

<b>Address:</b>	Sir Richard Steele Public House 97 Haverstock Hill London NW3 4RL		<b>3</b>
<b>Application Number:</b>	2016/1189/P	<b>Officer:</b> Rob Tulloch	
<b>Ward:</b>	Belsize		
<b>Date Received:</b>	03/03/2016		
<b>Proposal:</b> Change of use of the first and second floors from public house (Class A4) to residential (Class C3) to provide 4 self-contained flats (Class C3) (2x1 bedroom and 2x2 bedroom flats), demolition of existing toilets and kitchen and erection of new single storey ground floor rear extension to provide new function and community room, relocation of existing kitchen extraction flue and associated external works			
<b>Background Papers, Supporting Documents and Drawing Numbers</b>  Site Location Plan 7118 - LP; 7118 - 01; 02; 03; 04; 05; 06; 07; 08; 09; 10; 11; 12; 13; 14; 15 Rev A; 16 Rev A; 17 Rev A; 7118/101; 102; 103; 104; 20220-PL-040; Design and Access Statement by PAD dated February 2016; Operational Management Plan Rev 1 by Icen Projects dated March 2016; Acoustic Report by KP Acoustics dated 20th January 2014; Sound Insulation Investigation Report by KP Acoustics dated 6th February 2014; External Fabric Assessment by KP Acoustics dated 13th February 2014; Fire Risk Assessment by Compliance UK dated 27th January 2016			
<b>RECOMMENDATION SUMMARY: Grant conditional planning permission subject to a Section 106 Legal Agreement</b>			
<b>Applicant:</b>		<b>Agent:</b>	
C/O Agent    United Kingdom		Icen Projects Flitcroft House 114-116 Charing Cross Road London WC2H 0JR	

## ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace (GIA)
Existing	A4	Drinking Establishments	676m <sup>2</sup>
Proposed	A4 C3	Drinking Establishments Dwelling House	382m <sup>2</sup> 327m <sup>2</sup>

Residential Use Details:										
	Residential Type	No. of Bedrooms per Unit								
		1	2	3	4	5	6	7	8	9+
Existing	Flat/Maisonette									
Proposed	Flat/Maisonette	2	2							

## OFFICERS' REPORT

**Reason for Referral to Committee:** Referred for consideration by committee after Members' Briefing (Clause 3(vii))

### 1. SITE

- 1.1 The application site is a three storey Public House on the eastern side of Haverstock Hill. The basement of the pub is used for storage, with the ground floor housing the main bar and seating areas, kitchen and toilets. On the first floor is a vacant function room, along with an office and storage space. The second floor provides staff accommodation.
- 1.2 The pub, and its adjacent beer garden, is located at the end of a terrace of seven properties (83-95 Haverstock Hill) with commercial uses at ground floor level and residential above. To the north west of the site is Stanbury Court (99 Haverstock Hill) a large five storey block of flats. The block is separated from the application site by a vehicular access to Steele's Studios, a group of six single storey dwellings to the rear of the site.
- 1.3 The site is located in the Eton Conservation Area and is identified in the Conservation Area Statement as making a positive contribution to the character and appearance of the Conservation Area.

### 2. THE PROPOSAL

#### Original

- 2.1 Change of use of the first and second floors from public house (Class A4) to residential (Class C3) to provide 4 self-contained flats (Class C3) (2x1 bedroom and 2x2 bedroom flats), demolition of existing toilets and kitchen and erection of new single storey ground floor rear extension to provide new function and community room, relocation of existing kitchen extraction flue and associated external works

#### Revision[s]

- 2.2 Minor elevational changes have been made to the proposed rear extension. The management plan has also been revised to omit reference to removing music and dancing from the premises license and to allow wheelchair access to the pub via the beer garden.

### 3. RELEVANT HISTORY

- 3.1 2014/1367/P Change of use of the first and second floors from public house (Class A4) to create 2x1 bedroom and 2x2 bedroom flats (Class C3); extension and relocation of existing kitchen extract flue and associated works. **Refused**  
26/11/2014

Reasons for refusal:

1. The proposed development would harmfully compromise and undermine the services and facilities that the existing public house and its garden provide in supporting the needs of the local community and its ability to contribute to Camden's cultural heritage.
2. The applicant has failed to demonstrate that the proposed co-location of residential units and the public house would not cause harm to the residential amenity of the future occupants of the upper floor flats.
3. & 4. The absence of legal agreements for car free housing and highways contribution

An appeal against the decision was **Dismissed** on 22/07/15 (**APP/X5210/W/15/3003396**). The Inspector considered that the proposal would result in the loss of part of the premises (the first floor function room and beer garden) that provided community facilities, and that the development would compromise and undermine the value of the existing A4 use as a community facility. Whilst the Inspector did not consider the present ancillary accommodation to demonstrate that satisfactory living conditions would automatically result from the proposal, she noted that such arrangements exist elsewhere. She considered that noise from the public house would be limited, especially when compared against the noise from traffic on the nearby road (although the proposal did not involve the retention of the beer garden), and that internal sound insulation could be utilised that would exceed building regulations requirements to safeguard the amenity of the proposed occupants. Although the Inspector considered that the proposal would provide a poor standard of outdoor amenity for the proposed occupants of the flats, she considered that on balance the proposal would not cause a degree of harm to the living conditions of the proposed occupants that would justify the dismissal of the appeal. As such, the appeal was dismissed solely on the grounds of the loss of community facilities and that the development would compromise and undermine the value of the existing A4 use as a community facility.

- 3.2 2014/1373/P Change of use of the first and second floors from public house (Class A4) to create x 10 hotel rooms (Class C1); extension and relocation of existing extraction flue and associated works. **Refused** 26/11/2014.

Reasons for refusal:

- 1 The proposed development would harmfully compromise and undermine the services and facilities that the existing public house and its garden provide in supporting the needs of the local community and its ability to contribute to Camden's cultural heritage
- 2 & 3 The absence of legal agreements for car free housing and highways contribution

- 3.3 2013/4715/P Change of use of the first and second floors from public house (Class A4) to create 2 x 1 bedroom and 2 x 2 bedroom flats (Class C3). **Withdrawn** 20/11/2013.
- 3.4 2013/4719/P Conversion of first and second floors to 10 accommodation rooms ancillary to public house (Class A4). Certificate of Lawfulness (proposed) **Refused** 19/09/2013.

Reason for refusal: The proposed development would result in a material change of use of the upper floors for which planning permission would be required.

- 3.5 The Leighton Arms, 101 Brecknock Road  
2014/4554/P Conversion of the building to create five self-contained residential flats on the upper floors, comprising a single storey roof extension and three storey rear extension. **Refused** 25/03/2015 The third reason for refusal related to the location of the flats above the pub which would harm the amenity of future occupiers and prejudice the long term viability of the public house. An appeal against the Council's refusal was **Allowed** on 11/12/2015. The inspector considered that the proposed changes would ensure the pub's long term viability, and that future occupiers would be aware of the pub below and that conditions to address sound insulation would protect the amenity of future occupiers and not be harmful to the future of the pub.

#### 4. **CONSULTATIONS**

##### **Statutory Consultees**

- 4.1 n/a

##### **Conservation Area Advisory Committee**

- 4.2 **Eton CAAC** raises no overall objection, but comment that the elevation of the function room should match the detailing of the adjacent side elevation and not be a poor imitation. They object to the extract duct being painted black as it would stand out and consider it should be left unpainted like the fish and chip shop next door.

