

# Planning Statement

## **Change of Use to Class A3**

59 Chalk Farm Road

London

NW1 8AN

May 2017

London Borough of Camden

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# 1. Introduction

- 1.1 This Planning Statement has been prepared by Plainview Planning in support of a full planning application for the change of use of 59 Chalk Farm Road to a Class A3 use.
- 1.2 The current occupier is Sea Fire Grill, who commenced trading from the application site on 9<sup>th</sup> September 2016. Sea Fire Grill can operate from the unit as a Class A3 use for a temporary two-year period as a result of amendments to the General Permitted Development Order in respect of flexible use classes. This A3 use would cease in September 2018 and revert to the original A1 use. Consequently, a change of use is required to facilitate the permanent operation of the unit under Class A3.
- 1.3 Sea Fire Grill is a restaurant that specialises in offering the finest steak, seafood and gourmet burgers. Sea Fire Grill is HMC Halal approved. A copy of the menu is contained in Appendix A.
- 1.4 Considering national, London and Camden planning policies, this Planning Statement will demonstrate that the permanent Class A3 Use is appropriate and acceptable at this location, and would not have a detrimental impact upon the primary retail function of the town centre.



## 2. Site Context

### **Site and Surroundings**

- 2.1 The application site is located at 59 Chalk Farm Road, which forms a small shop unit within the designated Camden Town and 1-89 Chalk Farm Road (East Side) Core Frontage. The unit is 64 sq m in size and has a street frontage width of just 4.5 metres.
- 2.2 The shop unit is single storey, and forms part of a terrace comparable retail units along Chalk Farm Road. Approximately 10 metres to the rear, the building increases in height to 2 storeys, with a residential flat is located on the upper floor. This relationship continues along the street, however the height of the rear building block increases to three storeys to the rear of the neighbouring shop units to the south of the application site.

### **Planning History of 59 Chalk Farm Road**

- 2.3 The current occupier, Sea Fire Grill, began operating from the application site on 9<sup>th</sup> September 2016. They can operate from this unit for a period of 2-years as a result of amendments to the General Permitted Development Order in respect of flexible use classes (Statutory Instrument 2013 No. 1101, Class D).
- 2.4 In November 2016, the applicant was granted a temporary license to use the forecourt for 2 tables, 8 chairs and 4 barriers (Ref: 2016/5401/TC).



### 3. Planning Policy Considerations

- 3.1 Sea Fire Grill is permitted to be operate from the unit under a 'flexible use' for a temporary period of up to two years. However, this use would cease in September 2018, and the unit would return to Class A1 use. A change of use is now sought to facilitate the permanent operation of the unit under Class A3.
- 3.2 The detailed planning considerations are set out below, taking into account the planning requirements set out in the National Planning Policy Framework, the London Plan, the Camden Core Strategy and Development Policies DPD (2010) and the Camden Planning Guidance.

#### **Land Use**

##### *Planning Policy*

- 3.3 Paragraph 17 of NPPF encourages sustainable economic development and promotes the vitality of urban areas. Paragraph 19 of NPPF states that planning should operate to encourage and not act as an impediment to sustainable growth. Annex 2 of the NPPF identifies restaurant as a main town use.
- 3.4 The London Plan is also supportive of a diverse retail offer within town centre locations. Policy 4.8 of London Plan, which relates to retail development, seeks to ensure there is a broader vitality and viability and retail diversity. Policy SPG 1.2 of the Mayor's Town Centre SPG recognises the positive contribution a restaurant can make to a town centre.
- 3.5 Policy CS7 of the Camden Core Strategy seeks to resist the loss of shops where this could cause harm to the character and function of a centre. Part (e) seeks to protect and enhance the role and unique character of each of Camden's centres, ensuring that new developments are of an appropriate scale and character for the centre in which it is located. Part CS7(f) states that the Council will be providing for, and maintaining, a range of shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice within the town centres.



- 3.6 Policy DP10 of the Camden Core Strategy seeks to encourage the provision of small shop premises suitable for small and independent businesses.
- 3.7 Policy DP12 of the Camden Core Strategy acknowledges new shops, services, food, drink and entertainment uses can add to the vitality and vibrancy of Camden's centres and local areas, but they seek to ensure that such uses do not cause any potential harmful impact on the residents and the local area.
- 3.8 Paragraph 3.6 of CPG5 'Town Centres, Retail and Employment', states that the Core Shopping Frontages, which includes Chalk Farm Road, form the retail heart of Camden Town.
- 3.9 Paragraph 3.8 of CPG5 explains that in the northern core frontages, in which the application site is located, the Council will not grant planning permission for development which results in the number of ground floor premises in Class A1 retail falling below 50%.
- 3.10 Paragraph 3.10 of CPG5 states that a careful balance needs to be struck that allows for food, drink and entertainment uses in central locations but does not cause harm to the core shopping function. It goes to state that New food, drink and entertainment uses may be acceptable up to a maximum of 20% of each street frontage. This allows for some expansion of food, drink and entertainment uses.
- 3.11 Additionally, paragraph 3.12 of CPG5 states that to avoid excessive fragmentation of the centre, no more than two consecutive non-retail uses will be permitted.
- 3.12 With regard to the methodology set out in Appendix 3 of CPG5, the application site forms part of a shopping frontage (1 Kent House, Ferdinand Street to 77 Chalk Farm Road) in the Core Shopping Frontages North in Camden Town Centre. This shopping frontage has 27 separate units (including the application premises). The permitted uses of these units are as set in Appendix B. In calculating the existing use class of each use class, only the permitted and permanent uses are considered.



*Planning Policy Analysis*

3.13 The proposed use of the premises is as a Class A3 restaurant. The principle of a Class A3 use at this location complies with the NPPF, given the town centre location, where all main town centre uses are supported and encouraged. The London Plan also recognises that Class A3 uses form an integral part of the diverse retail offer, reflecting the individuality of town centres which local planning authorities should support in promoting competitive town centres.

3.14 With specific regard to the Council's adopted planning policies and the core frontage within which the application is located:

- The applicant constitutes a small and independent small, in contrast to some of the national operators located within this frontage e.g. Sainsbury's, Belgo, Majestic, Nando's etc. The business local workers, residents, and visitors to the area, covering the lunchtime trade through to the evening, thereby making a contribution to the vitality and viability of the locality.
- The application is sufficiently far enough away from the closest residential unit to not cause any harm.
- In total, 73.9% of the units within this shopping frontage fall within Class A1 use. If the A3 use at the application site were to be made permanent, then this percentage would change to 69.65%. This proportion of A1 uses within the frontage would continue to be well in excess of the 50% threshold set out in the policy.
- In total, 21.75% of the units currently fall within Class A3 use. The proposed change of use would result in 26% of the units being within A3 use. Whilst this application would breach the 20% threshold, consideration must be given to the modest size of the unit, being 67 sq m and the high proportion of Class A1 uses within the frontage that far exceed the 50% target proportion and as such would not cause harm to the centre. It is also noted that other comparable applications (Ref: 2013/7712/P) have been allowed along Chalk Farm Road, even though the 20% target had been breached.



