

The Brunswick

23rd May 2017

John Diver,
Development Management,
Camden Town Hall,
Judd Street,
London,
WC1H 9JE.

Dear Mr Diver,

Application: 2017/0202/P

Address: Unit 2, The Brunswick Centre, London

I have received a copy of your report on the application by Leon Restaurants to retain the unauthorised change of use at Unit 2 in The Brunswick Centre. As chair of the Tenants and Residents' Association for The Brunswick Centre, I disagree profoundly with your assessment and your conclusions, and would like you to reconsider these, in the light of the further information below – you appear to have been misled, presumably by information provided by the applicant, and your conclusions are therefore based on false premises.

There are several factual errors in the report, which are listed below. I would be grateful if you could either a. if the report has not yet been issued to members, confirm that these errors will be corrected before the report is issued; or b. if the report has already been issued to members, confirm that a supplementary report will be issued, setting out the corrections. In either case, could you please provide me with a copy of the documents issued to members. If you are unable to confirm that the errors identified below will be corrected, I will write to the members directly.

Consultations

1. In your summary of the Residents' Association objection you fail to mention the principle ground for our objection: that the proportion of the floor area given over to non-A1 uses greatly exceeds that allowed under the existing permission for the property. This objection is supported by the table of floor areas that formed part of our objection, and which you also fail to mention.

2. You say in your response to the Residents' Association objection that "*the proposed use would not be akin to a generic A3 use, would not be open late and would not be located adjacent to any other Food, Drink or Entertainment use*". This is incorrect for the following reasons:
 - a. The proposed use would be indistinguishable from a generic A3 use for any fast food restaurant. Leon has 120 restaurant seats, and it also has a small amount of fast food takeaway trade, as do many cafes/restaurants. Leon is no more a *sui generis* user than KFC or McDonalds: it is a straightforward fast food outlet trying to position itself slightly upmarket from its competitors.
 - b. You may not consider opening until 10.00p.m. opening late, but for residents living immediately above the premises, many of whom have small children, this is in fact late.
 - c. Leon is immediately adjacent to Carluccios, Apostrophe and Starbucks, all of which are in food and drink use. Leon is not physically attached to these units, but there is nothing between them except an area of pavement largely taken up with restaurant tables serving the various cafes/restaurants.

Site description

3. The application relates to a retail unit, not a "commercial unit".
4. The Brunswick Centre has 398 flats, not 560 flats. It was completed in 1973, not 1967.

Relevant History

5. You have not included details of application 2006/3876/P, referred to at several points later in the report. However, that this application is not available on the Camden Council Planning website. As this information is relevant, could you please issue me with a copy of the officer's report and decision on that application, as a matter of urgency.
6. Your summary of PSX0104561 omits the critical point that non-retail uses were limited to 40% of the total area, excluding the supermarket. If the current applicant wishes to change the terms of the existing permission it should say so, and the committee should determine whether those terms should be changed: the existing conditions should not simply be ignored.
7. Details of enforcement investigations EN14/0257 and EN14/0068 are not available on the Camden Council Planning website and so far as I am aware have not been issued to the Residents' Association previously; the Residents' Association was not consulted during these investigations. Could you please issue me with copies of the reports of these investigations.
8. The summary of EN14/0068 is incomplete.

Assessment

9. Under point 2.1: surely the single most important consideration, which you do not mention, is that this is an application for retention, and has been submitted (under the threat of enforcement action) by an applicant that has already demonstrated that it has no intention of being bound by planning rules, through a. its unauthorised change of use; and b. its erection of unauthorised signage without Listed Building Consent, which remains in place and is not part of this application.

