

Delegated Report (Refusal)		Analysis sheet	Expiry Date:	30/03/2017
		N/A	Consultation Expiry Date:	01/03/2017
Officer		Application Number(s)		
Tessa Craig		(i) 2017/0667/P (ii) 2017/1460/A		
Application Address		Drawing Numbers		
121 Kentish Town Road London NW1 8PB		See Decision Notices		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
(i) Change of use from A1 Shop to A3 Restaurant, installation of extraction system to rear the rear and various other external alterations including to the shopfront.				
(ii) Display of internally illuminated fascia sign.				
Recommendation(s):		(i) Refuse Planning Permission (ii) Refuse Advertisement Consent		
Application Type:		(i) Full Planning Permission (ii) Advertisement consent		

Conditions or Reasons for Refusal:	Refer to Decision Notice			
Informatives:				
Consultations				
Adjoining Occupiers:	No. of responses	02	No. of objections	02
	No. electronic	02		
Summary of consultation responses:	A site notice was displayed on 08/02/2017.			
CAAC/Local groups* comments: <small>*Please Specify</small>	<p>Rochester CAAC - objected to the proposal:</p> <ul style="list-style-type: none"> • Property within flood risk zone • Loss of non-residential floorspace; • Proposes changes to advertisement requiring advertisement consent; • No design and access statement; • Property not presented within its context; • Existing shopfront does not have planning permission; • Shopfront does not accord with design guidance; • Design does not comply with noise report recommendations; • No marketing evidence to support change of use provided; • Waste disposal inadequate for proposed use; • Property is not wheelchair accessible. <p>Kelly Street Residents Association - support Rochester CAACs objection and would like to see a more traditional shop front.</p>			

Site Description

The ground floor is currently in A1 use with a studio flat at first floor level. The site is on the western side of Kentish Town Road and is part of a terrace of properties which runs from the junction with Castle Street and Royal College Street to the north, to the junction with Farrier Street to the south. It is not within a conservation area and the building is not listed, but is on Camden's local list (Ref 37 historical and townscape significance). It is within the Kentish Town Centre, and falls within a secondary shopping frontage. There is also an Article 4 direction for the property removing permitted development rights for change of use from B1a office use to C3 residential use.

To the rear of the site lies an area of hardstanding that provides 6 off streetcar parking spaces and vehicular access to Castle Place. The rear elevation of the host building is visually prominent from this parking area which is well accessed.

Relevant History

September 1997: (Ref: PE9700706) refused for "Ground floor single storey rear extension, additional second storey to provide maisonette on first and second floor with new shop fronts providing separate access to maisonette".

August 1998: (Ref: PE9800585) granted for "The erection of a single storey flat roofed rear extension to provide additional retail (A1) space".

May 2004: Planning application (Ref: 2004/1805/P) granted for "Erection of a single storey rear extension to ground floor retail accommodation and external alterations to the front elevation in connection with a new entrance doorway to the upper floor residential unit and replacement double glazed windows".

April 2013: Planning application (Ref: 2013/1646/P) refused for "Erection of first floor rear extension in connection with enlargement of existing flat, and additional storey to form second floor to provide an additional residential unit (Class C3)".

April 2014: Planning application (Ref: 2014/2721/P) refused for "Erection of first floor rear extension and mansard roof to create 2 bedroom maisonette".

Relevant policies

National Planning Policy Framework (NPPF) 2012

LDF Core Strategy and Development Policies

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centres and shops)

CS8 (Promoting a successful and inclusive Camden economy)

CS18 Recycling and waste storage

CS19 (Delivering and monitoring the Core Strategy)

DP2 (Making full use of Camden's capacity for housing)

DP6 (Lifetime homes and wheelchair homes)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

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)

Camden Planning Guidance

CPG 1 Design (2015)

CPG 5 Town centres, retail and employment (2013)
CPG 6 Amenity (2011)

Camden Local Plan Submission Draft 2016

The emerging Local Plan is reaching the final stages of its public examination. Consultation on proposed modifications to the Submission Draft Local Plan began on 30 January and ended on 13 March 2017. The modifications have been proposed in response to Inspector's comments during the examination and seek to ensure that the Inspector can find the plan 'sound' subject to the modifications being made to the Plan. The Local Plan at this stage is a material consideration in decision-making, but pending publication of the Inspector's report into the examination only has limited weight.