- The permanent change of use of the unit to Class A3 Use would crucially not result in the presence of more than two consecutive non-retail uses.

3.15 The application site is identified in Appendix 2 of CPG5 as being within the 1-89 Chalk Farm Road frontage. As such, a comparison between the site's immediate frontage with the overall frontage is relevant. In total, 64.2% of units within the 1-89 Chalk Farm Road frontage are within Class A1 use, whilst 18.5% are within Class A3 use. The permanent use of the application site would result in 62.7% A1 units and 20.9% units within Class A3 use. It is clear from these calculations, that the presence of Class A1 uses is significantly greater within the application site's localised frontage than that of the wider 1-89 Chalk Farm Road frontage and the introduction of a Class A3 unit at this location would not harm the vitality and viability of the centre.

3.16 It is also relevant that the policy essentially allows for 50% A1 uses and 20% A3 uses within the core frontage, which essentially allows for sui generis and Class A2 to potentially make up the remaining 30% of the frontage. But when considering the application site's localised frontage and indeed that of 1-89 Chalk Farm Road, it is clear that this is an undesirable location for such Class A2 uses. This appears to be because such uses have clustered around specific streets elsewhere within Camden Town, such as, Parkway. Consequently, given that the localised frontage would retain a strong Class A1 presence well in excess of policy requirements, the proposed Class A3 use would not cause harm to the centre.

3.17 The proposal would result in a small 64 sq m restaurant and would not create a concentration of 2 consecutive non-retail use in the frontage. Given the overall balance and location of the A3 uses in this part of the town centre and high presence of Class A1 uses, as well as the fact that the proposed A3 use has already been operating successfully (without any planning restrictions), without causing any harm, it is considered that the proposal would not be likely to harm the viability and retail function of this town centre.

**Planning Precedent**

3.18 A number of planning applications have recently been granted for Class a3 uses within the frontage of 1 to 89 Chalk Farm Road. These cases set useful precedents and clarify policy interpretations. Some of these cases are summarised below:





- In April 2013 planning permission was granted (Ref: 2013/0756/P) for the change of the 164 sq m Class A1 shop at 43 Chalk Farm Road to a mixed Class A1/A3 unit (Appendix C). The Class A3 element would occupy 92 sq m of the floor space. Despite the frontage only being 40% Class A1 and food uses amounting 20%, it was found that the A3 element of seating will not harm the overall character, function and viability of the frontage either in itself or cumulatively in conjunction with other uses, in part because of its small scale with less than 100 sq m floor space. Like this permission, the application site at 59 Chalk Farm Road would contain an A3 element that is less than 100 sq m.
- In January 2013 a planning appeal was allowed (Ref APP/X5210/C/12/2183361) for continuation of the bar/restaurant at 4 Ferdinand Street. The Inspector concluded that the use was part of the vibrant mixed use character, and that its small size (less than 100sqm) with no late opening and no record of complaints resulted in little cumulative impact and thus the use complied with policy and did not set an undesirable precedent. Like this permission, the application site at 59 Chalk Farm Road would contain an A3 element that is less than 100 sq m.
- In May 2014 planning permission (Ref: 2013/7712/P) was granted at 21-22 Chalk Farm Road for the change of use of the 257 sq m basement and ground floor from Class A1 to Class A3. The change of use resulted in the 28% of units being within Class A3 use and 72% of units being within Class A1 use. This proportion was deemed to be policy compliant, and is reflective of the A1/A3 mix along the frontage that contains this current application 59 Chalk Farm Road.

**Neighbouring Amenity**

3.19 Policy CS5 seeks to protect the amenity of Camden’s residents by ensuring the impact of development is fully considered, whilst Policy DP26 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents.



- 3.20 The application site constitutes a single storey property, with a flat roof, however towards the rear of building that does not form part of the application site, it extends to become 2-storey. The 2-storey element is located approximately 10 metres from the street frontage. A residential flat is located on the upper level.
- 3.21 The applicant has given due consideration to the amenity of the residential property to the rear. To ensure that this property is unaffected by the use, the applicant has installed an internal ventilation system. The ducting has been installed within the roof void, with a vent located in a discreet location within the fascia and below the canopy.
- 3.22 The applicant has installed the Purified Air ESP ventilation system. This system includes passive filtration. The carbon filters use panels of activated carbon to remove the malodorous gases from the commercial kitchen through the process of chemical adsorption. This system is serviced by Purified Air every 6-weeks. The product specification is submitted with this application.
- 3.23 Since the applicant commenced trading, there have been no none complaints made to the Council's Environmental Health department in respect to the existing operations.

**Opening Hours**

- 3.24 The applicant currently opens between 12pm to 12am. This business serves local workers, residents, and visitors to the area, covering the lunchtime trade through to the evening. The applicant proposes to maintain these opening hours.

**Waste**

- 3.25 Waste is stored in a standard bin and collected two times a day in the afternoon and evening.



## 4. Conclusion

4.1 The proposed scheme seeks the permanent change of use of 59 Chalk Farm Road to Class A3 use.

4.2 In line with the policy requirements sets out in the NPPF, London Plan and local planning policy documents:

- The principle of an A3 use is compliant with planning policy and add to the divers offer within the town centre.
- The change of use of this modest 64 sq m unit would not detrimentally impact upon the retail offer within the frontage, which well exceeds the policy target for Class A1 uses.
- The proposed A3 use has already been operating successfully (without any planning restrictions), without causing any harm to the vitality of the area.
- The proposed use would not result in more than two consecutive non-retail units and it would maintain an active street frontage.
- The unit is being run by a small and independent business that has added to the business mix within the area.
- The proposed opening hours would cover the lunchtime trade through to the evening and the unit would serve local workers, residents, visitors etc
- There would be no material impact upon the amenities of local residents.

4.3 The proposed scheme would comply with the Council's adopted planning policies and planning precedent examples and as such would not materially impact upon the function and vitality of the town centre. Therefore, in accordance with the presumption in favour of sustainable development in the NPPF, and the planning precedent set out within this planning statement, it is respectfully requested that planning permission is granted.