10. Regarding 2.5: while you refer to general guidance throughout the borough, you fail to mention the specific conditions on uses that were imposed in the existing permission for The Brunswick Centre. The planning committee in 2001 determined that fewer non-retail uses should be allowed in The Brunswick Centre than would generally be allowed elsewhere, and there has been no application since to vary that condition. The figures given in the CPG are therefore irrelevant to this site.
11. However, if the CPG figures given in 2.6 do apply, then it is clear that the building does not currently comply:
 - a. This would limit food and drink uses to 25%. That figure has already been exceeded (see below).
 - b. Throughout the Brunswick Centre, there are several instances of more than two consecutive food drink outlets.
 - c. Twelve of the food and drink users in The Brunswick Centre have a floor area greater than 100m².
12. The survey referred to in 2.7, and appended to the report is incorrect in the following respects:
 - a. Carluccio's occupies Units 1 and 3; Sainsbury's occupies only Unit 5, as is clear from applications 2010/2849/P and 2011/2298/P and from even a cursory site inspection. Any attempt to suggest otherwise looks like a wilful attempt to mislead members.
 - b. Unit K1 Apostrophe is in A3 use. It is, as your table says, a café. Cafes are A3 users: as you are aware, A3 use is defined in full in the Use Classes Order 2016 as: "*Restaurants and cafés - For the sale of food and drink for consumption on the premises - restaurants, snack bars **and** cafes*".
 - c. Unit 4 Tossed is a snack bar; it is in A3 use, for the reasons given above in relation to Unit K1.
 - d. Starbucks occupies Unit 7, not Units 7/9; Unit 7 is in A3 use, not A1/A3 use, as application 2006/3876/P established, and for the reasons given above in relation to Unit K1.
 - e. Patisserie Valerie occupies Unit 9, not Unit 11. Unit 9 is in A3 use, not A1 use, as has been confirmed by Gary Bakall in your department, and for the reasons given above in relation to Unit K1.
 - f. Hare & Tortoise occupies Units 11/13, not Unit 13.
 - g. Unit 15/17 is not vacant, and was not vacant in March 2017. It is occupied by Las Iguanas, a Latin American themed bar/restaurant. Before that it was occupied by Strada. Since the redevelopment of the building it has been in continuous A3 use; it has never been in A1 use.
 - h. Unit 16 Itsu is a snack bar, in A3 use, not A1 use, for the reasons given above in relation to Unit K1. It has 84 seats for consumption of food and drink; this cannot plausibly be claimed to be anything other than a restaurant/café that happens to have some ancillary trade as a fast food takeaway.
 - i. Unit 28 Crush is a café, in A3 use, not a shop, for the reasons given above in relation to Unit K1.
 - j. Unit 34 Chatime Café is, by your own description, a café, and is therefore in A3 use, for the reasons given above in relation to Unit K1. It is not a shop.
 - k. It is bizarre that Unit 36 Centros Unicos, which is a beauty salon, is in D1 use, rather than A2, but at any rate it is not in A1 use.
 - l. Unit 38b Petit A Café is, by your own description, a café, and is therefore in A3 use, for the reasons given above in relation to Unit K1.
 - m. Unit 52 Halifax is vacant, and was vacant in March 2017. Since redevelopment of the Centre it has been in continuous A2 use.

13. Also regarding 2.7, it is incorrect to refer to the number of units as a guide to the proportion of the building in a particular use.
- As the existing permission for the building makes clear, the limit is based on the **floor area**, not the number of units. The cafes/restaurants are on average much bigger than the shops, and the proportion of food uses is therefore higher than your figure suggests.
 - In any case, as the numbering indicates, many of the restaurants occupy two units, with the result that only 24 units are in retail use, while 27 are in non-retail use, as the table below makes clear. Of the 24 retail users, three (Cards Galore, Fragrance Shop and Three) occupy only kiosks.

