

Delegated Report		Analysis sheet		Expiry Date:		19/07/2017	
		N/A / attached		Consultation Expiry Date:		29/06/2017	
Officer				Application Number(s)			
Matthew Dempsey				2017/3218/P			
Application Address				Drawing Numbers			
151 Kings Cross Road London WC1X 9BN				Site Location Plan, A-01, A-02, A-03, Acoustic Impact Assessment.			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Change of use at ground floor from shop (Class A1) to restaurant (Class A3) and associated alterations including the installation of extraction system at rear under the General Permitted Development Order 2015 Schedule 2, Part 3, Class C (as amended).							
Recommendation(s):		Prior Approval Required - Approval Given					
Application Type:		GPDO Prior Approval Determination					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	00	No. of responses	00	No. of objections	00
				No. electronic	00		
Summary of consultation responses:		A site notice was displayed on 08/06/2017 and a press notice was advertised on 07/06/2017.					
CAAC/Local groups comments:		N/A					

Site Description

The subject site is located on the south side of King's Cross Road with an access gate to the rear courtyard from Wicklow Street. The building is a mid-terrace three storey brick building. This application relates to the ground floor of the building which is currently in A1 use. The property is within the Kings Cross St Pancras Conservation Area, but is not a listed building. The area is characterised by A1/A3 ground floor units with mostly residential accommodation on the upper floors.

Relevant History

20764 - Alterations to shop front. **Permission 28/05/1975.**

CA4531/AD511 - The display of a double sided internally illuminated projecting box sign measuring 2' (.61m) x 2'6" (.76m) fixed 8'6" (2.56m) above ground level. **Permission 06/01/1976.**

24231 - Change of use from Take Away food shop to restaurant. **Permission 27/04/1977.**

2012/5421/P - Change of use of an area in the rear of existing retail shop (Class A1) measuring 14.85sqm to use as a mini cab office (sui generis). **Refused 21/12/2012.**

2017/1809/P - Change of use at ground floor from shop (Class A1) to restaurant (Class A3) and associated alterations including the installation of extraction system at rear. **Withdrawn by applicant 23/05/2017.**

Relevant policies

National Planning Policy Framework 2012

Chapter 2 (Ensuring the vitality of town centres)

Chapter 4 (Promoting sustainable transport)

Chapter 7 (Requiring good design)

Chapter 12 (Conserving and enhancing the historic environment)

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015: Part 3, Class C as amended.

Assessment

1.0 The Proposal

1.1 The proposal seeks to change the use of the ground floor (approximately 90sqm) of the building from a shop (Class A1) to a restaurant (Class A3) under permitted development. An extractor duct would be installed in the rear of the property and would reach from the existing single storey rear ground floor roof level to the third floor/roof level affixed to the rear elevation. An acoustic report has been provided to support the proposed change of use.

2.0 Procedure

2.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class C allows for the change of use of a building from a use falling within Class A1 (shops) of the Schedule to the Use Classes Order, to a use falling within Class A3 (restaurants and cafes) of that Schedule.

2.2 Class C (b) also allows for building or other operations for the provision of facilities for:

- (i) ventilation and extraction (including the provision of an external flue), and
- (ii) the storage of rubbish, which are reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.

2.3 The change of use is subject to a number of conditions listed within sub-paragraph C.1 [(a)-(e)] and a subsequent condition in sub-paragraph C.2 relating to the need for the developer to apply to the local planning authority for a determination as to whether prior approval of the authority is required for:

- (a) noise impacts of the development,
- (b) odour impacts of the development,
- (c) impacts of storage and handling of waste in relation to the development,
- (d) impacts of the hours of opening of the development,
- (e) transport and highways impacts of the development,
- (f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—
 - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
 - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
- (g) the siting, design or external appearance of the facilities to be provided under Class C(b),

2.4 Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required.

3.0 Compliance with Paragraph C.1

3.1 Development is not permitted by Class C if –

- (a) the cumulative floor space of the existing building changing use under Class C exceeds

150 square metres;

The proposal complies. The cumulative floor space of the existing building changing use does not exceed 150 square metres; it would amount to approximately 90 square metres.

(b) the development (together with any previous development under Class C) would result in more than 150 square metres of floor space in the building having changed use under Class C;

The proposal complies. No other part of the building has previously changed use under Class C and no other applications under Class C at the building are pending determination.