Relevant policies:

G1 Delivery and location of growth
E1 Promoting a successful and inclusive Camden economy
E2 Employment premises and sites
A1 Managing the impact of development
A4 Noise and vibration
D1 Design
D2 Heritage
TC2 Protecting and enhancing Camden's Centres and other shopping areas
TC4 Food, drink, entertainment and other town centre uses
T1 Prioritising walking, cycling and public transport
T4 Promoting the sustainable movement of goods and materials

Kentish Town Neighbourhood Plan 2016

SW1 Supporting small businesses
SW2 Protection of secondary shopping frontages
D3 Design principles
D4 Non-designated heritage assets

Camden's Local List January 2015

Page 15 Ref 379

Assessment

1. Proposal

(i) Planning Permission

- 1.1 The proposal is for the change of use from retail (A1 use) at ground floor (76m²) and basement (35 m²) to a restaurant (A3 use). The unit is currently vacant and the applicant claims that it has been since March 2016. There would be a takeaway element involved as part of the proposal; however, planning permission for an A5 (takeaway) would not be required as long as it remains as ancillary to the restaurant. The applicant states that the takeaway service would be offered to customers via telephone orders who would come in and pick up their orders. This would be from a counter area adjacent to the kitchen.
- 1.2 The proposal includes installation of rear extraction ductwork. The duct would extend horizontally along the roof of the ground floor rear projection and vertically up the rear of the main building. It would measure 40mm in length, 400mm in width, 8.4m in height (4.5m total length) and would terminate at the ridge of the roof. An acoustic report has been submitted to support the proposal.
- 1.3 Other works include the painting of the existing shopfront in grey and the external walls of the façade would be rendered and painted grey. An existing lean-to extension at the rear of the

site would be demolished; however, these works would not require planning permission. Notwithstanding this, the demolition is acceptable as the extension is a modern addition of no historic merit and its removal is not objectionable.

(ii) Advertisement Consent

1.4 Advertisement consent is sought for an internally illuminated fascia sign. It would measure 5.5m in length by 800mm in height by 125mm in depth and would replace the existing fascia sign. It would be internally illuminated at 1,000 cd/m.

2. Assessment

2.1 The principal considerations material to the determination of this application are summarised as follows:

- Land use;
- Design
- Residential amenity;
- Plant/extraction Equipment
- Transport;
- Waste Storage;
- Design and Appearance.

Land Use

2.2 Policy CS7 of the Council's Core Strategy seeks to protect and enhance Camden's existing centres, and in the case of Town Centres seeks to resist development that would harm their primary role in providing local people's day-to-day needs for convenience and comparison shopping. Development that would result in less than half of the ground floor premises in a given frontage being in retail use would be resisted.

2.3 Policy DP12 states that the Council will consider the impact of food and drink related uses on nearby residential uses and amenity and noise and vibration generated inside or outside the site. In order to manage the potential harm to amenity or the local area, the Council will use planning conditions to address hours of operation, noise and vibration and the siting of plant and machinery.

2.4 CPG 5 'Town Centres, Retail and Employment' provides specific guidance on non-retail uses within Kentish Town Road. The Council will resist proposals that would result in less than 50% of the premises in Secondary Frontages being in retail use (A1). The percentage is calculated on the individual frontage, not the centre as a whole. In this case, the frontage is the 20 units from 97 to 135 Kentish Town Road between Farrier Street and the converted ex-tube station at the corner of Castle Road.

2.5 In accordance with policy DP12 of Camden Development Policies, the Council will seek to prevent concentrations of uses that would harm a centre's attractiveness to shoppers or its residential amenity. The Council will generally resist proposals that would result in more than 3 consecutive premises within the Secondary Frontages being in non-retail use.

