

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SITE AT 94 CAMDEN HIGH STREET, LONDON NW1 0LT

PLANNING APPLICATION BY

BALADI KITCHENS LIMITED

PLANNING STATEMENT

May 2017

CHRISTOPHER WICKHAM ASSOCIATES
Town Planning Consultancy

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1. INTRODUCTION

- 1.1 This Planning Statement forms part of the planning application by Baladi Kitchens Limited for the '*Change of use from A1 Cafe/Sandwich Bar to A3 restaurant*' at 94 Camden High Street, London NW1 0LT.
- 1.2 This statement should be read in conjunction with the existing and proposed layout drawings.

2. THE APPLICATION SITE AND SURROUNDINGS

- 2.1 The application site is located on the east side of Camden High Street, a short distance to the south of the junction with Pratt Street. The site is occupied by a four storey commercial property which also includes a basement. The planning application concerns the café and sandwich bar which occupies the ground floor with ancillary basement storage, and trades under the name '*Camden Bakery & Grill*'. The upper floors of the building are in use by a church and a charity collection centre.
- 2.2 The existing use features a sales counter along customer seating to the front and side of the counter. A customer toilet is also provided. The use also benefits from an existing kitchen which includes a mechanical system for fume extraction. The existing use operates 7 days a week with opening hours of 7am to midnight on Mondays to Saturdays, and 9am to 11pm on Sundays and Bank Holidays. The bakery element of the use operates 24 hours a day.
- 2.3 The application site forms part of the Core Shopping Frontage (south) of Camden Town, and is also located within the Camden Town Conservation Area.

3. RELEVANT PLANNING HISTORY

- 3.1 Planning permission was refused in 1981 (under reference (CTP/J12/17/G/31866) for the change of use of the ground and basement floors from retail shop to restaurant.

- 3.2 Application 2016/3773/P for the change of use of the ground and lower ground floor unit from bakery/café use (A1) to restaurant (A3) was submitted on 7th July 2016. The application was withdrawn after the case officer indicated that it would be refused on the basis that the proposed loss of A1 use would not be supported.
- 3.3 An application for a Certificate of Lawfulness in respect of the existing mechanical extraction/ventilation system was issued on 20th September 2016 under reference 2016/4455/P.

4. THE APPLICATION PROPOSAL

- 4.1 The application scheme proposes the change of use of the existing ground floor and basement A1 café/sandwich bar to A3 restaurant use. The change of use would involve limited internal changes, specifically the provision of additional seating in the rear part of the ground floor area. The existing service counter and kitchen would be retained, as would the existing ventilation and extraction equipment.

5. PLANNING POLICY CONTEXT

The National Planning Policy Framework (NPPF)

- 5.1 The NPPF lays down a series of core planning principles which should underpin the planning system. Planning should be genuinely plan-led, should proactively drive and support sustainable economic development to deliver business and other accommodation needs, and should secure high quality design and amenity. There is a strong presumption in favour of sustainable development. Paragraph 19 explains that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth, and therefore significant weight should be placed on the need to support economic growth through the planning system.

The statutory development plan

- 5.2 The statutory development plan for the area comprises the consolidated London Plan 2016 (incorporating Early Minor Alterations 2013 and Further Alterations 2015/16), the Camden Core Strategy which was adopted in November 2010, and the Camden Development Policies DPD which was also adopted in November 2010. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications and appeals to be determined in accordance with the development plan unless material considerations indicate otherwise.

The London Plan

- 5.3 London Plan Policy 4.6 states that the Mayor will support entertainment enterprises, and the cultural, social and economic benefits that they offer. London has a unique selection of bars and restaurants. Policy 4.7 states that the scale of retail, commercial, cultural and leisure development should be related to the size, role and function of a town centre and its catchment. Such development should be focussed on sites within town centres, and the vitality and viability of town centres should be supported. Policy 4.8 states that the Mayor supports a successful, competitive and diverse retail sector which promotes sustainable access to goods and services.

The Core Strategy

- 5.4 The following policies of the adopted Core Strategy, as summarised, are considered to be relevant to the issues raised by this planning application:-
- Policy CS1 seeks to direct growth in Camden to the most suitable locations;
 - Policy CS5 states that the Council will manage the impact of growth and development in Camden; and
 - Policy CS7 states that the Council will promote successful and vibrant

centres, including through the provision of a range of shops, services, food, drink and entertainment uses to provide variety, vibrancy and choice. The loss of shops will be resisted where this would cause harm to the character and function of a centre. Supporting paragraph 7.18 states that food, drink and entertainment uses add to the diversity and vibrancy of Camden's centres, and bring activity to them outside normal shop hours. These uses are important to the borough socially, culturally and economically, and contribute to Camden's image as a vibrant and attractive place. However, such uses can cause amenity issues for local residents. Town centres and Central London frontages are considered to be the most suitable locations for food, drink and entertainment uses.

