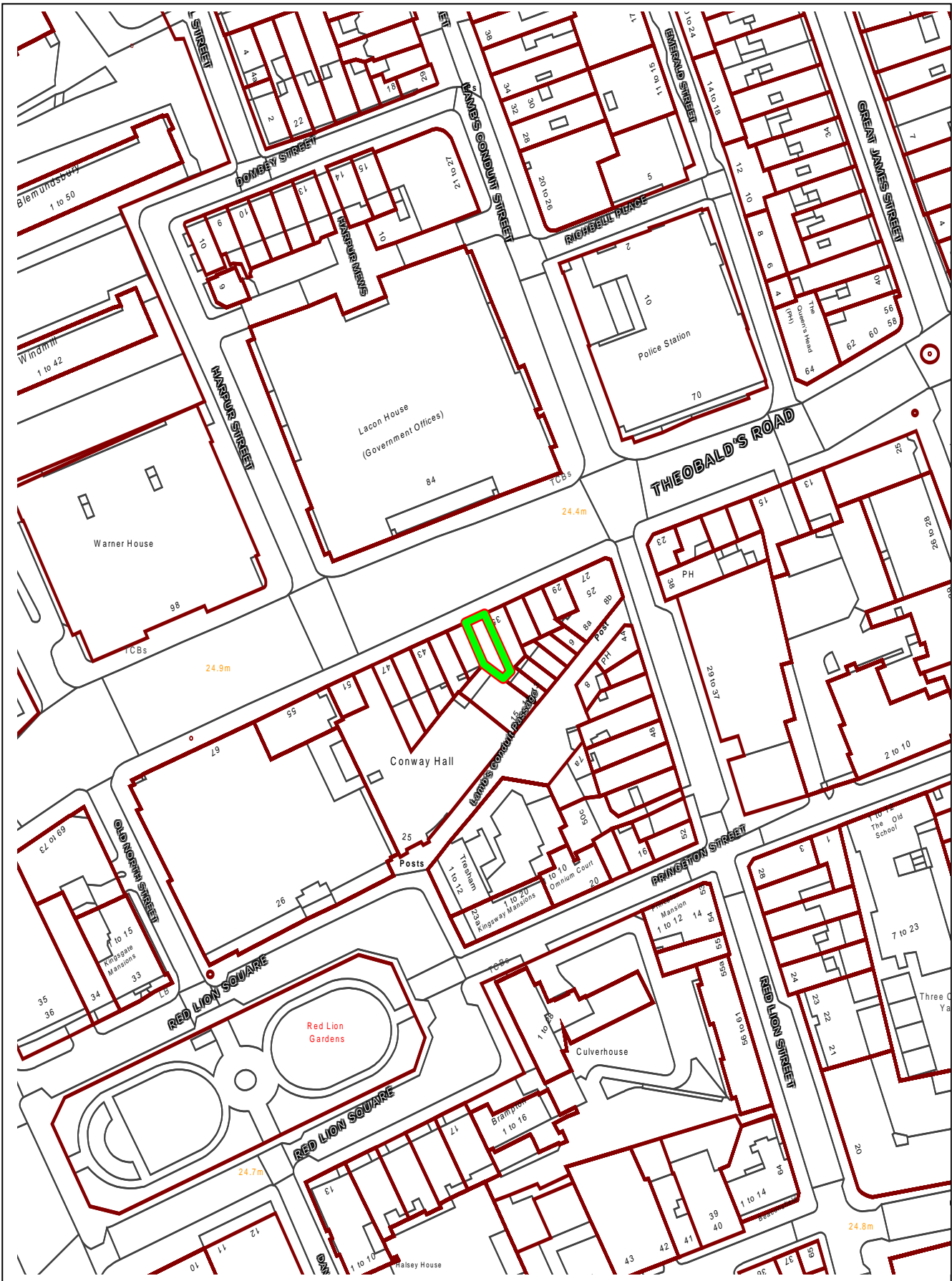
- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building 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-](http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en)

[contacts/environment/contact-the-environmental-health-team.en](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 You are advised that condition 7 means that no customers shall be on the premises and no noise generating activities associated with the use, including preparation and clearing up, shall be carried out otherwise than within the permitted time.
- 4 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 of cooking fumes and smells.
- 5 You are reminded that filled refuse sacks shall not be deposited on the public footpath, or forecourt area until within half an hour of usual collection times. For further information please contact the Council's Environment Services (Rubbish Collection) on 020 7974 6914/5. or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-street-environment-services.en>.



**Application No: 2014/6674/P**

**37 Theobalds Road  
London  
WC1X 8SP**

**Scale:  
1:1250  
Date:  
8-Jul-15**



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# 37 Theobald's Road - Site Location Plan

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Site frontage with adjacent (formerly amalgamated) 35 Theobald's Road

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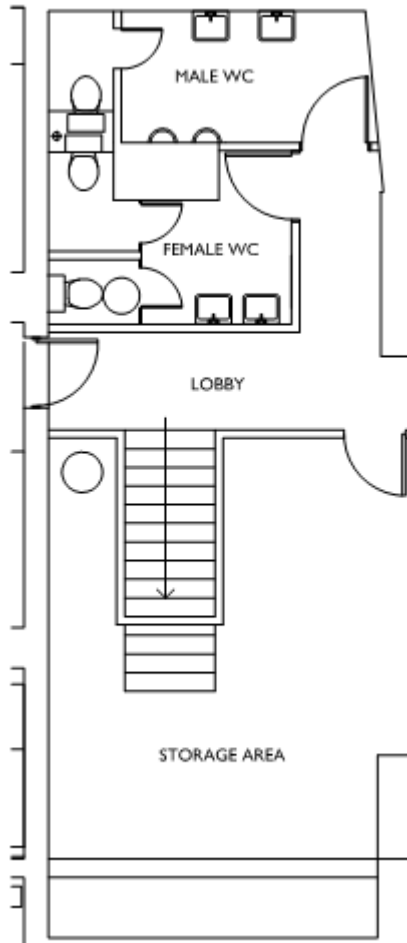
View of rear elevation via ground floor roof lights



View of rear elevation to existing air conditioning units at 35 Theobald's Road

# Existing and Proposed Basement Level

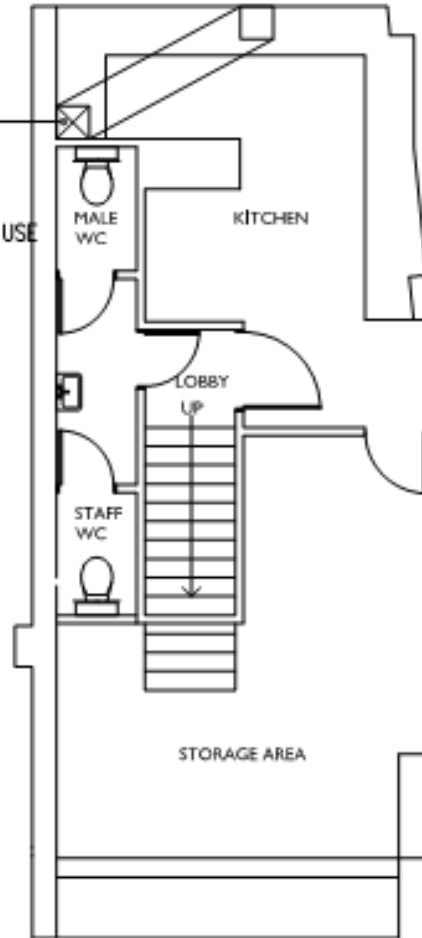
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Existing

NEW EXTRACT DUCT  
AND A FAN UNIT  
800X800X800  
( REF: SMVW-560/4)  
BELOW FOR CHANGE OF USE

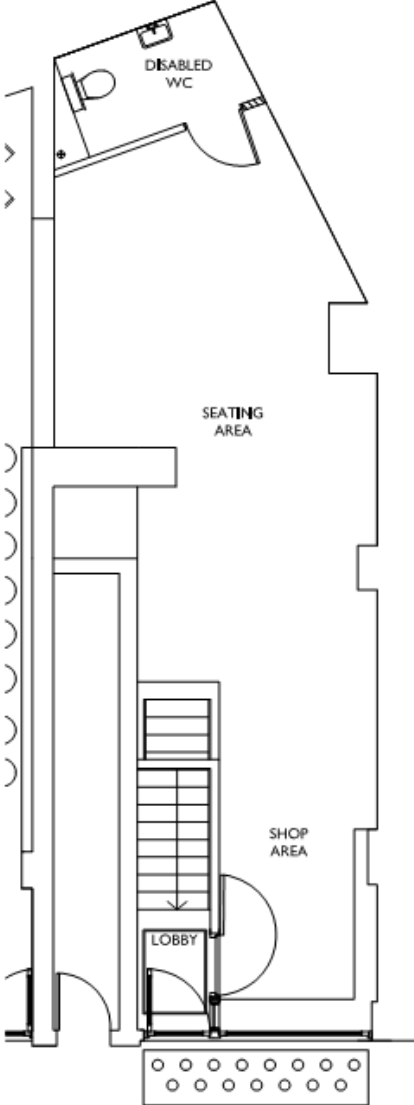
NEIGHBOURING PROPERTY



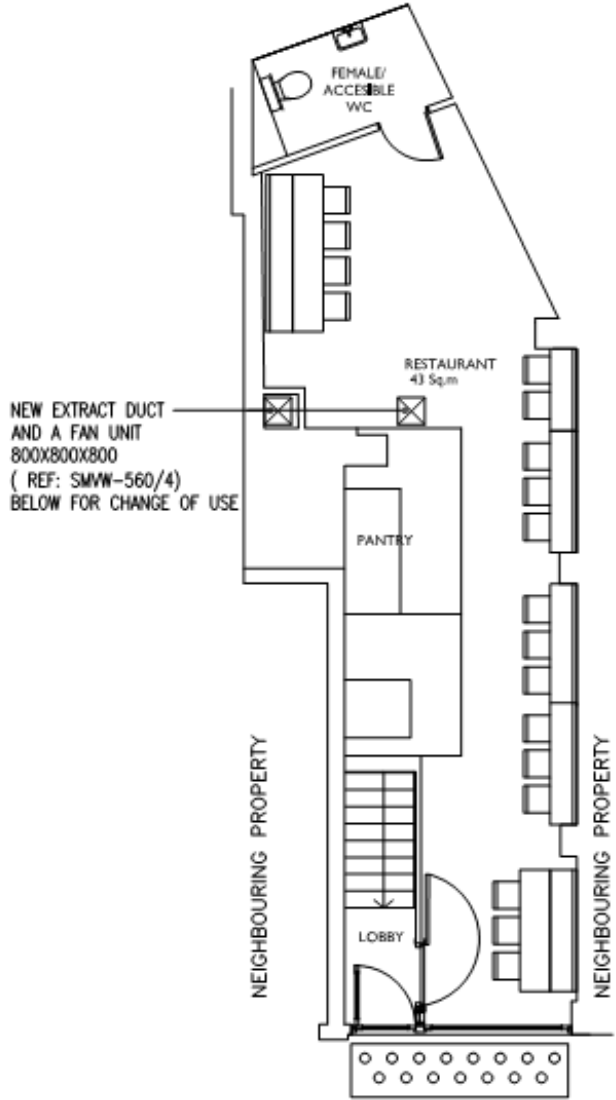
Proposed



# Existing and Proposed Ground Floor Level



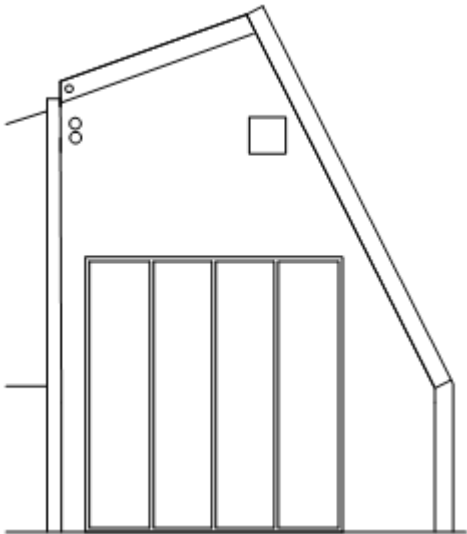
Existing



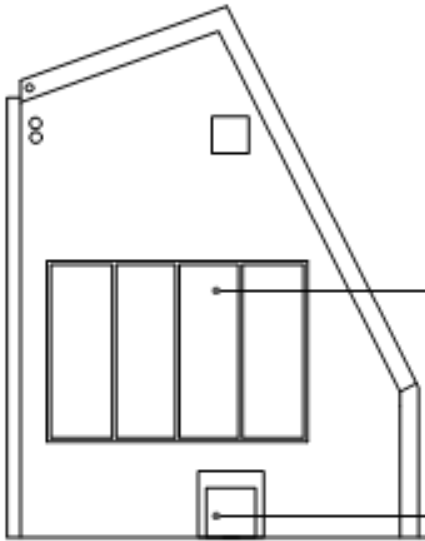
Proposed

# Existing and Proposed Ground Floor Roof Plan

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Existing



EXISTING SKYLIGHTS IS TO BE MODIFIED

NEW EXTRACT DUCT AND A FAN UNIT 800X800X800 ( REF: SMVW-560/4) BELOW FOR CHANGE OF USE

Proposed

# Existing and Proposed Rear Elevation

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Existing



EW EXTRACT DUCT  
4D A FAN UNIT 800X800X800  
REF: SMW-560/4)  
FLOW FOR CHANGE OF USE

Proposed