2.6 The subject site is located within a secondary frontage of 20 commercial properties between Farrier Street and the converted ex-tube station at the corner of Castle Road. A site visit was carried out on Thursday 2nd March, to establish the existing mix of uses within the frontage. This was verified against the Council's planning records to establish the lawful uses within this part of the Core Frontage as well as the information provided on Camden's retail survey 2015. The lawful uses are as follows:

Occupants	Address	Use Class
Pangs Chinese Takeaway	135 Kentish Town Road	A5
Pangs Fish and Chips	133 Kentish Town Road	A3
Beauty Mark	131 Kentish Town Road	A1
Anima Cuore Ice Cream Parlour	129 Kentish Town Road	A3
Redwood House	127 Kentish Town Road	A2
Payless Food and Wine	125 Kentish Town Road	A1
Mirshahi Finance	123 Kentish Town Road	Sui generis
Squadron HQ Army Surplus (subject site)	121 Kentish Town Road	A1
Off License	119 Kentish Town Road	A1
Lazy Hunter Restaurant	117 Kentish Town Road	A3
Arancini Factory Cafe	115 Kentish Town Road	A3
Camden Carpets	113 Kentish Town Road	A1
Coin-op Laundry	111 Kentish Town Road	Sui generis
Vacant	109 Kentish Town Road	A1
Vacant	107 Kentish Town Road	A1
Vacant	105 Kentish Town Road	A1
AA Locksmiths	103 Kentish Town Road	A1
Z Café	101 Kentish Town Road	A3
New York Pizza	99 Kentish Town Road	A5
Police Station	97 Kentish Town Road	Sui generis

2.7 The key test, as stated in policy DP12, is whether the loss of retail floorspace would serve to erode or undermine the character, function, vitality and viability of the frontage. Policy CS7(e) of the LDF Core Strategy seeks to 'protect and enhance the role and unique character of each of Camden's centres' and emphasises the importance of a centre that provides convenience and comparison shopping.

2.8 From the table above, 45% of the uses are currently A1 and 35% of the uses are A3 or A5 (25% and 10%). As a result of the proposed change of use, 40% of the frontage would be A1 retail use and 30% A3.

2.9 The applicant has provided the following to support the change of use from A1 (retail) to A3 (restaurant):

- An email from the agent to advise the property has been vacant since 31st March 2016 ;

- That the property had advertising on all fronts from April 2016;
- That a Tattoo Artist did not agree to the terms;
- A link to an advertisement on Christo & Co (estate Agents) website with the advertisement for the letting and an image of Co Star ShopProperty website.

2.10 The number of A1 units is already below 50% within the secondary shopping frontage and the change of use at the subject site would further reduce the number of A1 units. It is considered that the loss of the A1 use would further erode and undermine the character, function, vitality and viability of the frontage. The evidence provided by the applicant is not sufficient to demonstrate that the A1 use is no longer suitable for continued use; therefore, the change of use has and harm to the retail function of the area is unacceptable. Para 2.9 of CPG5 states that where a planning application proposes the loss of shop in retail use, the Council will consider whether there is a realistic prospect of such a use continuing. The onus to demonstrate this is on the applicant and sufficient evidence is required to show whether there is a realistic prospect of demand to use a site for continued use. CPG5 sets out the level of details that are required to support an application involving the loss of retail including details of where and how the premises was advertised and the feedback gained from interested parties. Very little information has been submitted in terms of marketing evidence and justification. Furthermore, the applicant made it clear that a decision to the planning application was urgent as the leaseholder has recently come to the end of their rent-free period. The fact that the applicant was not under financial pressure to find a retailer to occupy the property might be a reason for the applicant not settling for a replacement within the permitted use class (i.e. they may have been holding on to the site to try and secure a more long-term restaurant use rather than another short-term retailer). The applicant also mentions that many of the previous retail tenants were for short-terms with none seeking to secure a longer lease or lasting for significant periods of time. The fact that the premises has previous been occupied by retailers is an indicator that it is suitable for this continued use. The applicant has not presented any meaningful evidence as to whether the site would be suitable for retail use, whether on a short-term or long-term basis.

Design

2.11 The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy DP24 are relevant to the application: development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used. Policy DP30 relates to shopfronts and expects a high standard of design in new and altered shopfronts, canopies, blinds, security measures and other features.