# Appendix A – The Menu

STARTER	SIGNATURE STEAK	SEAFOOD
<b>Fire Wings</b> Chicken Wings Grilled with Spice and Herbs £4.95	<b>Surf n Turf</b> Beef Steak Served with King Prawns, Potato Wedges & Salad £16.95	<b>Salmon Fillet</b> Fresh Salmon Fillet Grilled with Tomato Sauce & Roast Vegetables. £14.50
<b>Tiger Prawn Delight</b> Sea Fire Special Recipe Served with Salad £7.50	<b>Ribeve Steak Boz</b> Seasoned with Sea Salt, Black Pepper & Served with Beef Stock £13.95	<b>Whole Sea Bass</b> Roasted With Fennel and Baby Carrot Served with Roast Potato £15.00
<b>Garlic King Prawn</b> Fresh King Prawn Grilled with Flavour of Garlic & Garlic Mayo £7.00	<b>Rump Steak</b> Marinated in Garlic, Sea Salt, Black Pepper, Parsley & Olive Oil. Served with Mushroom Sauce or Pink Peppercorn Sauce £10.50	<b>Whole Lobster</b> Steamed or Grilled Served with Fresh Beans & Roast Potato Market Price
<b>Chop of Love</b> Fresh Cut Grilled Lamb Chop Served with Salad £5.95	<b>Sirloin Steak Boz</b> Marinated in Dijon Mustard & Served with Grilled Tomato & Mushroom £13.50	<b>King Prawn Queen</b> Marinated and Grilled with Tomato, Green Pepper, Onion & Served with Salad £14.95
<b>Fish Bites</b> Sea Fire Special Fish Served with Salad & Sea Food Sauce £4.50	<b>Fillet Steak 6oz</b> Grilled Fillet Steak Served with Mix Leaf Salad £15.95	<b>SIDES</b>
<b>Squid Rings</b> Golden Battered Calamari Served with Tartar Sauce £6.00	<b>Chicken Steak</b> Fresh Chicken Fillet Steak Served with Mexican Sauce & Rocket Salad £9.95	<b>Golden Fries</b> £2.80
<b>Olives (U)</b> A Selection of Rich & Fruity Green and Black Olives £3.99	<b>POULTRY</b> (Additional Price For Golden Fries £2.50)	<b>Sweet Potato Fries</b> £3.50
<b>SFG Share</b> Selection of All Starters for Two People to Share £15.95	<b>SFG King</b> Chicken Steak Burger £6.00	<b>Ring Fries</b> £3.80
<b>BURGERS</b> (Additional Price For Golden Fries £2.50)	<b>Hot World</b> Spicy Chicken Steak Burger with Red Peppers £7.50	<b>Potato Wedges</b> £3.50
<b>Jumbo Cheese</b> Classic Cheeseburger £6.50	<b>Half Chicks</b> Special Half Baby Chicken Served with Salad & Golden Fries £9.95	<b>Mash Potato</b> £3.50
<b>Wild Mushroom</b> Beef Burger with Creamy Mushroom £7.50	<b>Quarter Chicks</b> Quarter Baby Chicken Served with Salad & Golden Fries £5.95	<b>Homestlaw</b> £3.00
<b>SFG Queen</b> Beef Burger with Caramelised Onions £7.00	<b>Spicy BBQ Wings</b> Chicken Wings Marinated with Spices, Sea Fire Special BBQ Sauce & Served with Golden Fries. £6.95	<b>MAIN SALAD</b>
<b>Spicy Mexican</b> Beef Burger with Jalapeños, Chilli Cheese & Spicy Tomato Relish £8.50	<b>LASAGNA</b>	<b>Halloumi Avocado Salad (U)</b> £11.50
<b>World of Olives</b> Beef Burger with a Choice of Olives, Dried Tomato and Salad £7.50	<b>Beef Lasagna</b> Served with Mixed Leaf Salad and Nan Bread £11.95	<b>Chicken Caesar Salad</b> £12.00
<b>Veggie World (U)</b> Halloumi, Portobella Mushroom & Avocado £8.00	<b>Vegetable Lasagna (U)</b> Served with Coleslaw and Garlic Bread £9.50	<b>Greek Fera &amp; Olive Salad (U)</b> £9.95
<b>Sea World (U)</b> Sea Bass Fillet Served with Salad & Choice of Sauce £7.95		<b>KIDS CHOICE</b>
		<b>Burger &amp; Fries</b> £6.00
		<b>Chicken Strips &amp; Fries</b> £6.00
		<b>Wings &amp; Fries</b> £6.00
		<b>Mac &amp; Cheese</b> £5.00
		<i>All burgers are served with cheese and Brioche Buns</i>

For reservations please contact us on:  
Tel: 020 7018 7575  
Email info@seafirearill.co.uk

10% Discount for group bookings  
(Minimum 5 people - Please ask in shop to redeem discount)

Please advise whom is serving you of any special dietary requirements, including intolerances and allergies.



# Appendix B – Shopping Survey

## 1-89 Chalk Farm Road

No Chalk Farm Road	Name	Permitted Use Class	Additional notes
1 to 10	Under construction		
10	Opticians Eyeware	A1	
11	Camden Locks Body Piercing	A1	
12	Camden Gift	A1	
13	Quarter	A1	
14	Thanh Binh	A3	
15	Inhabitation café and Restaurant	A3	
16	Scorpioan Shoes	A1	
17	Tai Tam Health and Beauty	A1	
18	Porky's	A3	
19	Old and New	A1	
20	Costa Coffee	A1	
21/22	Bird	A3	
23	Camden Guitars	A1	
24	Vacant	A1	
25	Mimosa	A1	
26	Musee Noir	A1	
28	Thames Restaurant	A3	
29 to 33, Unit 1	Vacant	A1	
29 to 33, Unit 2	Carvin Hairdressers	A1	
29 to 33, Unit 3	Vape and Volt	A1	
29 to 33, Unit 4	Burrito Gonzalez	A1	Temporary Change of use to A3
29 to 33, Unit 5	Q Grill	A3	
34	The Stay club	Sui Generis student accommodation	
35	The Lock Tavern	A4	
36	H&T Pawnbrokers	A1	
37	My Village Café	A1	
38	Café Bar	A1	
39	Paddy Power	Sui Generis betting office	
40 to 42	The Monarch	A4	
43	Pizzeria	A1/A3	
44	Cycle Surgery	A1	
45 to 46	Escapade	A1	
47	The Bowery	A1	
48	Made in Brasil	Sui Generis restaurant/bar with sauna	
49	Camden Assembly Rooms	A5	
50	PC Garage	A1	
51	Spread a Smile	A1	



52	Shoppoint	A1	
53	Dappa	A1	
54	Ray Man	A1	
55	Cottons Restaurant	A3	
56	Reject Pot shop	A1	
57 to 58	Nandos	A3	
59	Sea Fire Grill	A1	Temporary Change of use to A3
60	Chalk Farm Vintage	A1	
61	Marine Ice	A1	
63	Majestic Wines	A1	
65	Vacant	A1	
66	Sanchglad	A1	
67	Truly Scrumptious	A1	
68	Cross Eyes	A1	
69	Peace and Plenty Bakers	A1	
70	Worktop Express	A1	
71	Muang Thai	A3	
72	Belgo	A3	
74 to 75	La Porchetta	A3	
76 to 77	Sainsbury's	A1	
78 to 79	Joe's	A4	
80	Fungsun Kitchen	A3	
86	Evans Cycles	A1	
87	Marathon Restaurant	A3	
88	Andrew Charles	A2	
89	Coffee Lounge	A1	