Unit no.	Retail users	No. of units	Unit no.	Non-retail users	No. of units
5	Sainsbury	1	1/3	Carluccios	2
K3	Cards Galore	1 (kiosk)	K1	Apostrophe Cafe	1 (kiosk)
25/27	River Island	2	7	Starbucks	1
29	Holland & Barrett	1	9	Patisserie Valerie	1
31	Specsavers	1	11/13	Hare & Tortoise	2
33/35	Superdrug	2	15/17	Las Iguanas	2
37	Robert Dyas	1	19/21	Giraffe	2
6	Hobbs	1	23	Nando's	1
K2	Fragrance Shop	1 (kiosk)	39	Brunswick Medical Centre	1
8	Vacant (last use retail)	1	2	Leon	1
10	Vacant (last use retail)	1	4	Tossed	1
12	Oasis	1	16	Itsu	1
14	Office	1	28	Crush	1
18	L.K. Bennett	1	30/32	Yo Sushi	2
20	Vodafone	1	34	Chatime Cafe	1
22	Joy	1	36	Centros Unicos	1
K3	Three	1 (kiosk)			
24/26	New Look	2	38a	Vacant (last use A3)	1
38a	Sanrizz Salon	1	44/46	Gourmet Burger Kitchen	2
40/42	Boots	2	48/50	William Hill	2
			52	Vacant (last use A2)	1
Total		24 units (including 3 kiosks)	Total		27 units (including 1 kiosk)

14. Regarding 2.8: as noted above, the Residents' Association was not consulted on, and has not seen the report that concludes that Itsu is a shop rather than a cafe/restaurant. This conclusion is clearly contrary to common

sense and to the express provisions of the Use Classes Order 2016. The statement that your figures for numbers of A3 units are “**fully up to date and accurate**” is incorrect, for this reason, and the reasons given above in relation to 2.5.

15. Also regarding 2.8: A5 use is not “bars” as you say. Bars are an A4 use; fast food takeaways are A5 use. As you note in your “Relevant history” section, Units 9 and 19/21 are partly in A5 use, and the Leon application includes A5 use.
16. Again for the reasons given above, we dispute the figures you give in 2.9 for non-A1 uses. If you are unwilling to put before the committee the table of actual uses included within our letter of objection, or the table above, we will provide our figures direct to the committee members.
17. 2.14 makes it clear that the proposed A3/A1 use of the 295m² Unit 2 exceeds by a very wide margin the maximum recommended area of 100m² for a café/restaurant in a residential area. CPG5 correctly identifies that this would have a harmful effect on residential amenity, and there is no reason to consider that this case is any different. Your 2.16 makes it obvious that if granted permission for A3 use, Leon will immediately apply for permission for air handling and extract plant, but even without this the noise and litter generated by the restaurant’s takeaway trade would be harmful.
18. At 2.19 you suggest that all of the guidance on floor areas, introduction of hot food takeaways in residential areas, concentrations of fast food restaurants, loss of retail units etc. should be ignored “*by virtue of the business’s Operational Management*”. However, whether or not Leon manages its fast food restaurants/takeaways well is irrelevant. If this use were permitted, Leon might move out the following day and the unit could then be re-let to McDonalds, KFC or any other fast food operator with no further change of use permission required.
19. Regarding 2.25: as you will be aware that there is a long history of units in the Brunswick Centre failing to use the basement service areas. Every day, deliveries and collections are made at ground level, disrupting pedestrians and creating hazard with drivers parking on pavements, in residents’ parking bays and on roundabouts. There is no reason to believe that drivers delivering to Leon will behave differently to those delivering to other units. You acknowledge that the number of deliveries will be considerably greater if the unit is in A3/A5 use than would be the case if the unit returned to retail use.

Conclusion

It is clear from any measure that the proportion of non-retail use in The Brunswick Centre exceeds that permitted by relevant guidance and by the existing planning permission for the property. Camden Council decided in 2010 and 2011 that the concentration of food and drink outlets caused significant harm to the amenity of residents, and in 2012 this decision was supported by the Planning Inspectorate. Since 2012 the situation was worsened further, as more units within the Centre have been converted to café/restaurant use, without permission, and there is no reasonable basis for a different decision now.

The applicant, which operates a chain of restaurants/takeaways bringing bland uniformity to high streets throughout England, has no connection with the local community, and has no interest in preserving living conditions for

residents. On behalf of the Tenants' and Residents' Association, representing the occupiers of the 398 flats in the Brunswick Centre, I request that this application be refused.

Yours sincerely,

1. **Brendan Woods**
2. **Brunswick Centre Tenants' and Residents' Association**