##### **Local Groups**

- 4.3 **Belsize Residents' Association** object:

- The site is an Asset of Community Value (ACV) whose status was upheld at two appeals
- The proposal compromises the garden considerably and provides a smaller function room
- The proposal will prevent music being played and harm the value of the ACV
- The conversion is contrary to the tribunal's decision that the whole building is an asset of community value
- The proposal should be rejected as it erodes the community value

##### **Campaign for Real Ale (CAMRA) North London Region** object:

- The loss of a function room would diminish the value of the pubs amenity to the local community
- This would make the pub unviable and create an argument for the future conversion of the remaining pub
- The beer garden would be harmful to the amenity of new residents and if forced to close would affect the viability of the pub
- A condition should remove permitted development rights for changes of use of the pub
- The applicants own the Dartmouth Arms and the Black Cap which are both Assets of Community value, but have both been closed down
- The NPPF (para 69 and 70), the London Plan and Camden's LDF policy DP15 all recognise pubs as vital community social infrastructure
- The pub is an Asset of Community Value, with the function room and beer garden particularly important
- The beer cellar, staff accommodation, function room and garden contribute to its viability, and the site would be attractive to other pub operators

- Both appeals against the ACV listing were unsuccessful and the whole pub is listed as being an Asset of Community Value.
- If the planning unit is split, and the asset offered for sale, the community would only be able to bid for the ground floor and cellar, which undermines the spirit of the Localism Act and contrary to the will of parliament
- Experience shows that noise complaints from new flats above pubs lead to licensing reviews which can in turn lead to reduced hours, restrictions on music and events, further decreasing viability, resulting in the total loss of the pub

**Steele's Village Business Association** recognise the pub and their directors and staff are part of the community and the proposal will protect a treasured pub

### Adjoining Occupiers

<i>Number of letters sent</i>	22
<i>Total number of responses received</i>	58
<i>Number in support</i>	52
<i>Number of objections</i>	6

- 4.4 6 Objections were received from nos. 75 Haverstock Hill, 23 Lancaster Grove, 21 Lawn Road, Steele's Studios Ltd, 74 Durdans House, and a customer from Barking:

### Land use

- No justification, the proposal is just for financial gain
- 1<sup>st</sup> floor function room has been deliberately left vacant
- Proposed function room is a token gesture and will be inadequate size, considerably smaller than existing
- Pub will be lost
- Ongoing erosion of community facilities
- Prohibiting live music and dancing would affect its community function and the viability of the pub
- Proposal does not address previous reasons for refusal
- Applicant has a history of closing down pubs
- The pub is up for sale

### Access

- Removing access through the beer garden and relocating the toilets to the basement would make the pub inaccessible to wheelchair users
- Residents accessing their flats, and cycle/refuse storage, via the beer garden is not practical and could harm the enjoyment of users of the beer garden

### Housing

- No parking provided
- No affordable housing provided

### Amenity

- Function room will be too close to Steele's Studios, the bedroom windows of 1a will be a few feet away from the proposed function room
- noise will harm amenity, ventilation through the glass roof, doors and windows would add to noise
- Pub manager would only be on site 11 hours a day

- Existing residential use does not mean amenity for future occupiers will be acceptable

4.5 52 letters of support were received. The majority of these (41) were from local residents of Haverstock Hill, Eton Place, Eton College Road, Belsize Lane, Steele's Road, Gilling Court, and Primrose Hill Road. A letter of support was also received from Primrose Hill Ballet School. 2 supports were received from W8 and SW10 postcodes, and a further 8 were received with no address. The reasons for supporting the scheme were:

- Proposal would enhance the area
- All the business premises from 73-81 Haverstock Hill have flats above
- The proposal will safeguard the pub for the good of the local community
- The application has generated much enthusiasm from the local community
- The proposed function room would be better than existing
- The beer garden would be retained
- The pub has effectively managed out anti-social behaviour
- No overlooking from the extension
- Sympathetic scheme which modernises the ground floor
- New residents should be able to apply for parking permits
- Ballet School would be interested in hiring the function room

## 5. **POLICIES**

**London Plan 2016**  
**NPPF 2012**

### 5.1 **LDF Core Strategy and Development Policies**

CS5 Managing the impact of growth and development

CS6 Providing quality homes

CS10 Supporting community facilities and services

CS11 Promoting sustainable and efficient travel

CS14 Promoting high quality places and conserving our heritage

CS17 Making Camden a safer place

CS18 Dealing with our waste and encouraging recycling

DP1 Mixed use development

DP2 Making full use of Camden's capacity for housing

DP3 Contributions to the supply of affordable housing

DP5 Homes of different sizes

DP6 Lifetime homes and wheelchair homes

DP12 Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses

DP15 Community and Leisure uses

DP16 The transport implications of development

DP17 Walking, cycling and public transport

DP18 Parking standards and limiting the availability of car parking

DP21 Development connecting to the highway network

DP22 Promoting sustainable design and construction

DP24 Securing high quality design

DP25 Conserving Camden's heritage

DP26 Managing the impact of development on occupiers and neighbours

DP28 Noise and vibration

DP29 Improving access

## 5.2 Supplementary Planning Policies

### Camden Planning Guidance 2015 Eton Conservation Area Statement 2002

## 6. ASSESSMENT

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

- Land Use
- Design
- Standard of residential accommodation
- Amenity
- Transport
- Community Infrastructure Levy

### Land Use

#### *Loss of community floorspace*

- 6.2 The pub currently provides storage in the basement, with the main bar area, kitchen and toilets at ground floor level, an office and a vacant function room at first floor level, and ancillary accommodation at second floor level. It also has a large beer garden.
- 6.3 The pub provides a recognised community function, the type of which is protected by policy DP15 (Community and Leisure uses) which states that the Council will resist the loss of local pubs that serve a community role unless alternative provision is available nearby, or it can demonstrated to the Council's satisfaction that the premises are no longer economically viable for pub use. The NPPF at paragraph 69 states that "the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities". Paragraph 70 states that to "deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: plan positively for the provision and use of shared space, community facilities (such as...Public Houses)" to enhance the sustainability of communities and residential environments.
- 6.4 The loss of community floorspace was a reason for refusal for two previous schemes (2014/1373/P and 2014/1367/P – see history section), both of which would have resulted in the loss of community provision through the conversion of the first and second floors to a separate residential/hotel use, and the conversion of the beer garden into private amenity space. In determining the subsequent appeal (2014/1376/P), the Inspector considered that although the first floor function room was in a poor state of repair it could still be used for meetings, social events and performances, and that the possible relocation to the ground floor or basement could interfere with the bar and cellar/storage area, and may not be suitable for larger gatherings. She also considered that the loss of the beer garden would result in the loss of a valued community facility.
- 6.5 The function room has been empty for over a year and the applicant has commissioned a fire risk assessment which deems the life safety risk at first floor level to be substantial due to the number of people the function room could accommodate and the lack of a protected escape route. The applicant states that in order to comply with current fire regulations it would cost a considerable amount to bring the function room up to the required standards.

- 6.6 The applicant seeks to address the Inspector's concerns by relocating the function room to the ground floor, and retaining the beer garden. The existing function room is at the front of the pub at first floor level and provides approximately 82sqm of floorspace. It is proposed to demolish the toilets and kitchen at the rear of the pub and erect a new extension to act as a function room with a floorspace of approximately 73sqm. The proposed function room, although providing slightly less floorspace than existing (12%), would be more accessible and has been revised to provide a more flexible floor to ceiling height of 4.4m (increased from 2.7m). Officers consider the ground floor function room to be an acceptable alternative.