**Street Frontage Assessment**

	A1	A2	A3	A4	Sui Generis	Total
<b>1-89 Chalk Farm Road</b>	41 units	1 unit	13 units	4 units	4 units	63 units
	65.1%	1.6%	20.6%	6.3%	6.3%	100
<b>49-77 Chalk Farm Road</b>	17 units	0 units	5 units	1 unit	0 units	23 units
	73.9%	0	21.7%	4.3%	0	100



# Appendix C - Ref: 2013/0756/P



<b>Address:</b>	43 Chalk Farm Road London NW1 8AJ	
<b>Application Number:</b>	2013/0756/P	<b>Officer:</b> Charles Thuaire
<b>Ward:</b>	Haverstock	
<b>Date Received:</b>	07/02/2013	
<b>Proposal: Change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3) including removal of existing public roof terrace on rear extension.</b>		
<b>Drawing Numbers:</b> Design and Access Statement ref JPP/20535.00001; site location plan; floorplan PIX010113		
<b>RECOMMENDATION SUMMARY: Grant Planning Permission</b>		
<b>Applicant:</b>	<b>Agent:</b>	
Mr Bruno Dellapina 43 Chalk Farm Road Camden London NW1 8AJ	Jeffrey Green Russell Limited Waverley House 7-12 Noel Street London W1F 8GQ England	

## ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A1 Shop		164.90m <sup>2</sup>
Proposed	A1 Shop A3 Restaurants and Cafes		164.90m <sup>2</sup> (with A3 seating- 91.90sqm, A1 retail- 37.20sqm)

## OFFICERS' REPORT

**This application is being reported to the Committee as it entails a part change of use to Class A3 (Clause 3iv).**

### 1. SITE

- 1.1 The site contains a 2 storey terraced property set back from the road with a single storey shop frontage facing the north side of Chalk Farm Road and also with a long single storey rear extension with flat roof and rooflights, currently accessible as a roof terrace. The shop has an elongated floorplate with a ground floor element in the front single storey part, a lower ground floor element in the middle and rear parts and a mezzanine floor above the middle part. At 1<sup>st</sup> floor is a separate residential flat.



1.2 The site falls within the core frontage of the Camden Town Centre. It is not listed nor within a conservation area.

## 2. THE PROPOSAL

### Original

2.1 Change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3) including prevention of public access to existing roof terrace.

## 3. RELEVANT HISTORY

3.1 1.7.99- PE9900055R1- pp refused for change of use of a shop (Class A1) with ancillary office to a restaurant (Class A3) on two floors with ancillary office and kitchen on the third floor.

3.2 18.4.00- PE9900920- pp refused for change of use of the ground and mezzanine floors from retail (Class A1) to restaurant (Class A3), including the installation of an extract ventilation duct on the rear elevation.

3.3 17.4.08- 2008/1043/P- pp refused for change of use retail unit (Class A1) to cafe (Class A3) with training workshop at the rear.  
Reasons for refusal were-

- a) unacceptable loss of retail floorspace and an over-concentration of food, drink and entertainment establishments within the shopping frontage to the detriment of its vitality, viability, character and function;
- b) likely to result in a significant cumulative increase in noise disturbance in the area to the detriment of neighbouring residential occupiers, by reason of its proximity to residential properties and the number of existing entertainment uses in the vicinity.

3.4 November 2012- EN12/0923- complaint regarding use of rear flat roof as outdoor dining and drinking area.

## 4. CONSULTATIONS

### Adjoining Occupiers

<i>Number of Letters Sent</i>	<b>17</b>
<i>Number of responses Received</i>	<b>00</b>
<i>Number in Support</i>	<b>00</b>
<i>Number of Objections</i>	<b>01</b>

4.1 One objection has been received from an owner/occupier in York Way concerned at future use of roof terrace as dining space- although proposal involves closure of its use by public which is commended, there should be no possibility of its use by staff during breaks, storage, cooking etc which would affect its visual appearance or neighbour amenity; access should be restricted to maintenance only.

## 5. POLICIES

Set out below are the LDF policies that the proposals have primarily been assessed against. However it should be noted that recommendations are based on assessment of the proposals against the development plan taken as a whole together with other material considerations.

## 5.1 LDF Core Strategy and Development Policies

CS1 - Distribution of growth

CS5 - Managing the impact of growth and development

CS7 - Promoting Camden's centres and shops

DP12 - Supporting strong centres etc

DP26 - Managing impact of development on occupiers and neighbours

## Supplementary Planning Policies

### 5.2 Camden Planning Guidance 5- Town centres, retail and employment

#### Other policies

### 5.3 National Planning Policy Framework (March 2012) The London Plan (July 2011)

## 6. ASSESSMENT

6.1 The principal considerations material to the determination of this application are summarised as follows: land use policy and impact on town centre; impact on neighbour amenities.

#### Proposal

6.2 The application is essentially to regularise the current operation of the café that has existed here since 2009 when the current tenants moved in. The application also proposes the removal of the existing roof terrace dining area which previously gave rise to complaints from residential neighbours and which prompted an enforcement investigation and ultimately this application.

6.3 The current tenants are different from previous applicants who proposed changes of use to a full Class A3 operation which were refused planning permissions- see history above. The current operation and layout comprises a deli counter for takeaway trade with some small tables and chairs in the single storey front shop area; the middle lower area has storage and the rear part is used for seating. Adjoining these 2 areas is the kitchen with electric pizza oven. The mezzanine floor has additional seating plus access to the rear roof terrace. The total capacity of the use is 47 seats (10 at front, 25 at rear, 12 in mezzanine). However the seating at front is ancillary to the retail element while the 37 seats at rear/mezzanine comprise approx 92 sqm floorspace. There is no primary cooking on site and only food such as pizzas and paninis is heated up in the oven.

6.4 The hours of operation at present (and proposed) are 10am-10.30pm Mon-Thu, 10am-12am midnight Fri-Sat, 10am-10pm Sun. There is also an alcohol licence which allows similar closing hours, i.e. midday- 11pm Mon-Thu, midday-midnight

Fri-Sat, midday-10pm Sun.

Landuse

- 6.5 The proposal is to continue the current operation that has existed here over the last 4 years. This operation is a genuinely mixed A1/A3 use, with a fair balance of trade between takeaway/retail sales and eating/drinking on the premises. The food is generally confined to cold salads, sandwiches, cakes etc from the deli counter or reheated pizzas and breads and there is no facility for serving or creating hot meals. As such therefore, there is no need for ventilation or extraction equipment.
- 6.6 LDF policies CS7 and DP12 require any change of use involving loss of retail and creation of new food and drink uses to comply with detailed guidance set out in the Camden Town SPG, which is now superseded by CPG5 adopted in 2011. The policies aim to ensure that new town centre uses do not harm the character, function, vitality and viability of centres, the local area and neighbour amenity; more specifically within Camden Town, policy CS7 aims to allow an equal balance between retail and leisure uses. The CPG guidance advises that within core frontages, such as north side of Chalk Farm Rd: retail provision should not fall below 50% of the relevant frontage and if already less, no further loss of retail will be allowed; new food, drink and entertainment uses will only be allowed up to 20% of the frontage; and no more than 2 consecutive units should be in non-retail use.
- 6.7 Previous applications for a full A3 use here failed due to non-compliance with previous policy and guidance (which was very similar to that currently adopted) and due to harm to residential amenity from an additional food & drink use near residential occupiers.
- 6.8 The key difference between the current application and previous ones is that this proposal is now for a mixed use involving a retail element at the front and a different style of operation with no cooking on site. The front shop with deli counter will retain an A1 use and thus a retail frontage will be retained.
- 6.9 A survey of the 10 units within the parade of nos 36/37 - 48 Chalk Farm Rd shows the following uses- A1 x 5, A2 x 1, A3 x 1, A4 x 1, mixed A1/A3 x 1, D2 x 1. This means that the parade has 50% A1 (retail) units and 20% A3/4/5 (food drink and entertainment) units, which are the minimum and maximum amounts referred to in CPG. With the proposed use, the ratios will change to A1 x 4 and mixed A1/A3 x 2, so that the parade will have only 40% A1 but still have 20% A3/4/5. Thus the retail provision falls below the minimum threshold as required in CPG.
- 6.10 However it is considered that this change of use will have no or minimal impact on the retail character and function of the parade, as a retail element within this overall mixed use will be retained on the frontage so that, visually and functionally, the parade and centre will continue as before with a retail outlet. Indeed as this use has existed for at least 4 years, there has been no discernible change in the character and function of the parade as the frontage is currently used as a retail shop selling cold takeaway and delicatessen food. Similarly the proposal continues to comply with guidance regarding 20% A3/4/5 uses and no more than 2 consecutive uses non-A1 uses, as these ratios are not altered by retaining an A1 frontage and by not introducing another full A3 use here.

- 6.11 It is further considered that the A3 element of seating will not harm the overall character, function and viability of the parade either in itself or cumulatively in conjunction with other uses, due to its position at the rear and mezzanine level, its small scale with less than 100sqm floorspace, and its minimal impact on residential amenity (see discussion below). It is proposed to impose a condition to ensure that the areas of seating and takeaway functions, as shown in the submitted layout plan, are adhered to so that the mixture and proportions of A1 and A3 elements are maintained on site.
- 6.12 It is worth noting a recent appeal decision (dated 30.1.13) that allowed the retention of an A3 bar/café around the corner at 4 Ferdinand Street. The Inspector concluded that the use was part of the vibrant mixed use character, and that its small size (less than 100sqm) with no late opening and no record of complaints resulted in little cumulative impact and thus the use complied with policy and did not set an undesirable precedent.

### Neighbour amenity

- 6.13 The operation involves no primary cooking on site and thus has no ventilation and extraction equipment. Consequently there is no direct impact on residential amenity to upper floor flats. The existing roof terrace is proposed to be removed entirely and the door blocked to prevent any public or staff access, thus this will remove the previous source of complaints by neighbours. It is proposed to impose conditions to ensure that there is no primary cooking on site and that the roof is only accessible for maintenance purposes.
- 6.14 There is no record of any complaints against this use which has subsisted for over 4 years. The style of operation, with no cooking and a licence which only allows alcohol served with food, means that its impact will be different from that of a normal A3 restaurant or A4 bar and is unlikely to create any anti-social noise or nuisance issues. There is adequate space for refuse storage on site and there is no forecourt enabling tables and chairs to be placed on the highway.
- 6.15 The proposed hours of operation are the same as existing for the last 4 years and are considered acceptable, being appropriate for this area which is not designated as a 'sensitive' or secondary frontage within Camden Town where amenity impacts may be more severe and where earlier closing hours may be preferable. In this case, the closing hours are before midnight and indeed earlier than the times allowed by the alcohol licence.

## **7. CONCLUSION**

- 7.1 It is considered that retention of the mixed A1/A3 use, on account of its layout, size and nature of operation and with the proposed removal of seating on the roof terrace, will retain the overall retail character, function and viability of the parade and will not harm neighbour amenity in terms of noise and other nuisances.

## **7.2 LEGAL COMMENTS**

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

# Appendix D - Ref: APP/X5210/C/12/2183361





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# Appeal Decision

Inquiry held on 22nd January 2013

**by Clive Whitehouse BA(Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 30 January 2013**

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**Appeal Ref: APP/X5210/C/12/2183361 & 62**

**4 Ferdinand Street, London NW1 8ER**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Rafael Pesce and Mr Nicos Zandos against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN10/0405.
- The notice was issued on 30<sup>th</sup> July 2012.
- The breach of planning control as alleged in the notice is the unauthorised use of the property as a bar/restaurant.
- The requirements of the notice are that the use of the premises as a restaurant and bar shall cease, and any associated fixtures and fittings shall be removed.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) (d) and (f) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Decision.**

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## Procedural Matter

1. The appeals on ground (d) were withdrawn before the inquiry. No evidence was put forward in support of the appeal on ground (f), and that was withdrawn at the inquiry. An appeal on ground (g) was made at the inquiry.

## Background

2. The appeal concerns a small bar/restaurant (about 60sq.m floorspace), which has been in business since 2004. It is located in a side street just outside the designated town centre for Camden Town, as defined in development plan documents. The nearby Chalk Farm Road is part of the busy town centre and includes a significant proportion of bars, restaurants and nightclubs. Located between the appeal property and a nightclub (Coco Bamboo) at No.2 Ferdinand Street is a two-storey terraced dwelling converted from a former café. The rest of the terrace containing the appeal property is in commercial use. Opposite is another nightclub (Barfly) on the corner of Chalk Farm Road, and attached to that within Ferdinand Street is a terrace of commercial properties including shops, a café and a tattoo parlour. To the north, beyond Ferdinand Place, Ferdinand Street is residential in character, consisting largely of multi storey blocks of flats.

3. Evidence given by the property owner at the inquiry was that the building had been vacant for some years before the bar/restaurant opened, and that it had last been occupied by a travel agent. It therefore seems probable that the last lawful use of the property was a Class A1 retail use.
4. Planning permission was refused in 2004 for the change of use of the appeal property to a restaurant but, notwithstanding that decision, it would appear that the present use commenced shortly afterwards. There were no complaints initially, and the unauthorised use was not brought to the local planning authority's attention until 2010, when a complaint about late night noise was made by the owner and the tenant of the adjoining house at 2 Ferdinand Street. An enforcement investigation resulted in a retrospective planning application that was refused in December 2010. Enforcement action was authorised at that time but was not acted upon until the notice was issued in July 2012.

### **Appeal on Ground (a)**

#### ***Main Issues***

5. The main issues are: 1. The effect of the bar/restaurant use on the living conditions of residents in Ferdinand Street, with particular reference to noise and disturbance. 2. The principle of the change of use in land use policy terms, having particular regard to its cumulative impact and whether it would establish an undesirable precedent.