Camden Development Policies DPD

- 5.5 Camden Development Policies DPD Policy DP12 states that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not harm the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. The effect of non-retail development on shopping provision and the character of the centre will be considered, along with the cumulative impact of food, drink and entertainment uses on residential amenity. The supporting paragraphs confirm that food and drink uses can add to the vitality and vibrancy of Camden's centres although they can also have adverse impacts by diverting trade and displacing town centre functions.

Camden Planning Guidance

- 5.6 Camden Planning Guidance (Town Centres, Retail & Employment) (CPG5) includes detailed guidance on the management of food and drink uses in Camden Town. The application site is located within the core shopping frontage (south) (east-side) where planning permission will not be granted for development which results in the number of ground floor premises falling below 75%. New food and drink uses may be acceptable up to a maximum of 20% of each road frontage. Core shopping frontage (south) (east-side) is defined as comprising nos. 38 to 224 (even) Camden High Street. The guidance also includes instructions on how to

calculate frontage percentages although, confusingly, the use of the term ‘frontage’ in this context refers to a group of units between two road junctions rather than the defined stretch of core frontage.

- 5.7 CPG5 states that where a planning application proposes the loss of a retail shop, the Council will consider whether there is a realistic prospect of such use continuing, and may require the submission of marketing evidence in this regard.

6. PLANNING CONSIDERATIONS

Land-use principles

- 6.1 In the context of this planning application, the overarching objective of policies CS7 and DM12 is to prevent a loss of retail use which would harm the character, function, vitality and viability of a town centre.
- 6.2 CPG5 provides planning guidance on the interpretation and application of this policy objective by laying down a minimum 75% threshold of A1 use within the core frontages in Camden Town centre below which a loss of A1 use will not be permitted. CPG5 also states that A3, A4 and A5 uses should not comprise more than 20% of the units within the core frontage.
- 6.3 The application site is located within that part of the Camden High Street Core Frontage (south) which is defined by Pratt Street in the north and Plender Street in the south. This stretch of frontage comprises nos. 48 to 98 (even) Camden High Street. There are 17 units of varying plot widths within this frontage stretch, and this includes the following wide A1 plots:-
- Poundland at nos. 52-56;
 - Lidl supermarket at nos. 64-70; and
 - Argos at nos. 72-76.
- 6.4 The existing occupier and use of each unit within this stretch of frontage is shown in the table below.

Unit	Address	Occupier	Use Class	Comment
Start of frontage				
1	48-50 Camden High St	Belushi's	A4	
2	52-56	Poundland	A1	
3	58	Camden Metro	A1	
4	60	Prontaprint	A2	Unauthorised COU from A1
5	62	William Hill	Sui generis	
6	64-70	Lidl	A1	
7	72-76	Argos	A1	
8	78	Savers	A1	
9	80	Top Cuts Hairdresser	A1	
10	82	GHF Gifts	A1	
11	84	Camden Key Cutting & Shoes	A1	
12	86	Subway	A1	
13	88	Melissa Patisserie	A1	
14	90	My Bond Pawnbrokers	A1	A1 sale of jewellery etc. is primary use
15	92	Tusk Hair	A1	
16	94	Application Site	A1	
17	96-98	Halifax Bank	A2	
End of frontage				
			Existing A1 = 76% of units Resulting A1 = 71% of units Resulting A3 & A4 = 12% of units	

Existing frontage uses 48-98 (even) Camden High Street

6.5 The information in this table is consistent with that provided by the LPA during the course of the earlier withdrawn application with the exception of the pawnbroker's shop at no. 90 Camden High Street which is considered by the applicant to comprise an A1 use rather than a sui generis use. This is because the business clearly provides a retail service in the form of the sale of jewellery and other items, and includes a retail display in the shop window. On this basis, the stretch of frontage in question currently comprises just over 76% of units in A1 retail use. The proposed change of use of the application site would reduce this figure to 71%, and would result in just under 12% of the units within the frontage in A3 & A4 use.