*Other alterations*

- 6.7 The toilets and kitchen would be relocated to the basement allowing for the retention of 96sqm of cellar/storage space at basement level. This would not impact on the main bar at ground floor level, although the provision of a separate residential entrance would reduce the ground floor area by approximately 10sqm to 138sqm. The proposed cycle and refuse storage to be located in the beer garden would also reduce the area of the beer garden by 14sqm to 108sqm. The proposed changes are set out in the table below.

	<b>Existing</b>	<b>Proposed</b>
Storage	155sqm (Bst & 1 <sup>st</sup> floors)	96sqm (Bst)
Toilets	28sqm (Gnd & 1 <sup>st</sup> floors)	32sqm (Bst)
Kitchen	14sqm (Gnd floor)	25sqm (Bst)
Bar & seating	148sqm (Gnd floor)	138sqm (Gnd floor)
Beer garden	122sqm (Gnd floor)	108sqm (Gnd floor)
Yard	30sqm (Gnd floor)	--
Cycle/refuse store	--	11sqm (Gnd floor)
Function room	82sqm (1 <sup>st</sup> floor)	72sqm (Gnd floor)
Office	22sqm (1 <sup>st</sup> floor)	--
Residential	148sqm (2 <sup>nd</sup> floor )	288sqm (1 <sup>st</sup> & 2 <sup>nd</sup> F) (NIA)

- 6.8 The long term viability of the pub was not considered to be an issue in the previous reasons for refusal, even though the previous schemes would have resulted in the loss of the function room and beer garden. In the current scheme, the reduction in the amount of trading floorspace (ground floor bar area, function room and beer garden) would amount to approximately 34sqm or 9.7%, which is not considered significant to affect the viability of the pub.
- 6.9 The pub currently only has level access via the beer garden. As it is proposed to restrict access to the beer garden from the street to residents, the applicant has agreed to allow wheelchair users access to the pub via the beer garden and has revised their management plan accordingly. Under the Equality Act 2010 pubs, and other business premises, have a duty to make reasonable adjustments to ensure premises are accessible. Currently, there are no disabled toilets in the pub, so relocating the toilets to the basement will not make the situation any worse. An informative will remind the applicant of the need to comply with the Equality Act.
- 6.10 As such, it is considered that the proposed function room would provide an appropriate alternative community space without having an adverse impact on the remaining pub. The provision of the proposed function room would be required before occupation of any of the residential units and its retention would be secured as part of a section 106 agreement. To ensure the function room is fully available



for community use, the legal agreement would also require the function room to be offered at reasonable rates and supported by adequate marketing to secure community inclusion.

#### *Asset of Community Value (ACV)*

- 6.11 The premises were nominated as an Asset of Community Value (ACV) by Belsize Residents Association on 05/04/2015. The applicant challenged the listing, but the Council resolved that sufficient evidence had been submitted in line with the Localism Act 2011 to demonstrate that the premises provide a recognised community function.
- 6.12 In determining the planning appeal (against the Council's refusal of the application for the conversion of the upper floors into 4x flats - 2014/1367/P), the Inspector gave limited weight to the ACV nomination, as its status as an ACV had not been confirmed at the time of the appeal due to the appellant's challenge. However, the Inspector noted that *"The government's Community Right to Bid: Non-statutory advice note for local authorities October 2012 advises that it is open to the local planning authority to decide whether listing as an ACV is a material consideration, taking into account all the circumstances of the case."* Although the listing had not been confirmed, the Inspector regarded the request for such a listing to be an indicator of the local support for the premises which she described as furthering the social well-being or social interest of the local community, and attached "some weight" to it.
- 6.13 The Council dismissed the challenge to the ACV listing in July 2015 and the applicant subsequently appealed to the First-tier Tribunal against the ACV listing contesting that ACV status should not be conferred on the whole building, as the basement and upper floors were not open to the public and therefore did not provide any community benefit, and that the beer garden was merely ancillary to the pub use. The judge described the pub as a functioning and well-loved neighbourhood pub, which is used as a place for local residents to meet and socialise and considered that for the purposes of section 88 of the Localism Act 2011, the listing apply to the whole pub and beer garden as well, not just the ground floor bar, and dismissed the appeal on 04/05/2016.
- 6.14 Therefore, in line with the tribunal's decision, the whole building and garden must be considered as an Asset of Community Value. However, whilst it is acknowledged that the proposal would involve the loss of the upper floors to a residential use; this is not considered to harm the pub's ability to provide its community and social function. The tribunal judge considered that not including the basement in the listing would be absurd, as it was a functioning part of the pub, and if it were excluded from the ACV listing, the statutory moratorium on sale would give the community the chance to buy the ground floor but not the cellar (or any other parts of the pub if they were also excluded). Whilst the current proposal seeks to split the building, a functioning pub with cellar, beer garden and function room, would remain, albeit without any staff accommodation. As such, it is considered that the loss of the staff accommodation in itself would not affect the ACV status of the pub or its ability to provide a community function, and if the pub were offered for sale, the local community, or anyone else, would still have the opportunity to buy a pub with all of its composite parts, i.e. cellar, kitchen, bar/seating areas, beer garden, and function room, except for one floor of staff accommodation.
- 6.15 It is noted that whilst not rejecting the applicant's claim that it would cost an excessive amount of money to comply with fire regulations, the Inspector and

Judge did consider that a future owner may find a more cost effective way to upgrade the facility. However, it is recognised that the current proposal would enhance the existing community provision by resurrecting the function room, which has lain dormant for over a year.

- 6.16 In summary, it is accepted that the whole building and beer garden are to be treated as a single ACV, and this is a material consideration. However, the proposal, whilst reducing the overall floorspace of the pub, would not harm its ACV status, because the ability to provide a community function would not be diminished.

#### *Residential use*

- 6.17 Permanent residential use is the priority use in Camden's LDF and Policy DP2 (Making full use of Camden's capacity for housing) states that Council will seek to maximise the supply of homes in the borough. Accordingly, the principle of residential use is acceptable in this location subject to a suitable mix of unit sizes and standard of accommodation for future occupants

#### **Design**

- 6.18 The pub has an area at the rear which is currently occupied by single storey extensions comprising male and female toilets, a kitchen block, and a small yard enclosed by a 3m - 4.4m high brick wall. It is proposed to demolish the toilet and kitchen blocks and replace them with a single storey extension which would provide the new function room. As the proposed extension would be enclosed by three existing walls the only new elevation would be the front of the extension which would face the beer garden and replace an existing wall.
- 6.19 The proposed extension would measure approximately 13m x 5.8m and be 4.4m high with a lantern rooflight. Following comments from Eton CAAC, the design has been revised so that it relates more to the existing side elevation of the pub in terms of detailing, and the height has been increased so it is now in line with the existing cornice. The increase in height also improves the internal space of the function room. The design is now considered to complement the host building.
- 6.20 It is proposed to extend the extract flue, which currently sits just above the ground floor kitchen extension at the rear, to roof height to ensure fumes are discharged vertically away from rear windows. The flue would be painted black to reduce its visual impact. The CAAC requested that it be left unpainted; to match a nearby flue, but this is not considered necessary to preserve the character or appearance of the host building or the conservation area.
- 6.21 The proposed changes are relatively minor and would not be visible from the public realm. The new extension would replace older non-original additions and would enhance the character and appearance of the host building and conservation area.

#### **Standard of residential accommodation**

- 6.22 The proposed conversion would provide 4x flats (2x 2-bed and 2x 1-bed). The 1-bed units would have 64sqm of floorspace each, with the 2-beds providing 77 & 79sqm. This is in excess of the DCLG technical standards which recommend a minimum of 50sqm for a 1-bed (2 persons) and 70sqm for a 2-bed unit (4 persons). All bedrooms would be in excess of 11sqm, although two would be marginally

under the 11.5sqm recommended, but this minor shortfall is considered acceptable. All flats would be dual aspect with good access to natural light and ventilation.

- 6.23 Access to the flats would be via a secure coded entrance gate on Haverstock Hill. Residents would walk through the beer garden to a dedicated residential entrance to the building. Refuse and cycle storage would be located to the front of the beer garden adjacent to the back edge of pavement. The refuse storage would comprise 1x 1100L bin, 1x 660L bin and 1x 240L bin for food waste, which is adequate for the number and size of units proposed. The pub's refuse storage arrangements would remain as existing. The proposed flats would have no external amenity space, but on balance the proposal is considered to provide an acceptable standard of accommodation for non-family housing.
- 6.24 Policy DP5 seeks to ensure that all new housing provided is in line with the housing priorities for the borough. The proposal is to provide 2 x two bedroom units and 2 x one bedroom units. The housing size priority is for two bedroom units (50%) and the proposal therefore meets the target for priority housing in the borough.

### **Amenity**

#### *Sunlight/daylight*

- 6.25 The proposed extension would rise a maximum of 1.4m above the boundary wall with Steele's Studios, but as the wall borders their vehicular access and no windows directly face the extension there would be no impact on sunlight or daylight to these dwellings.

#### *Noise impact on neighbours*

- 6.26 The extended flue would rise to roof level and not impact on the amenity of neighbours or future occupiers of the flats above in terms of fumes. As no plant or equipment has been specified, Environmental Health officers recommend that details of noise emitted from plant/machinery and any appropriate mitigation measures be submitted to the Council for approval. This will be secured by condition.
- 6.27 Concern has been raised about noise from the proposed function room. It is not considered that the function room would create additional noise compared to the previous function room. A condition will prevent the lantern rooflight having any openable windows, and as other external doors to the pub are identified as being self-closing, a condition will require the same to apply to the function room's external door. Furthermore, the pub already operates under strict licensing conditions that require, among other things, noise emanating from the premises up to 23:00hrs to be no more than 5dB above ambient levels (when measured 1m away from noise sensitive premises), with no noise emanating from the pub to be audible within any noise sensitive premises between 23:00 and 07:00hrs on any day.

#### *Internal noise*

- 6.28 The applicant has submitted a Building Fabric Assessment, Acoustic Report and Sound Insulation Report by KP Acoustics to assess the impact of the pub use on future occupants of the flats above and detail mitigation methods. The sound insulation report considers how the flats would be protected from the transmission of both airborne sound and impact sound from the pub use below. It recommends

various changes to the party floor and stairwell walls, which would provide additional psychoacoustic and pragmatic benefits for the tenants of both the first floor flats by means of a significant reduction in airborne and impact noise transmission. It also proposes secondary glazing to the windows of the flats and sound mitigating glass for the pub and its entrance door.

- 6.29 The applicant originally proposed to remove music and dancing from the premises license, however this formed part of the previous management plan which did not include a separate ground floor function room. As it is expected that the pub can continue to provide a full and varied community function, including music and dancing, without harming the amenity of future occupiers, the proposal to stop music and dancing has now been omitted from the management plan due to officers concerns as to how this would affect the community provision and viability of the pub..
- 6.30 As the Inspector noted in her appeal decision, whilst the ancillary accommodation above the pub does not necessarily mean that new, separate residential accommodation would, by default, provide an acceptable level of amenity, she was satisfied that the attenuation measures proposed could reduce the impact of internal noise transmission to an acceptable level and did not uphold the second reason for refusal, which concerned the amenity of future occupiers.
- 6.31 Environmental Health officers consider the submitted information acceptable and recommend that details of the floor/ceiling/wall insulation be submitted for approval before development commences. This would be secured by condition.

#### *External noise*

- 6.32 The existing premises license does not permit customers to drink outside the pub on the public highway, and prevents any music being played in the beer garden at any time. It also requires bottles to be disposed of at a reasonable time of day and deliveries to be made at times which will not disturb residents. The Inspector acknowledged that residential uses above pubs are not uncommon and “even if the windows of the uppers floors are opened the noise from the public house would be limited, especially when compared against the noise from traffic on the nearby road”. However, the previous scheme would not have retained the beer garden.
- 6.33 The beer garden can currently open until 22:00hrs and the applicant’s management suggest this could change to 21:00hrs. However, there is some concern that reducing the hours of the beer garden could restrict its community provision and it is not considered necessary to attach a condition requiring the beer garden to close any earlier, as it is not considered that the garden would have an adverse impact on the amenity of the flats above. As stated above, no music is permitted in the garden and there are existing residential uses, Steele’s Studios and 97A Haverstock Hill, nearby. As the beer garden is part of the ACV listing, a condition will prevent the garden being used as separate residential amenity space (however as this would constitute a material change of use from A4 (pub) to C3 (residential) such a change would require planning permission, which would not be recommended for approval because of the loss of a community facility.
- 6.34 An appeal was determined in December 2015 for the conversion of the uppers floors of the Leighton Arms in Brecknock Road to flats as listed above. In this appeal, the co-existence of pub and separate residential uses was considered acceptable by the Inspector. She noted the pub’s location on a busy road with high levels of traffic and considered that future occupiers would be mindful that they

were living above a pub, and aware that opening windows may increase noise disturbance.

- 6.35 Although officers consider that the noise impact from the pub would be acceptable, and that future occupiers would be aware, that they would be living above a functioning pub, it is considered reasonable to add a clause to the section 106 agreement that puts future occupiers on notice that there is an established pub use and that any marketing materials, and the lease of each dwelling, include information about the pub's licensed hours and details of entertainment. Therefore, whilst not removing the statutory right to appeal any future license applications, future occupiers could only do so having been made being fully aware of the exact nature and operation of the pub before they move in.
- 6.36 As such, with the appropriate mitigation measures the proposal is not considered to harm the amenity of adjoining, or future, occupiers and would comply with policies CS5 and DP26 of the LDF and Camden Planning Guidance.

### **Transport**

- 6.37 The proposal does not have any existing off-street car parking and no off-street car parking is proposed. The subject site is located in an area with a Public Transport Accessibility Level (PTAL) of 4 (good). Given the transport accessibility level of the site a car-free development would be required. The applicant has agreed to enter into a legal agreement for a car-free development
- 6.38 There is an existing crossover to the front of the site and this is no longer in use, this will be removed as part of the legal agreement. Such works would require a financial contribution secured via a Section 106 .The figure for the associated works is £5,292.
- 6.39 The proposal includes storage for 6 bicycles in the garden area. This is indicated as being covered and secure, and a condition will require the facility to be implemented before occupation.

### **Community Infrastructure Levy (CIL)**

- 6.40 The development would not be liable for a CIL contribution as only net additional floorspace is liable. The additional floorspace proposed (the function room) is not residential floorspace, nor does it exceed 100sqm.

## **7. CONCLUSION**

- 7.1 It is recognised that the Sir Richard Steele makes a valuable contribution to the local community and provides the type of community function that is afforded protection by local and national policies and guidance. The local community has also demonstrated its value by securing its inclusion on the list of Assets of Community Value, which has been endorsed by an unsuccessful challenge and an appeal by the pub owner. However, the proposal seeks to retain the pub along with its beer garden, and re-provide a more accessible function room. The applicants have engaged with the local community and the Council has received a great deal of support for the current scheme, which seeks to address previous concerns of the Inspector. As such, it is considered that the pub would continue to provide a community function and its ACV status would not be adversely affected.

Furthermore, the proposal would provide additional residential accommodation without causing harm to the amenity of existing or future residents.

7.2 Conditional planning permission is recommended subject to a S106 Legal Agreement covering the following Heads of Terms:-

- Car-free housing
- Highways contribution (£5,292)
- Function room plan
- Future occupiers covenant

## 8. **LEGAL COMMENTS**

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

Condition(s) and Reason(s):

- 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 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 7118 - LP; 7118 - 01; 02; 03; 04; 05; 06; 07; 08; 09; 10; 11; 12; 13; 14; 15 Rev A; 16 Rev A; 17 Rev A; 7118/101; 102; 103; 104; 20220-PL-040; Design and Access Statement by PAD dated February 2016; Operational management Plan by Icen Projects dated March 2016; Acoustic Report by KP Acoustics dated 20th January 2014; Sound Insulation Investigation Report by KP Acoustics dated 6th February 2014; External Fabric Assessment by KP Acoustics dated 13th February 2014; Fire Risk Assessment by Compliance UK dated 27th January 2016

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

- 4 Prior to operation, details shall be submitted to and approved in writing by the Council, of the external noise levels emitted from plant/ machinery/ equipment and mitigation measures as appropriate. The measures shall ensure that the external noise level emitted from plant, machinery/equipment will be lower than the lowest existing background noise level by at least 10dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies.

- 5 Prior to operation, any machinery, plant or equipment or extract/ ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by vibration generally in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies..

- 6 Prior to commencement of the development, details of the sound insulation of the floor/ ceiling/ walls separating any part of the commercial part(s) of the development from noise sensitive premises, and any window enhancements, shall be submitted to and approved in writing by the Council. Details shall demonstrate that the sound insulation value  $D_{nT,w}$  and  $L'_{nT,w}$  is enhanced by at least 20dB above the Building Regulations value and, where necessary, additional mitigation measures are implemented to contain commercial noise within the commercial premises and to achieve the criteria of BS8233:2014 within noise sensitive premises. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ adjacent dwellings/ noise sensitive premises is not adversely affected by noise in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies.

- 7 The proposed development shall not be occupied until the whole of the cycle parking provision shown on the approved drawings is provided. The whole of the cycle parking provision shall be permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.

- 8 The external doors to the pub and function room shall be self-closing and be permanently retained as such.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework

Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies.

- 9 The rooflight to the function room hereby approved shall have no openable elements and be permanently retained as such.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies.

- 10 The flue hereby approved shall be painted black and permanently retained as such.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 11 The operation and management of the public house and residential accommodation hereby permitted shall be carried out in strict accordance with the provisions of the Operational Management Plan hereby approved.

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 DP26, DP28 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

- 12 Access to the public house must be available to wheelchair users via The Haverstock Hill entrance gate during opening hours.

Reason: To ensure that wheelchair users can continue to access the public house in accordance with policy: CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP29 the London Borough of Camden Local Development Framework Development Policies.

- 13 The beer garden shall not be used for residential amenity purposes in connection with the flats hereby approved and shall be retained as ancillary to the public house at all times

To protect the community function of the public house in accordance with policy CS10 (Supporting community facilities and services) of the London Borough of Camden Local Development Framework Core Strategy, policies DP15 (Community and leisure uses) and paragraphs 69 and 70 of the National Planning Policy Framework 2012 and policy 4.6 of the London Plan 2016.



- 14 Before the development commences, 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 prior to the first occupation of any of the new units 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 DP26, DP28 and DP12 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.
- 3 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 4 You are reminded that in line with the Equality Act 2010 there is a duty for commercial to make reasonable adjustments to ensure all services are accessible.



# Sir Richard Steele PH, 97 Haverstock Hill

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Beer garden and side elevation



Rear yard

# Sir Richard Steele PH, 97 Haverstock Hill 2016/1189/P



Interior of proposed function room (CGI)

# Sir Richard Steele PH, 97 Haverstock Hill

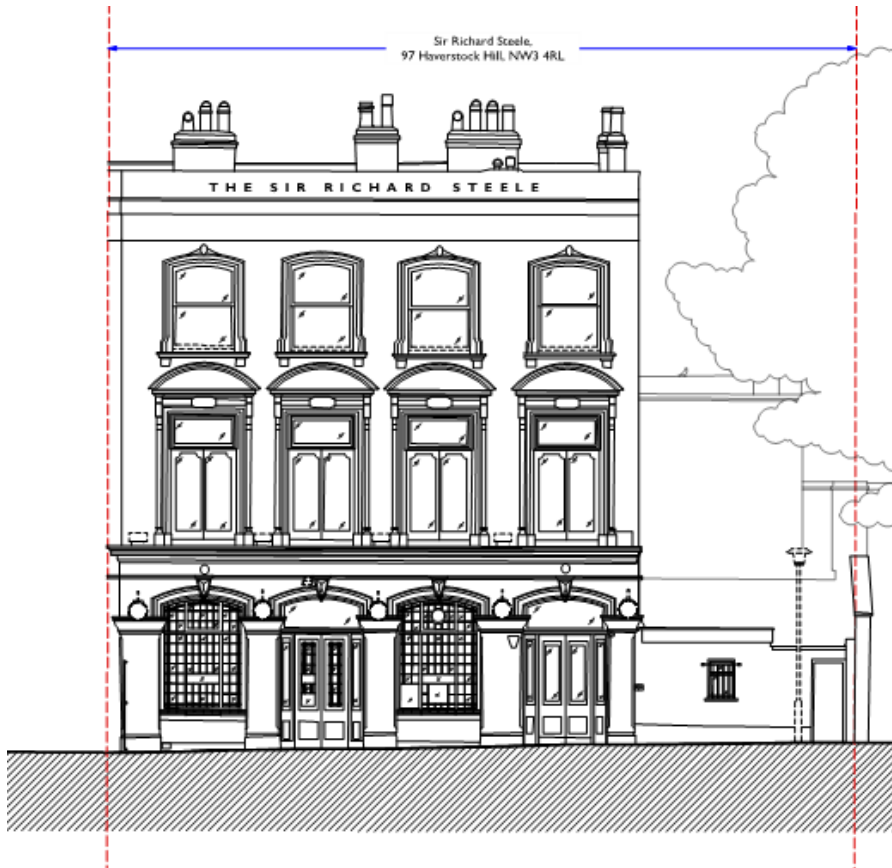
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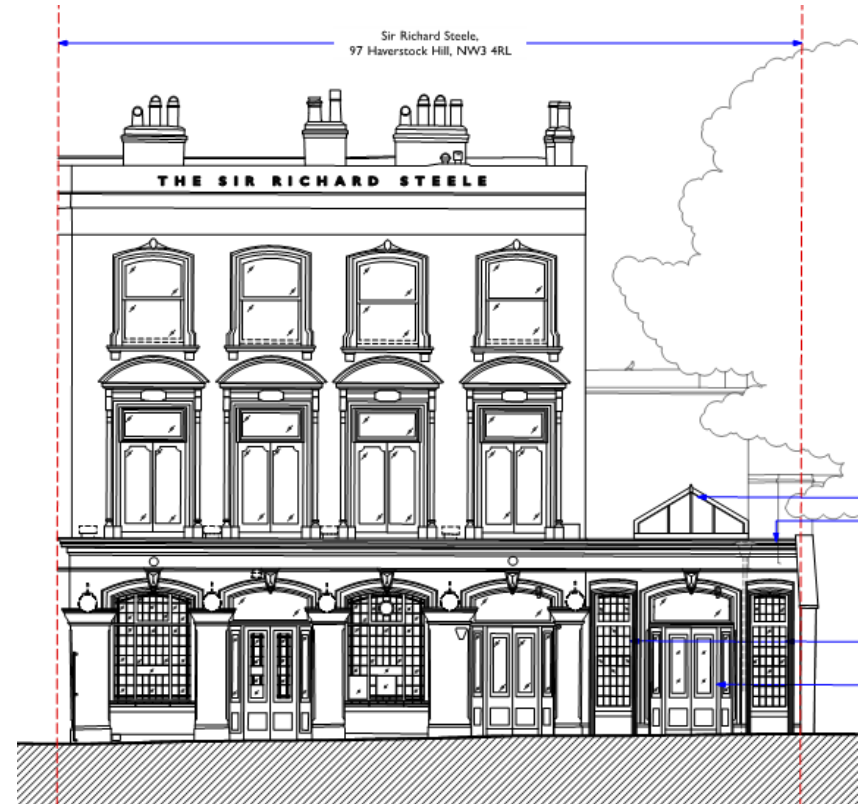
Front elevation (no change)

# Sir Richard Steele PH, 97 Haverstock Hill

## 2016/1189/P



Existing side elevation

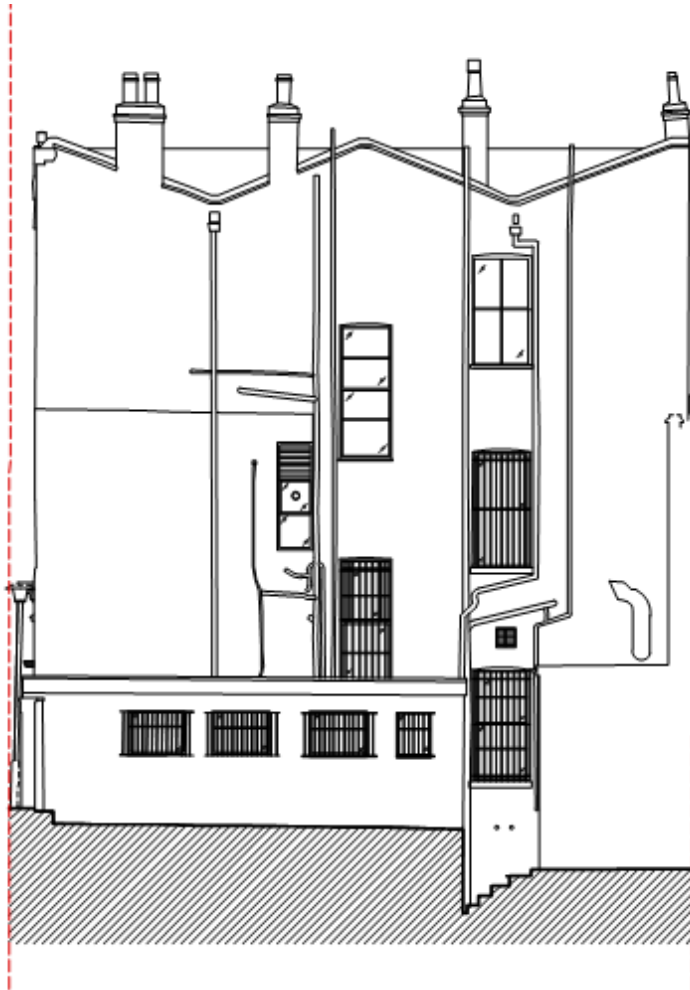


Proposed side elevation

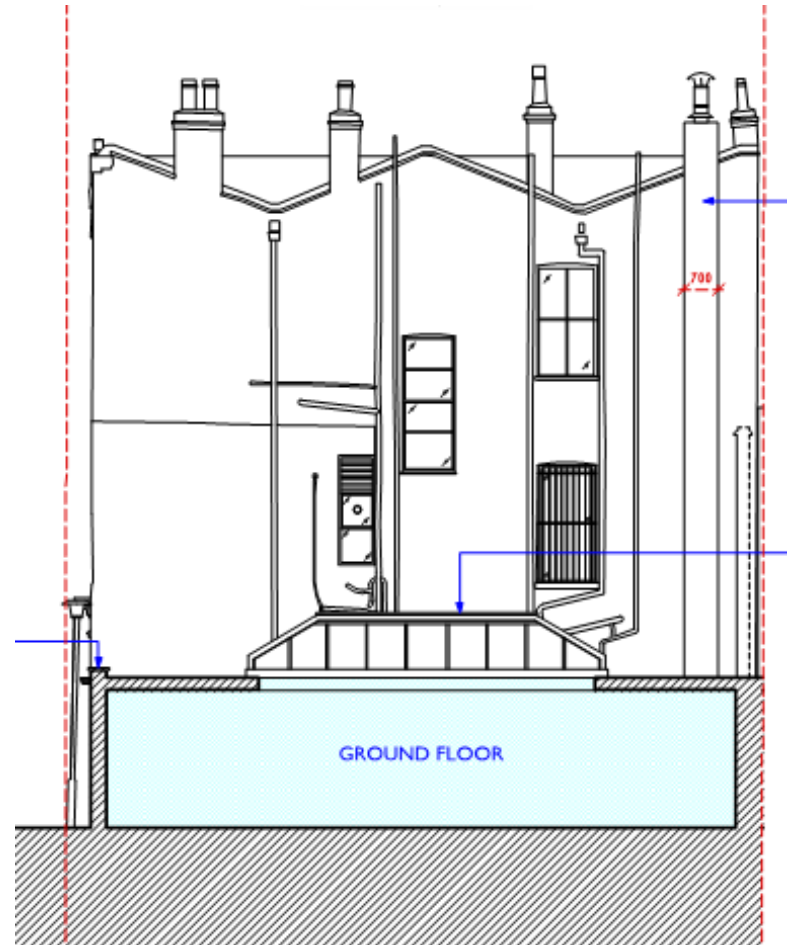


# Sir Richard Steele PH, 97 Haverstock Hill

## 2016/1189/P



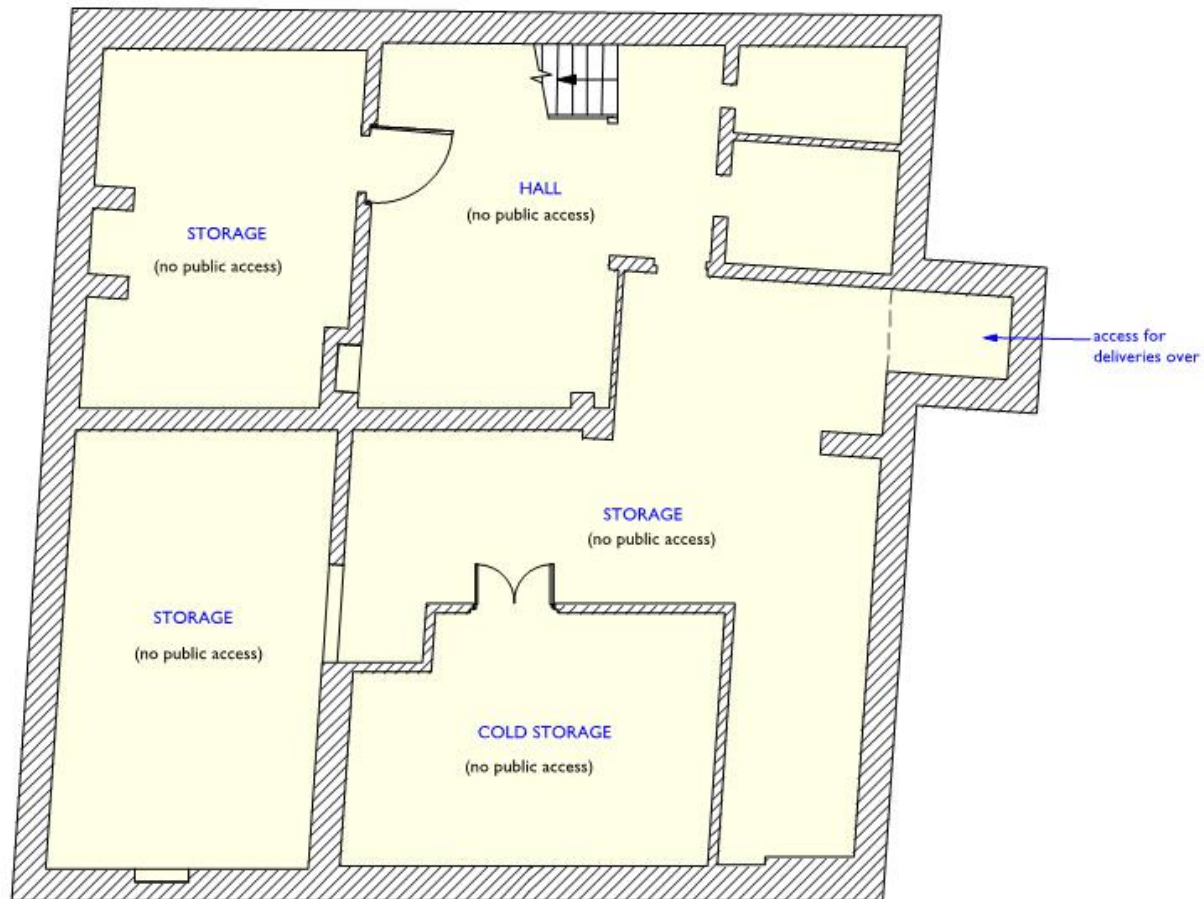
Existing side elevation



Proposed side elevation

# Sir Richard Steele PH, 97 Haverstock Hill

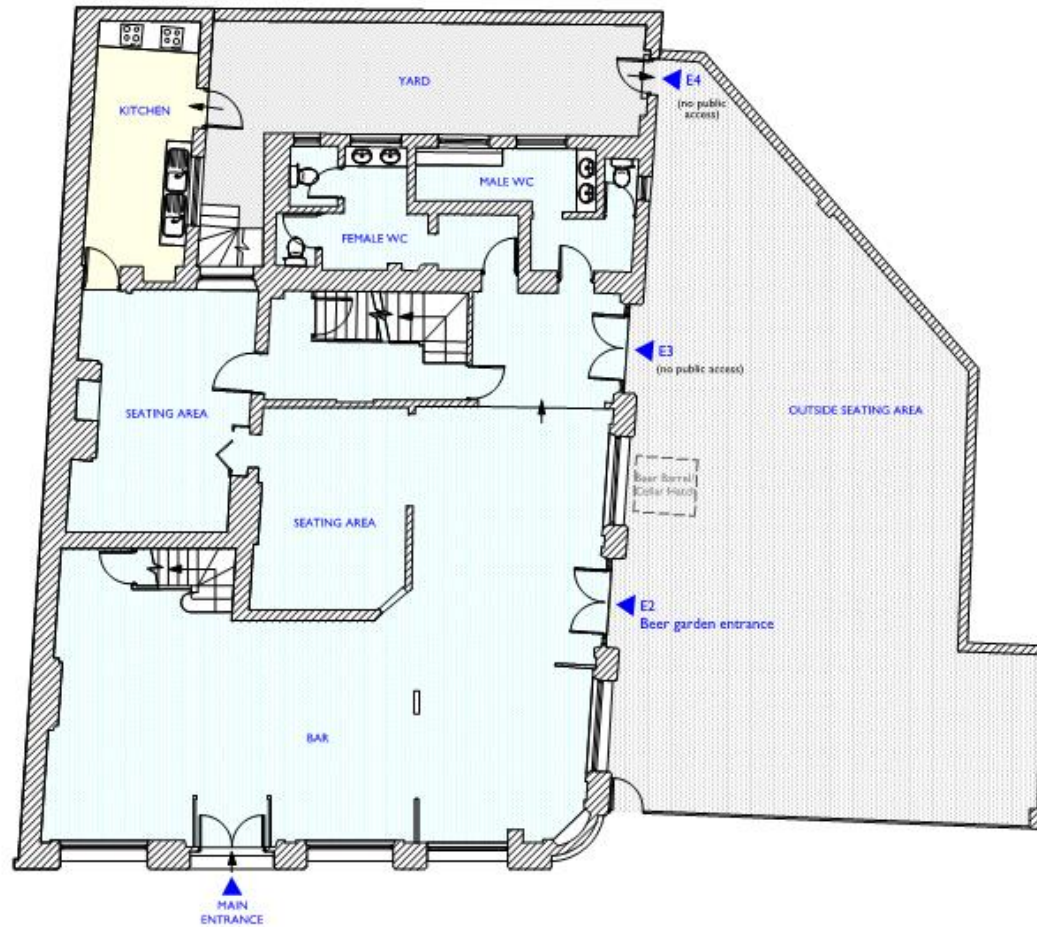
## 2016/1189/P



Existing basement

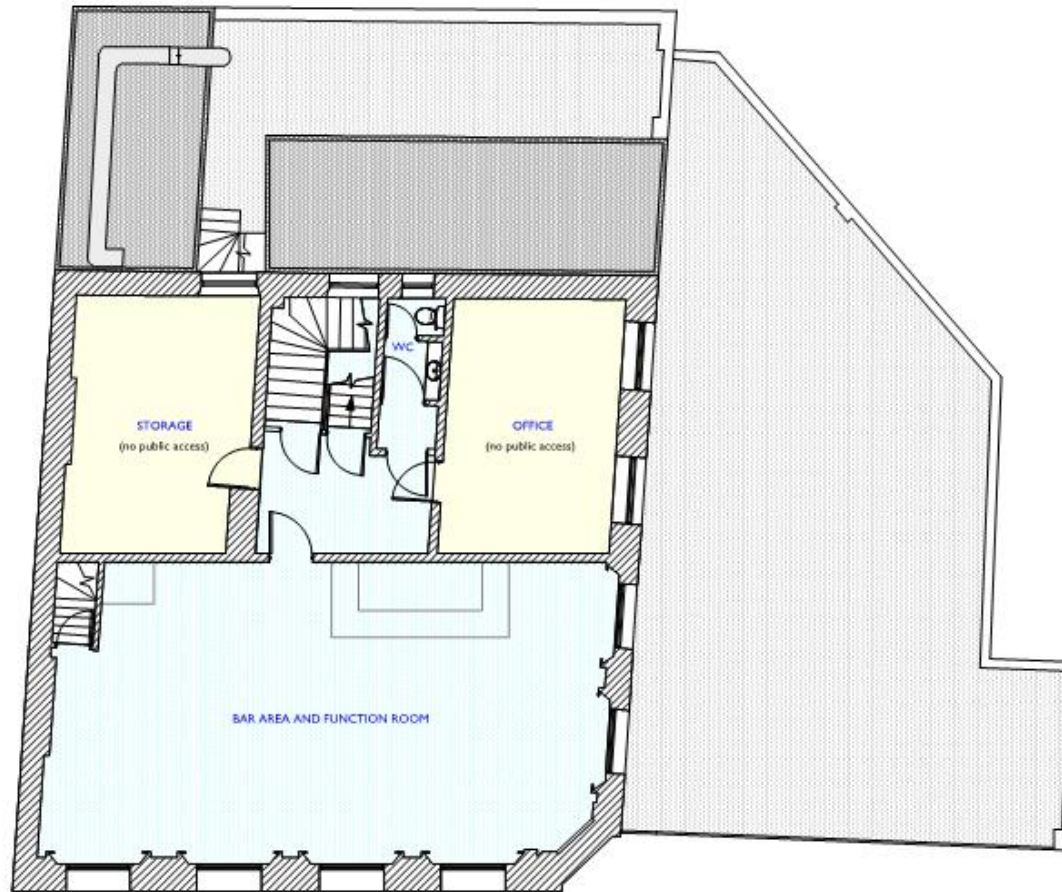
# Sir Richard Steele PH, 97 Haverstock Hill