(c) the land or the site on which the building is located is or forms part of—

(i) a site of special scientific interest;

The proposal complies. The application site is not within in a site of special scientific interest.

(ii) a safety hazard area; or

The proposal complies. The application site is not within a safety hazard area.

(iii) a military explosives storage area;

The proposal complies. The application site is not within a military explosives storage area.

(d) the site is, or contains, a scheduled monument; or

The proposal complies. The application building is not a scheduled monument.

(e) the land or building is a listed building or is within the curtilage of a listed building.

The proposal complies. The application building is not statutorily listed and neither is it within the curtilage of a listed building.

3.2 The proposal constitutes permitted development, pursuant to the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Part C.1.

4.0 Compliance with Paragraph C.2

4.1 Where the development proposed is development under Class C(a) together with development under Class C(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –

(a) noise impacts of the development,

Due to the nature of the site location (mostly commercial frontages) and the relatively minor floor area of the proposed activity, it is not envisaged that there would be an increase in noise levels. An extraction flue would be erected at the rear of the property. The applicant has submitted a noise report. It is considered the proposal would not be harmful in terms of noise.

(b) odour impacts of the development,

As noted, the applicant proposes to install appropriate extraction equipment including a ventilation duct in the rear elevation. The proposal is therefore considered to be acceptable in this regard.

(c) impacts of storage and handling of waste in relation to the development,

The accompanying documentation notes that the waste will be stored in a storage area towards the rear of the property and collected each day as per the current arrangement. Taking into consideration the constraints of the application site, this is considered to represent an appropriate solution to waste storage and handling and the prior approval of the Council is not considered to be necessary in this respect.

(d) impacts of the hours of opening of the development,

The applicant has stated the proposed opening hours of the restaurant as follows:

Monday – Sunday: 11:00 - 00:00

The application site is within a frontage which mainly comprises Class A1, A2 and A3 uses. Given the street is busy and noisy, if the proposed A3 activity were to operate in these hours it would likely be acceptable in this location. The Licensing Team will enforce operating hours.

(e) transport and highways impacts of the development,

The proposal is unlikely to generate significant travel demand and the scale of development is not large enough to warrant the provision of staff or customer cycle parking facilities. The proposal is considered to have an acceptable impact in this regard.

(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area.

Camden's Local Plan Policy TC2 – Camden's Centres and other shopping areas sets out the Council's overall strategy for our centres and associated uses. It seeks to promote successful and vibrant centres.

This is particularly important in Camden given the borough's wide range of bars, restaurants and entertainment venues, which are concentrated in our centres and central London, areas with significant residential communities.

The application site falls within the Central London Area but not within a designated frontage.

Policy TC4 builds on Policy TC2 and the advice contained in the NPPF by setting out our detailed approach to managing the impact of food, drink and entertainment uses and other uses suitable for centres. Two key considerations given in Policy TC4 are:

a) the effect of non-retail development on shopping provision and the character of the centre in which it is located; and

b) the cumulative impact of food, drink and entertainment uses taking into account the number and distribution of existing uses and non-implemented planning permissions, and any record of harm caused by such uses.

CPG5 Town Centres, Retail & Employment contains specific guidance for Central London Area food, drink and entertainment, specialist and retail uses relevant to the proposal. The guidance advises 'we seek to maintain the mixed use character of the Central London area, protect the retail function of shopping streets and maintain specialist uses'.

The retail unit is currently occupied by 'Victoria Food and Wine'. The A1 unit is currently operating at the site, appears to have been in A1 use for over 10 years and is within a frontage of ten ground floor units. The application site is within the 'Central Activity Zone' and CPG5 notes that the Council's primary objective here is to ensure that new developments do not cause harm to the character, function, vitality and viability of the centre, particularly its shopping function.

As stated the 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.

The 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, one of these is immediately next door. 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 this small shopping area.

(g) the siting, design or external appearance of the facilities to be provided under Class C(b), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application. Class C (b) allows for building or other operations for the provision of facilities for:

(i) ventilation and extraction (including the provision of an external flue), and (ii) the storage of rubbish, reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.

The proposed extract flue would be sited to the rear of the host building. Given its design and siting, the flue would not be visible from the street. As noted above, waste storage would be accommodated within the rear storage area as shown on the proposed floor plan, this represents an acceptable solution.

5.0 Conclusion

5.1 Grant Prior Approval.