6.6 The application proposal would therefore not meet the specific terms set out at paragraph 3.7 of CPG5 for maintaining the level of A1 retail use within this core

shopping frontage although the resulting percentage of A3, A4 & A5 uses would remain well below the maximum level set out in the guidance. However, it must be acknowledged that CPG5 only provides guidance on the interpretation of statutory policy for the protection of the character, function, vitality and viability of the town centre. Indeed, paragraph 3.11 of CPG5 states that the net loss of A1 floor space within the core frontages will be resisted except *'where the Council considers that such a loss will not harm the character, function, vitality and viability of the centre, and the new use meets other objectives of Camden's Core Strategy'*. This concern is the overriding objective of policy, not the maintenance of a specific minimum percentage of A1 retail units in any given frontage. In the applicant's view, the proposed change of use would not harm the character, function, vitality and viability of Camden Town Centre for the following reasons:-

- First, although CPG5 measures the percentage of A1 uses in terms of units, it is also reasonable to have regard to the length of frontage in A1 use. In this case, the frontage between Pratt Street and Plender Street has a total length of 154 metres of which 116 metres (75%) would remain in A1 use (on the basis of the uses set out in the above table) following the proposed change of use. This is illustrated on the plan appended to this statement as Document 1. A similar consideration applied in the recent Prior Approval appeal decision (APP/X5210/W/16/3153744) for the proposed change of use of 317 Gray's Inn Road from A1 to A3 use. Although the appeal was dismissed on noise grounds, the Inspector found that even though the proposal would result in the percentage of A1 uses falling below the applicable CPG5 threshold, this would not be harmful to the retail function of the area *'having regard to the larger frontages of two of the retail units'* (paragraph 14 of decision notice). Notwithstanding the somewhat narrower policy context in which a Prior Approval application or appeal is determined, this decision illustrates that the frontage sizes of existing A1 retail uses is a material consideration when assessing the impact of a change of use on the function and sustainability of a retail centre. A copy of this appeal decision is appended to this statement as Document 2;

- Second, there are three large, 'anchor' A1 uses within the frontage, as listed at paragraph 6.3 above, and these three units account for 42% of the length of the frontage. The frontage therefore has a strong, secure and sustainable A1 retail base which would not be undermined by the change of use of a single small unit (in café/sandwich bar use), the width of which accounts for just 3.25% of the total frontage length;
- Third, the application site is located close to the northern end of the frontage where the introduction of a small A3 use adjacent to a bank would not functionally 'dilute' the long and uninterrupted run of A1 retail uses, comprising 9 units and over 95 metres of continuous frontage, immediately to the south of the application site;
- Fourth, the proposed introduction of an A3 use would contribute positively to the character and vitality of the frontage. Currently, there are no other restaurant uses within the frontage, and there is only one existing unit (comprising just 6% of units) within the A3, A4 and A5 category. This is well below the maximum threshold for such uses imposed under CPG5. Core Strategy Policy CS7 seeks to provide a range of town centre uses including food and drink uses which it describes as adding '*diversity and vibrancy*' to town centres. The particular stretch of frontage in which the application site is located currently does not benefit from the diversity and vibrancy generated by a restaurant use. This absence is particularly striking during the evening period when most A1 retail uses are closed; and
- Finally, it should also be noted that the proposed A3 use would also generate the same level of employment as the existing A1 use at the application site. The proposed A3 use is worthy of strong support in the context of the advice set at paragraph 19 of the NPPF which states that '*planning should operate to encourage and not act as an impediment to sustainable growth...therefore significant weight should be placed on the need to support economic growth through the planning system*'.

6.7 For the above reasons, the applicant submits that the proposed change of use of

the application premises from A1 to A3 use would not cause material harm to the character, function, vitality and viability of Camden Town centre, and no conflict would therefore arise with Core Strategy Policy CS7 or Camden Development Policy DP12.

Impact on amenity

- 6.8 The proposed restaurant would operate until 1am on Mondays to Saturdays, and until midnight on Sundays and Bank Holidays. The application site includes non-residential uses on the upper floors of the building, and the site occupies a town centre location where levels of pedestrian activity and traffic noise remain high well into the late evening period. The existing café/sandwich bar uses incorporates lawful fume extraction equipment which would be retained. Furthermore, officers did not raise an objection to the proposed change of use on residential amenity grounds in respect of the earlier withdrawn application.
- 6.9 For all these reasons, the proposed change of use is not considered to give rise to residential amenity concerns, and the proposal therefore meets the policy expectations in this regard as set out at Policies CS7 and DP12.

Transport & highway considerations

- 6.10 The application site occupies a highly accessible town centre location, and is very well served by public transport. The proposed A3 use is unlikely to generate additional trips to the town centre, and site servicing arrangements, which include access from Pratt Mews to the rear, would be unchanged from the existing use.

7. CONCLUSIONS

- 7.1 The proposed change of use would not harm the character, function, vitality and viability of Camden Town centre. Although the resulting number of A1 units within this part of the core shopping frontage would fall just below the applicable threshold in CPG5, the frontage would retain a long and uninterrupted stretch of A1 uses including three large 'anchor' uses, and the total A1 frontage length would remain

at over 75% of the overall frontage. The proposed A3 use would provide diversity and vibrancy to a frontage where there is currently only one unit within the A3, A4 or A5 classes. The proposal is also supportable in terms of the sustainable economic growth and employment it would generate.

