

Delegated Report		Analysis sheet		Expiry Date:	22/03/2017
		N/A		Consultation Expiry Date:	02/03/2017
Officer			Application Number(s)		
Tessa Craig			2017/0220/P		
Application Address			Drawing Numbers		
317 Gray's Inn Road London WC1X 8PX			Cover Letter, Location Plan, Site Plan/Block Plan, CDL/317/1, CDL/317/2 and Noise Impact Assessment Report.		
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):		Grant Prior Approval			
Application Type:		GPDO Prior Approval Determination			
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice			
Informatives:					
Consultations					
Adjoining Occupiers:	No. of responses	00	No. of objections	00	
	No. electronic	00			
Summary of consultation responses:		A site notice was displayed on 07/02/2017 and a press notice was advertised on 09/02/2017.			
CAAC/Local groups* comments: *Please Specify		N/A			

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.

2016/2480/P- GPDO application- Change of use of ground and basement floors from A1 (retail) to A3 (restaurant) use and installation of associated extractor duct at rear. Refused, 16/06/2017.

Appeal of GPDO application 2016/2480/P- APP/X5210/W/16/3153744- Dismissed. The Inspectorate concluded:

'although I do not consider that the proposal would be harmful to the sustainability of the shopping area, it has not been demonstrated that the noise impacts of the development would be acceptable and that the proposal would not adversely affect the living conditions of the occupiers of nearby residential properties having regard to noise'.

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 been provided to support the proposed change of use.

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 now submitted a noise report. It is considered the proposal would not be harmful in terms of noise.

(b) odour impacts of the development,

As noted, the applicant proposes to install appropriate extraction equipment including a ventilation duct in the rear elevation. 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. The Licensing Team will enforce operating hours.

(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. 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.

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.

The Planning Inspectorate commented in the appeal of GPDO application 2016/2480/P APP/X5210/W/16/3153744:

As stated the appeal site comprises an existing ground floor retail use located within a terrace containing other ground floor commercial uses generally comprising a mixture of A1 and A3 uses. It is located within a designated Central London Frontage Area and at the time of my visit the area was busy with pedestrians.

Though not referred to in the reasons for refusal, the Council has made reference to a number of its development plan policies and to supplementary planning guidance within the officer report and I have been provided with copies of these policies and guidance. I have taken these into account where appropriate however the provisions of the GPDO are that the prior approval that is the subject of this appeal should be determined having regard to the National Planning Policy Framework (the Framework) so far as it is relevant to the subject matter of the prior approval. Therefore in the determination of the appeal, the Council's policies and guidance have not been decisive.

The Council and the appellant have provided a list of the existing uses within the terrace and whilst

these are the same, there is some disagreement as to how to treat uses that occupy double frontages with the Council counting them as one unit and the appellant counting them as two. Using the Council's methodology the proposed change of use would result in the percentage of non-retail uses within the terrace exceeding 50% whilst the appellant's methodology would result in non-retail uses accounting for 50% of uses within the terrace.

The appeal site is in use as a convenience store and at the time of my visit I noted that there are a number of other convenience stores within the terrace. Consequently the loss of the existing retail use would not result in the loss of such provision within the area. Additionally having regard to the mix of uses within the terrace and to the character of the immediate surrounding area, I do not consider that the loss of the small retail unit proposed and its replacement with a restaurant would adversely affect the sustainability of the shopping area. Though the proposal would mean that there would be slightly more non-retail units within the terrace than retail, having regard to the larger frontages of two of the retail units, I do not consider that this would be harmful to the retail function of the area.

Though I note that the Council's Supplementary Planning Document CPG5 states that planning permission will not be granted for further loss of retail on Gray's Inn Road, as previously stated, the Council's policies and guidance are not decisive. Paragraph 17 of the Framework sets out core planning principles and states that planning should proactively drive and support sustainable economic development and should take account of the different roles and character of different areas, promoting the vitality of our main urban areas. For the reasons stated above, I do not consider that the proposal would be harmful to the character, function, vitality or viability of the shopping area.

Therefore, it can be concluded the change of use would not harm the function of the frontage and given the noise impact is now acceptable, it is recommended prior approval be granted.

(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

5.1 Grant Prior Approval.