#### ***First Main Issue***

6. The business operates under the name of "Spiritual Caipirinha Bar" and has a Brazilian theme. It opens between 18:00 hours and midnight on Sundays and on Tuesdays to Thursdays, and between 18:00 and 01:00 hours on Fridays and Saturdays. There is seating for about 30 people over the two floors and a maximum capacity of about 50-60 people. Un-amplified live music is played in the bar and poetry evenings and plays are performed on some evenings, subject to conditions contained in the Premises Licence issued by the Council's Licensing Authority. The bar is popular with performers and artists and also serves as a meeting place for the Brazilian community. The restaurant function had been temporarily suspended at the time of the inquiry, pending the outcome of this appeal, since the kitchen is in need of refurbishment.
7. The development plan for the area includes the Camden Core Strategy adopted in 2010. Policy CS7 seeks to promote town centres and includes the provision of ensuring that food, drink and entertainment uses do not have a harmful impact on residents and the local area. The supporting text recognises that the rich culture of live music, restaurants, bars and theatre in Camden Town are important and contribute to its image as a vibrant and attractive place. Because of the dense mixed use nature of the area, it is necessary to manage such uses to avoid harm to the quality of life of local people, and that theme is developed in greater detail in supplementary guidance for town centres (CPG5).
8. The only objections received by the Local Planning Authority since 2004 were in relation to the neighbouring house at No.2 and arose from incidents in 2010. Noise insulation was subsequently installed on the party wall in 2010 and there have been no complaints from the neighbouring occupiers since (the appellant says that the present tenant of No.2 is a singer working in the area and before

that it was occupied by a young couple who were regular customers of the bar). There have never been objections from people living in the wholly residential part of Ferdinand Street. A resident of one of the nearest blocks of flats stated at the inquiry that the bar causes no problems, and two local Councillors have also expressed that opinion.

9. A series of Premises Licenses have been issued whilst the bar/restaurant has been in operation, with conditions limiting (amongst other things) hours of opening, the sale of alcohol, and the hours and type of live music (eg. a maximum of 3 performers). Although the licensing objectives cover some matters beyond the scope of planning control, there is a degree of overlap in the prevention of public nuisance and the Authority takes account of any local objections. The Premises Licence is subject to regular review and was renewed in 2012.
10. The Council accepted at the inquiry that, as presently managed, the bar, causes no significant problems for local residents, although it is maintained that it must have a greater effect than the lawful use as a Class A1 shop. Also there can be no guarantee that residential amenity problems would not occur under a different management regime in the future. The Council also contends that regard should be had to the cumulative impact of the use together with other local food, drink and entertainment venues, as required by Development Policy DP12.
11. It is a matter of record that the Spiritual Bar has caused very little nuisance during the years it has been in operation. Its potential to cause nuisance in the future is diminished by its small size; its position within a predominantly commercial block and by the Council's powers as Licensing Authority. The specific issues concerning the neighbouring house have been addressed by the installation of noise insulation.
12. On the question of cumulative impact, the appeal property is close to two nightclubs and there are other bars and restaurants nearby on Chalk Farm Road. The Barfly nightclub is stated to have a capacity of 500 people. There is acknowledged to be some late night activity around the south end of Ferdinand Street from people queuing for the clubs, smoking outside and waiting for taxis or buses. Since the appeal property is accepted to cause very little nuisance, its cumulative impact must also be very small. Furthermore, the Spiritual Bar closes several hours before the nightclubs close, so customers dispersing do not add to the effects of much larger numbers of people dispersing later into the night. It is not suggested that the area has reached a critical threshold such that even a very small increase in activity would be unacceptable.
13. I conclude on the first main issue that the continued use of the premises as a bar/restaurant is unlikely to cause unacceptable harm to the living conditions of residents of Ferdinand Street.

### ***Second Main Issue***

14. The boundaries of Camden Town centre have been tightly drawn around the main retail areas, according to Core Strategy (CS) policy CS3, and as defined by the town centre plan in CPG5. The appellants question the logic of drawing the line so tightly as to exclude the small and largely commercial terrace including the appeal property, rather than along Ferdinand Place, which is a more obvious dividing line between the town centre and the residential area to



the north. However, the town centre boundary has been defined and formally adopted, and it is not open to be revised as part of this case. The bar therefore falls within "an area of more limited change" outside the town centre, and subject to policy CS4.

15. The Council argues that, taken together, Core Strategy policies and development policies seek to focus food, drink and entertainment uses into designated town centres. For instance, the text to policy CS7 states that such uses "are most appropriately located in commercial areas" and that "town centres are considered the most suitable locations". In the Council's view, making an exception to that guiding principle in this case would tend to undermine the vitality of the designated town centre by allowing such uses to leak out into adjoining areas. The Council is also concerned that such an exception could be cited by others as a precedent for further exceptions to be made that could cumulatively undermine the policy objective.
16. The Council's adopted policies are consistent with relevant policies in the London Plan and the National Planning Policy Framework.
17. Whilst I accept that the broad thrust of policy is to focus food, drink and entertainment uses in town centres, there is no blanket prohibition of such uses outside town centres. Policy CS4 states that development in areas of more limited change should respect the character of its surroundings and provide environmental benefits and other local benefits where appropriate. Policy CS5 seeks to protect the amenity of residents by making sure that the impact of development on neighbours is fully considered. The text to policy CS7 recognises that individual small-scale food and drink uses (less than 100sq.m) can be acceptable in neighbourhood centres outside town centres, provided they do not cause harm to the surrounding area or local residents.
18. In my assessment, the appeal property is located in a commercial area outside the designated town centre, notwithstanding that the main part of Ferdinand Street to the north has a residential character. I do not accept that its position tends to undermine the viability of the town centre. The site is not within a defined neighbourhood centre, but the characteristics of its immediate surroundings are akin to those of a neighbourhood centre. I conclude that in land use policy terms the appeal site is in an appropriate location for a small bar/restaurant.
19. Many supporters of the bar attended the inquiry and evidence was given stressing its unique character. It is said to support and promote the artistic community and to reinforce the creative spirit which is an important part of the identity of Camden Town. Outside its normal business hours the bar is used weekly for art classes for local children ("Camden's Creative Creatures"). I consider that these factors amount to local benefits under the terms of policy CS4. It has already been established under the first main issue that the use enforced against is small-scale and causes no significant harm to nearby residents or its surroundings. The use therefore complies with the tests in policies CS4 and CS5.
20. For the reasons given above, I do not consider that the bar/restaurant in that particular location conflicts with the Council's adopted policies. It is not therefore an exception to policy, and need not be regarded as an undesirable precedent. It would only be a precedent for another small-scale use located in

a commercial area that does not harm to the living conditions of nearby residents.

21. I conclude on the second main issue that the change of use is acceptable in land use policy terms.
22. Consideration was given at the inquiry as to whether to attach a condition restricting hours of opening. However, in the light of the evidence, the Council would not wish to impose more restrictive opening times than have already been imposed by the Premises Licence. It was considered that duplication of those hours by way of a planning condition might hinder rather than help. The Licensing Authority have greater flexibility to change the hours of opening at each review and to regulate other aspects, such as the playing of live or recorded music. I agree that in those circumstances it is not necessary to attach a planning condition specifying opening hours. Consideration was also given to whether a temporary two-year trial period would be appropriate, but the bar has already had a "trial period" since 2004 and a further period is not necessary.
23. Having regard to all other matters raised, I conclude that the appeal should succeed on ground (a). In those circumstances it is not necessary to consider the appeal on ground (g).