- 7.2 The proposed change of use would not give rise to any harmful impact on residential amenity or highway safety.
- 7.3 For the above reasons, the application proposal would represent sustainable development which accords with the NPPF, London Plan Policies 4.6 and 4.7, Camden Core Strategy Policy CS7, and Camden Development Policy DP12.
- 7.4 The applicant looks forward to early dialogue with the case officer, and to the favourable determination of this planning application.

CHRISTOPHER WICKHAM ASSOCIATES

May 2017

The following document is appended to this statement:-

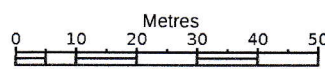
1. Plan showing total frontage length and A1 frontages;
2. Appeal decision APP/X5210/W/16/3153744 dated 11th October 2016 relating to the site at 317 Gray's Inn Road, London WC1X 8PX.

DOCUMENT 1



Produced 11 May 2017 from the Ordnance Survey MasterMap (Topography) Database and incorporating surveyed revision available at this date.

The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.



1:1250



74, Camden High St, London
NW1 0LT

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 Licence: © Crown Copyright and
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 Order Licence Reference: OI1122784
 Centre coordinates: 529088 183611



total frontage length 154m



A1 total frontage length 116m

DOCUMENT 2

Appeal Decision

Site visit made on 19 September 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 11 October 2016

Appeal Ref: APP/X5210/W/16/3153744
317 Gray's Inn Road, London WC1X 8PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mahendran Sathyakumar against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/2480/P, dated 29 April 2016, was refused by notice dated 16 June 2016.
 - The development proposed is change of use of the retail premises at ground/basement levels to a restaurant.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Class C(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits the change of use of a building from a use falling within Class A1 (shops) to a use falling within Class A3 (restaurants and cafes), and building or other operations for the provision of facilities for ventilation and extraction (including the provision of an external flue), and the storage of rubbish, reasonably necessary to use the building for a use falling within Class A3.
 3. Paragraph C.1. sets out the circumstances when development is not permitted and paragraph C.2. (1) states that 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 the impacts of the development as set out at C.2.(1)(a) to (g).
 4. Having regard to the available evidence the proposed development appears to be permitted development under Schedule 2, Part 3, Class C of the GPDO as none of the circumstances listed in paragraph C.1. applies and I note that this is also the view of the Council.
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5. The Council has refused prior approval under paragraph C.2.(1)(a) and (f)(ii) due to concerns regarding the noise impacts of the development and the impact of the change of use on the sustainability of the shopping area.

Main Issues

6. The main issues are:
 - The effect of the proposal on the living conditions of occupiers of nearby residential properties having regard to noise;
 - The effect of the proposal on the sustainability of the shopping area.

Reasons

7. The appeal site comprises a four storey building plus basement with a ground floor retail use located within a terrace of similar buildings containing commercial uses at ground floor. Residential flats are located on the upper floors of the appeal building and at the time of my visit it appeared that the upper floors of some of the other buildings within the terrace and that a property on St Chad's Street close to the appeal site also contained residential uses. Gray's Inn Road is a busy road located close to Kings Cross St Pancras station and the appeal site is located within the Kings Cross St Pancras Conservation Area and according to the Council is designated as being within the Central London Frontage Area.

Noise

8. As stated there are residential units on the appeal site and a number of other residential uses close by. Though Gray's Inn Road and the surrounding roads are very busy with traffic and contain a number of commercial premises, the height and form of the terrace within which the appeal site is located means that the rear elevation of the terrace and the rear of the buildings around the corner on St Chad's Street are to some extent shielded from any noise generated by traffic and by the comings and goings associated with the commercial uses.
9. The proposed extractor duct is large and would be positioned very close to a number of windows located in the rear elevation of the appeal building and nearby buildings. No noise information was submitted with either the application or the appeal. In the absence of this and having regard to the presence and position of residential uses and the size and position of the proposed extractor duct, it has not been demonstrated that the noise impacts of the development would be acceptable and that the proposal would not result in a significant adverse impact on the living conditions of the occupiers of nearby residential properties having regard to noise.
10. I do not consider that this issue could be adequately addressed by the imposition of a condition having regard to the uncertainty as to whether any noise arising from the extractor duct of the size and position proposed could be adequately overcome by other measures.

Shopping Area

11. 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.

12. 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.
13. 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.
14. 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.
15. 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.

Conclusion

16. Taking the above matters into consideration, 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.
17. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR