

LDC (Proposed) Report		Application number	2017/3813/P
Officer		Expiry date	
Darlene Dike		29/08/2017	
Application Address		Authorised Officer Signature	
201A Belsize Road London NW6 4AA			
Conservation Area		Article 4	
Priory Road Conservation Area		No	
Proposal			
Use of the ground floor for the sale and consumption of chocolate, light snacks, hot drinks and alcohol ancillary to existing retail use (Class A1).			
Recommendation:		Grant Certificate of Lawfulness	

Site Description
<p>The application site comprises a 3 storey plus basement building located on the southern side of Belsize Road, close to the junction with Kilburn Priory and Priory Road. The retail premises that forms the subject of this report occupies the basement and ground floor levels of the property, and is currently used for the sale of chocolates that are consumed off site.</p> <p>The site is not listed but falls within the Priory Road conservation area, and has been identified within the Priory Road Conservation Area Statement as making a positive contribution to the special character and appearance of the area.</p>
Relevant History
<p>APPLICATION SITE</p> <p>No relevant history.</p> <p>NEIGHBOURING SITES</p> <p>No relevant history.</p>
Relevant policies
<p>The scheme can only be assessed against the relevant planning legislation which is the Town and Country Planning Act 1990, the Town and Country Planning (General Permitted Development)(England) Order 2015 ("GPDO") and the Town and Country Planning (Use Classes) Order 1987.</p> <p>This lawful development certificate is to determine whether the proposed use represents a material change of use from the existing use. If it were found that the proposed change would not constitute a material change of use, then this change would be 'permitted' and hence could go ahead without the</p>

specific grant of planning permission from the local planning authority.

An assessment of its planning merits as to its acceptability under current policies is therefore not relevant or possible here, as this is purely a legal determination.

Assessment

1. Proposal

1.1 The applicant seeks to establish whether the use of the unit for retail purposes as well as the limited sale of light snacks, hot drinks and alcohol for consumption on site would be ancillary to the main retail function of the unit and not constitute a material change of use, and therefore be lawful under the Town and Country Planning Act 1990 (as amended).

1.2 The premises currently operates as a chocolatiers retailing solely chocolate-based goods for consumption off site. Proposals seek to extend this use to allow for the supplementary consumption of chocolate on site, as well as the sale and consumption of hot drinks. Further to this, proposals also seek additional secondary functions allowing for the sale and consumption of light snacks and alcohol. Seating is proposed within the shop to cater to a maximum of 30 customers at any one time. It is anticipated that notwithstanding the additional uses proposed, the mainstay of the premises and the majority of its trade will remain the sale of packaged chocolate goods for consumption off site.

2. Assessment

2.1 Section 55 of the Town and Country Planning Act 1990 defines "development" as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

2.2 Paragraphs (2)(a) and (2)(f) of Section 55 of the Town and Country Planning Act 1990 state: "*The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land –*

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which –

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class".

2.3 The retail unit currently sells packaged chocolate goods for consumption off site as part of its established A1 use. Whilst this use has not been formally confirmed by means of a full planning application or lawful development certificate, Camden's Retail Survey makes clear that the premises has been in operation as a chocolatiers for the survey years of 2013, 2014 and 2015, and data from the Business Rates team goes further to verify that the property has been described within their records as a 'shop and premises' since 1993.

2.4 To enhance the existing business offer the applicant seeks to introduce the consumption of chocolate on site as well as the sale and consumption of hot drinks, light snacks, and alcohol, all secondary to the established A1 use. This will not involve primary cooking or the installation of any cooking equipment; instead it is anticipated that proposals will simply require the addition of the following machinery:

- A hot chocolate drinks machine
- A coffee machine and grinder

- A wine/drinks fridge

2.5 A provisional menu has been provided in support of the application, which demonstrates that the light snacks on offer will not involve primary cooking, and thus the provision of these snacks is not deemed to constitute a material change of use. Additionally, the applicant has made clear that the sale of alcohol for consumption on site would be served solely to accompany the purchase of chocolate and as such would remain ancillary to the established retail use. This is supported by the fact that the alcohol served would be limited to that storable within the wine/drinks fridge proposed – no taps are to be installed as part of the proposals and thus it is not felt that the provision of alcohol on site forms a material change of use. The applicant will be reminded that these sales must remain ancillary to the main retail function of the unit in order to remain lawful under a retail (A1) Use Class.

2.6 As the use of the premises for the consumption of chocolate, and sale and consumption of hot drinks, light snacks and alcohol would be incidental, and solely in support of the retail function of the planning unit, such activity would be considered ancillary to the main business. Given this, and in line with paragraph 2(f), Section 55 of the Town and Country Planning Act 1990 the proposed extended uses should be viewed as 'any other purpose of the same class' as the established A1 use. It is not felt that proposals would involve a material change of use. In light of this, and the fact that in accordance with paragraph 2(a), Section 55 of the 1990 Act proposals do not affect the exterior of the building, the proposed extended uses are not considered to constitute development, and would therefore be deemed lawful.

Recommendation: Grant Certificate of Lawfulness