2.12 The local listing for the property states: *Terrace of 7 two and three storey houses on west side of Kentish Town Road, of early 19th century date, and formerly known as Providence Place. They replace 18th century timber houses on the same site and the irregular rear site boundary reflects the line of a tributary of the fleet. Whilst they have been much altered, and have lost original features such as 6 over 6 timber sash windows, they represent the historic origins and village character of Kentish Town which is rarely visible now, and as a group have historic and townscape interest.*

2.13 CPG1 Design advises (para 7.12 page 65):

- The fascia should be of a suitable size and proportion in relation to the building and should not normally extend above the cornice or below the capital as it would upset the overall balance and proportions of a shopfront or parade;
- Deep box fascias which project beyond the shopfront frame should be avoided.

- 2.14 The external changes include an internally illuminated fascia sign, rendering of the shopfront and a ventilation duct at the rear. The existing shopfront is not considered to be of significant merit. It is currently clad in hanging tiles and their removal and the rendering/painting of the shopfront is not objectionable. The lawfulness of the existing fascia signage is not known; however, despite its drawbacks it does not extend across the full width of the shopfront and is set below the windowsills above. The proposed fascia sign would project beyond the façade, have external projecting lettering, be internally illuminated and extend across the full width of the façade infilling the area between the ground and first floor windows. The combination of these factors would create a visually prominent and poorly designed fascia sign that would detract from the character and appearance of the shop and the surrounding parade.
- 2.15 The proposed ductwork at the rear would be visually incongruous in appearance and widely visible from Castle Place at the rear of the site. Overall, it is considered to be overly large and unsympathetic to the rear elevation of the property and forms a reason for refusal.

Residential Amenity

- 2.16 Policy DP12 states that the Council will consider the impact of food and drink related uses on nearby residential uses and amenity and noise and vibration generated inside or outside the site. In order to manage the potential harm to amenity and the local area, the Council will use planning conditions to address hours of operation, noise and vibration and the siting of plant and machinery.
- 2.17 The nearest residential properties are located on the upper floors of the host and surrounding buildings (include one residential unit directly above the proposal). The proposed hours of operation have been indicated as 11:00-23:00 Monday to Sundays and public holidays. Kentish Town Road is a busy street with other shops in the frontage open past 23:00. It is considered that providing the operating hours are adhered to and with the use of a condition that no music be played on the premises in such a way as to be audible within any adjoining premises, the impact in terms of noise from the use would be acceptable.
- 2.18 The proposed duct is not considered to impact on the outlook of the flat above as it shall be located between their rear facing windows.

Plant/Extraction Equipment

- 2.19 An acoustic report has been submitted to accompany the application which has been assessed by the Council's Environmental Health Officer. A condition would be imposed, if the development were deemed acceptable, requiring noise level emitted from all plant/machinery/equipment to be lower than the lowest existing background noise level by at least 10dBA (in accordance with BS4142:2014). Furthermore, in the event of a successful decision a condition would be required to ensure the plant, equipment and ducting would be mounted with proprietary anti-vibration isolators and fan motors and to be vibration isolated from the casing and adequately silenced and maintained thereafter.

Transport

- 2.20 Policy DP12 considers the effect of the food and drink uses in terms of parking, stopping and servicing. In terms of transport matters, it is considered unlikely that there will be any net increase in scale of transport impacts from the proposed restaurant (Class A3) use. It is likely most customers would arrive and leave using public transport (bus stops are located nearby). The site has a PTAL rating of 6(b) indicating excellent access to public transport. No onsite parking is available to staff or customers and therefore no parking issues are considered to occur.

Waste and refuse

2.21 Policy CS18, seeks to ensure developments include facilities for storage and collection of waste and recycling together with this. Policy DP12 seeks to ensure the storage and disposal of refuse is managed to safeguard the amenity of the surrounding area. It is considered that there is sufficient space within the basement floor to accommodate the necessary refuse/recycling storage requirements for the proposed use.

3. Recommendation

3.1 Refuse planning permission and advertising consent.