### **Decision**

24. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at 4 Ferdinand Street, London NW1 8ER, as shown on the plan attached to the notice, for use as a bar/restaurant.

*C Whitehouse*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

James Bompas MRTPI

He called

Iceni Projects Ltd. (acting as both advocate and planning witness)

Rafael Pesce owner of Spiritual Bar.

Nicos Zandos, property owner.

### FOR THE LOCAL PLANNING AUTHORITY:

Ian Rees Phillips

He called

Of Counsel, instructed by LB Camden

John Sheehy BA(Hons) MRUP, Senior Planning Officer

### INTERESTED PERSONS:

Sasha Krohn

Talal Hakim

Dolf Bekker

Dana Immanuel

T. Bowen

Christina Tomlin

Willa Huang

Supporter and near neighbour

Supporter

Supporter, concert promoter.

Supporter, and local resident.

Supporter

Supporter, singer.

Supporter, painter.

## **DOCUMENT submitted at the inquiry**

- 1 Statement of Common Ground

# Appendix E - Ref: 2013/7712/P



<b>Address:</b>	21-22 Chalk Farm Road London NW1 8AG		<b>9</b>
<b>Application Number:</b>	2013/7712/P	<b>Officer: Aysegul Olcar-Chamberlin</b>	
<b>Ward:</b>	Camden Town with Primrose Hill		
<b>Date Received:</b>	02/12/2013		
<b>Proposal: Change of use of the basement and ground floor from Class A1 to Class A3.</b>			
<b>Drawing Numbers:</b> Site Location Plan; Existing Floor Plans; Proposed Floor Plans; Planning Statement dated November 2013 by Planning Potential; and Statement of Food Preparation dated December 2013 by Planning Potential.			
<b>RECOMMENDATION SUMMARY:</b> Grant conditional permission			
<b>Applicant:</b>		<b>Agent:</b>	
c/o agent c/o agent		Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU	

## ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A1 Shop		257m <sup>2</sup>
Proposed	A3 Restaurants and Cafes		257m <sup>2</sup>

## **OFFICERS' REPORT**

**Reason for Referral to Committee: The proposed development involves the creation of new Class A3 floorspace [Clause 3 (iv)].**

### **1. SITE**

- 1.1 The application site is a three storey plus basement mid-terrace property located on the north side of Chalk Farm Road (opposite the Stables Market) in the Camden Town Centre. The basement and ground floor of the property have lawful use as Class A1 use, but it is currently operating as a Class A3 for a temporary period of 2 years by virtue of Class D of the Town and Country Planning (General Permitted Development) Order. There is residential accommodation located on the first and second floor levels.
- 1.2 The site sits within a commercial terrace which is predominately characterised by ground floor retail units and residential flats above.
- 1.3 The site is not located in a conservation area.

### **2. THE PROPOSAL**

- 2.1 Planning permission is sought for change of use of the basement and ground floor of the building from retail to restaurant or café to allow existing occupier (Pieminister) to continue using the property as a Class A3 restaurant on a permanent basis.
- 2.2 The proposed use does not involve any primary cooking on the premises therefore no external equipment or duct work is proposed.
- 2.3 The restaurant provides 66 covers and currently employs 6 full time staff. The proposal is to increase the number of full-time employees to 12. The proposed hours of operation are 9.00 – 24.00 Monday to Saturday and 9.00 -23.00 on Sundays and Bank Holidays.

### **3. RELEVANT HISTORY**

#### **3.1 Application property:**

2013/6423/P – A notification was received on 03/10/2013 for the change of use from retail (Class A1) to restaurant use (Class A3) for a temporary period of two years under the GDPO Prior Approval Class D Commercial 2 year change of use.

9400425 – Planning permission was given on 15/09/1994 for the change of use of 21 Chalk Farm Road from retail (A1) use to a mixed use consisting of retail (A1) use on basement and ground floor levels with a coffee shop (A3) use at first floor level with ancillary kitchen and staffroom at second floor level.

#### **3.2 29-33 Chalk Farm Road (Former petrol station):**

2012/0974/P - Planning permission was granted on 09/10/2012 for the redevelopment of existing petrol filling station site with a basement plus 4-storey mixed-use building, comprising 6 x retail units (Class A1/A3) at basement and ground floor level and 40 student residential units (Sui Generis) at mezzanine, first, second and third floor level with cycle storage in the basement.

2012/6776/P – Permission was granted on 11/02/2013 for the variation of condition 2 (development to be carried out in accordance with the approved plans) pursuant to planning permission granted on the 09/10/2012 (ref: 2012/0974/P) to allow minor material amendments to internal layout, including a change to areas designated to A1 and A3 spaces, and installation of additional fire escape along Hartland Road frontage.

#### 4. CONSULTATIONS

##### 4.1 Adjoining Occupiers

	<b>Original</b>
<i>Number of letters sent</i>	5
<i>Total number of responses received</i>	0
<i>Number of electronic responses</i>	0
<i>Number in support</i>	0
<i>Number of objections</i>	0

4.2 A site notice was displayed from 05/02.2014 to 26/02/2014. There has been no response to consultation.

#### 5. POLICIES

##### 5.1 **National Planning Policy Framework (NPPF) 2012**

##### 5.2 **London Plan (2011)**

##### 5.3 **LDF Core Strategy and Development Policies (2010)**

###### Core strategies

CS1 - Distribution of growth

CS3 – Other highly accessible areas

CS5 - Managing the impact of growth and development

CS7 - Promoting Camden's shops and centres

CS8 - Promoting a successful and inclusive Camden economy

CS11 - Promoting sustainable and efficient travel

CS18 - Dealing with our waste and encouraging recycling

###### Development policies

DP10 – Helping and promoting small and independent shops

DP12 - Strong centres and managing the impact of foods, drinks or other uses

DP16 - Transport implications of development

DP20 – Movement of goods and materials

DP26 - Managing the impact of development on occupiers and neighbours

DP28 – Noise and vibration

DP29 – Improving access

## 5.4 **Supplementary Planning Policies**

### 5.4.1 **Camden Planning Guidance 2011 (as amended in 2013)**

CPG5 –Town Centres, retail and employment

CPG6 – Amenity

## 6. **ASSESSMENT**

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

- Land use in terms of the impact of the loss of retail floorspace and additional restaurant floorspace on the character, function, viability and vitality of the town centre; and
- Impact of proposed restaurant on neighbouring amenity.

### 6.2 **Land Use**

6.2.1 Paragraph 17 of NPPF encourages sustainable economic development and promotes the vitality of urban areas. Paragraph 19 of NPPF states that planning should operate to encourage and not act as an impediment to sustainable growth.

6.2.2 Policy CS7 discourages the loss of shops where this could cause harm to the character and function of a centre. This policy seeks to protect the special character and attractiveness of Camden Town by pursuing the continued provision of small shop units and does not support larger shop units in the southern part of Camden High Street. Policy CS7e seeks to protect and enhance the role and unique character of each of Camden's centres, ensuring that new developments is of an appropriate scale and character for the centre in which it is located. Policy DP10 also resists the loss of shop premises in town centres where this is considered to harm the character, function, viability and vibrancy of the area. Policy DP12 acknowledges new shops, services, food, drink and entertainment uses can add to the vitality and vibrancy of Camden's centres and local areas it considers the potential harmful impact on the residents and the local area.

6.2.3 Currently the application premises is being operated by a gourmet pie restaurant (Pieminister) for a minimum two-years period under the GDPO Class D 2013. The site would revert back to a lawful use of Class A1 on or before October 2015. Pieminister are able to operate on this site without the need for primary cooking facilities.

6.2.4 According to paragraph 3.6 of CPG5 Chalk Farm and Camden High Street are the retail heart of Camden Town Centre. CPG5 provides a basis for considering the acceptable mix of retail and other uses within this core shopping frontage (see pages 12, 14 and 71-81 of CPG5). As a guide the Council will resist developments which result in the ground floor premises in retail falling below 50% within the Core Shopping Frontages North and may accept new, drink and entertainment uses up



to a maximum of 20% of each street frontage. Paragraph 3.10 of CPG5 states that a careful balance needs to be struck that allows for food, drink and entertainment uses in central locations but does not cause harm to the core shopping function. Additionally, paragraph 3.12 of CPG5 states that to avoid excessive fragmentation of the centre, no more than two consecutive non-retail uses (including restaurants) will be permitted.

6.2.5 The application site forms part of a shopping frontage (20-28 Chalk Farm Road) in the Core Shopping Frontages North in Camden Town Centre. Camden Town is characterised by unique retail shops, markets and food, drink and entertainments establishments and is a popular destination for shopping and tourism (particularly in the area centred around Camden Lock). The shopping frontage has 7 separate units (including the application premises). The existing uses of these units are as follows:

Address (no.)	Use	Use Class
27-28	Far East Restaurant	A3
26	Retail (vacant)	A1
25	Hairdresser	A1
24	Beauty shop	A1
23	Music shop	A1
21-22	Pieminister (application premise)	Temporary A3 use to revert back to A1
20	Costa cafe	A1

6.2.6 When calculating the percentage of the existing units in each use the lawful use of the units (on a permanent basis) is taken into account. As existing 86% of the units are A1 units and 14% of the units are A3 units. The proposed change of use would result in 28% A3 units and 72% A1 units in the shopping frontage. The proposed A3 premises would be located next to the A1 units on either side.

6.2.7 The proposal would result in a medium sized restaurant similar to the restaurant at 27-28 Chalk Farm Road. The proposal would retain more than 50% of A1 units and not result in a concentration of more than 1 consecutive non-retail use in the frontage. It therefore would not harm the retail function of the parade and Camden Town Centre. However, the proposal would increase the percentage of A3 units within this frontage 9% beyond the Council's threshold. Whilst there is a conflict with the policy in this regard this is not in itself reason to refuse the application, the Council must consider the harm that would be cause by exceeding the percentage and how this would impact on the centre.

6.2.8 Camden Town has experienced some problems associated with a high concentration of food and drink uses and the Council would not wish to approve schemes which would exacerbate this further. It is noted that other A3 uses have been approved in the area in the past few years including at the petrol station site to the west (29-33 Chalk Farm Road). In this case the proposed use is to be located in a frontage approximately 21m from the nearest other A3 use in the same

frontage and 20m and 65m away from the nearest A3 uses on the adjoining parades.

6.2.9 Given the overall balance and location of the A3 uses in this part of the town centre, as well as the fact that we know the proposed A3 use has already been operating successfully (without any planning restrictions) in without any harm it is considered that the proposal would not be likely to harm the viability and retail function of this town centre or the amenities of the neighbouring residential properties due to concentration of activities of restaurant customers in the area. It is considered that the impact of the proposed restaurant use on the amenities of the nearby residential properties could further be controlled by conditions concerning hours of operation, refuse storage and preventing primary cooking activities (see below amenity section for further information).

6.2.10 Overall, the proposed use is considered to be acceptable in land use terms.

### 6.3 Neighbouring Amenity

6.3.1 Policy CS5 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Furthermore Policy DP26 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents.

6.3.2 The application site is in close proximity to residential properties, which are situated above and to the rear. Conditions to limit the hours of operation and to prevent primary cooking of food on the premises would be adequate to protect the amenities of the nearby residential properties.

6.3.3 The submitted statement of food preparation confirms that all food is prepared at Pieminister's central kitchens in Bristol and distributed from Bristol to its various outlets. The food is then refrigerated and reheated in the restaurants for serving or selling for people to take home. The statement also confirms that the reheating of pies using electrical appliances do not require any external equipment or additional plant.

6.3.4 The Council's Environmental Health officer has confirmed that there have been no complaints with regard to the existing operation of the premises.

6.3.5 No details of the refuse storage and management has been submitted with this application, although there is adequate space within the premises for this use, therefore a condition for the submission of further details of refuse storage and management is recommended.

6.3.6 Subject to the safeguarding conditions it is considered that proposed use would not significantly worsen the existing situation for the nearby residents.

### 6.4 Others

6.4.1 Access: A disabled W/C at ground floor is provided and the layout of the ground floor level would be suitable for disabled users. The proposal is considered to comply with the aims of policy DP29.

6.4.2 CIL: The proposal would not result in additional floorspace and therefore the Mayor's CIL is not applicable.

## 7. **CONCLUSION**

7.1 The proposed change of use would not harm the retail function and viability of this core shopping frontage and Camden Town Centre as a sufficient amount of retail units would be retained in the parade. By virtue of the operation of the proposed restaurant and the balance of other uses in the area the proposed restaurant use would not harm the amenity of neighbours.

## 8. **LEGAL COMMENTS**

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

### Conditions and Reasons:

- 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 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan; Existing Floor Plans; and Proposed Floor Plans.

Reason:

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

- 3 The Class A3 use hereby approved shall not be carried out outside the following times 09:00 to 24:00 Mondays to Saturdays, and 09:00 to 23:00 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 policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The proposed use hereby approved shall not include any primary cooking process, which for the purposes of this condition shall be taken to mean the application of heat to raw or fresh food in order to cook the food.

Reason: 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 DP12 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Within one month of the date of this permission, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12 and DP26 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-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.



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## Feedback

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In an effort to improve our documentation and processes, we are inviting feedback from all LPA and Inspectorate case officers via a very short online feedback form. All submissions are anonymous.

Go to [www.plainview.co.uk/submissions](http://www.plainview.co.uk/submissions) to let us know what you think about our applications or appeals.

Thank you.

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