## 2016/1189/P



Existing ground floor

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2016/1189/P



Existing 1<sup>st</sup> floor



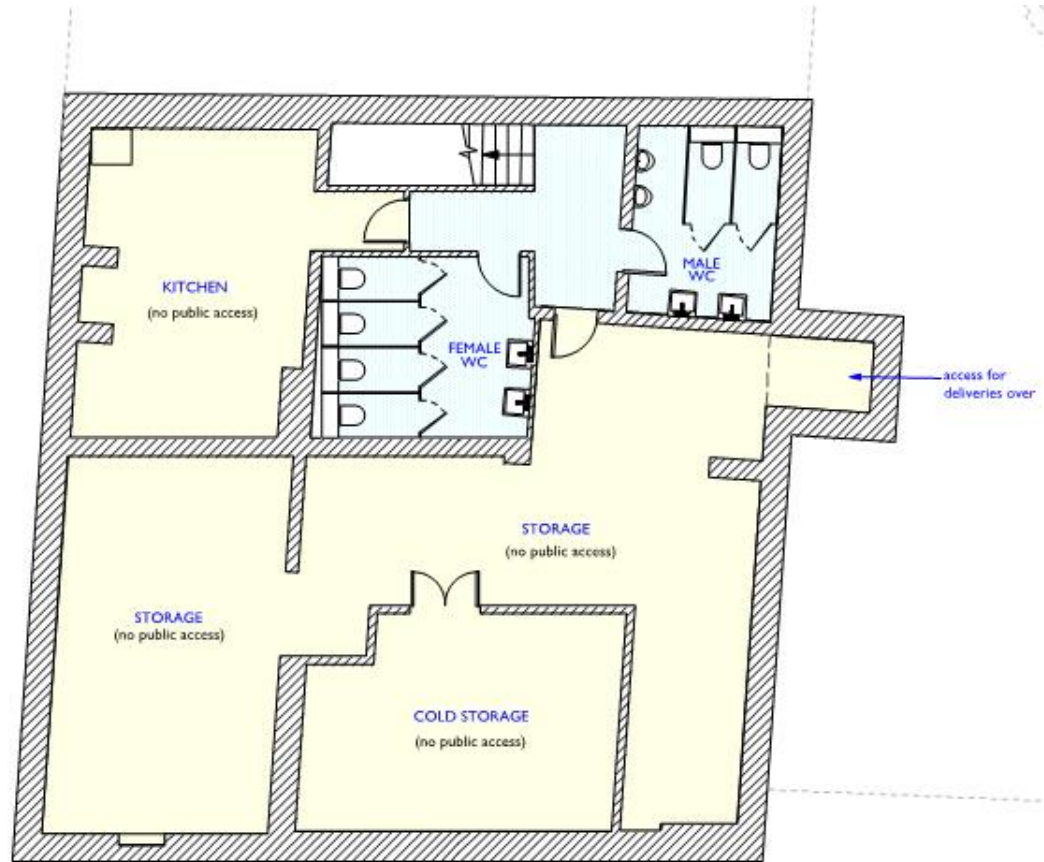
Sir Richard Steele PH, 97 Haverstock Hill  
2016/1189/P



Existing 2<sup>nd</sup> floor

# Sir Richard Steele PH, 97 Haverstock Hill

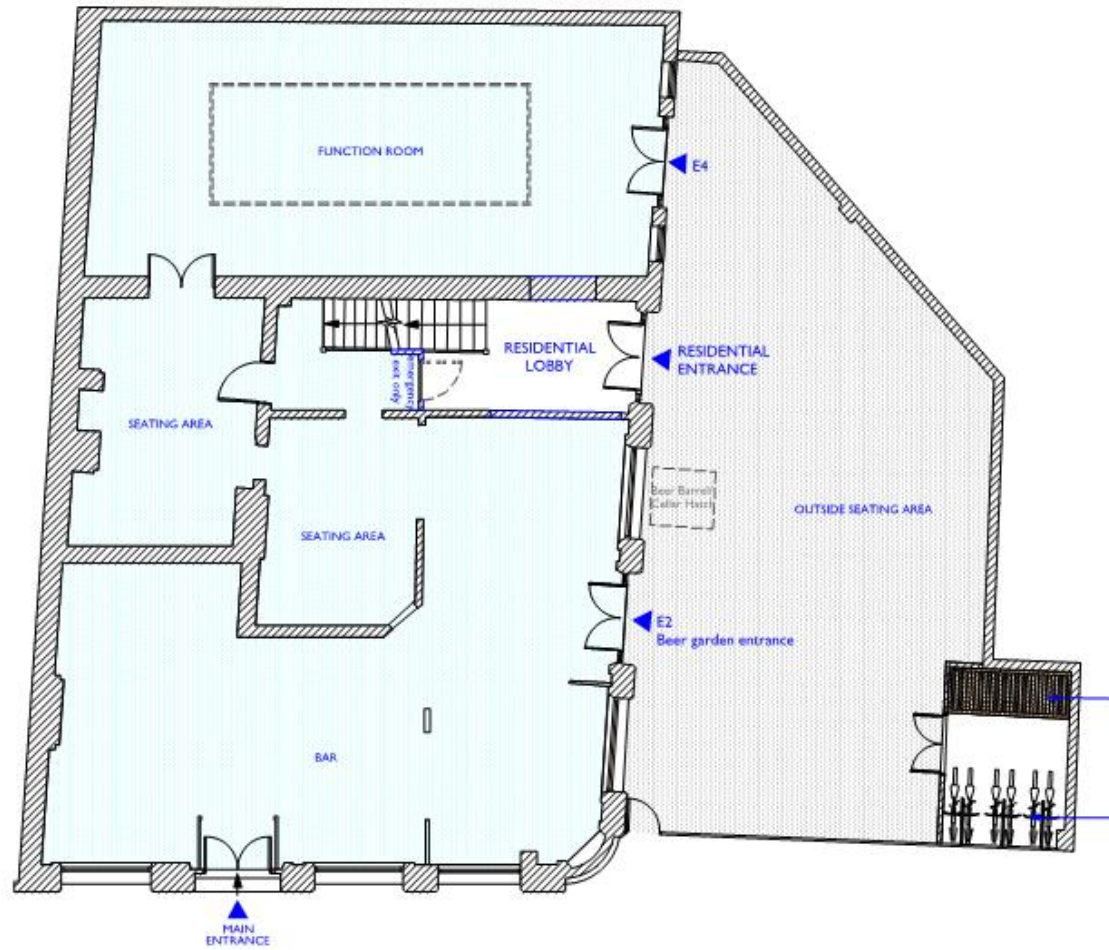
## 2016/1189/P



Proposed basement

# Sir Richard Steele PH, 97 Haverstock Hill

2016/1189/P

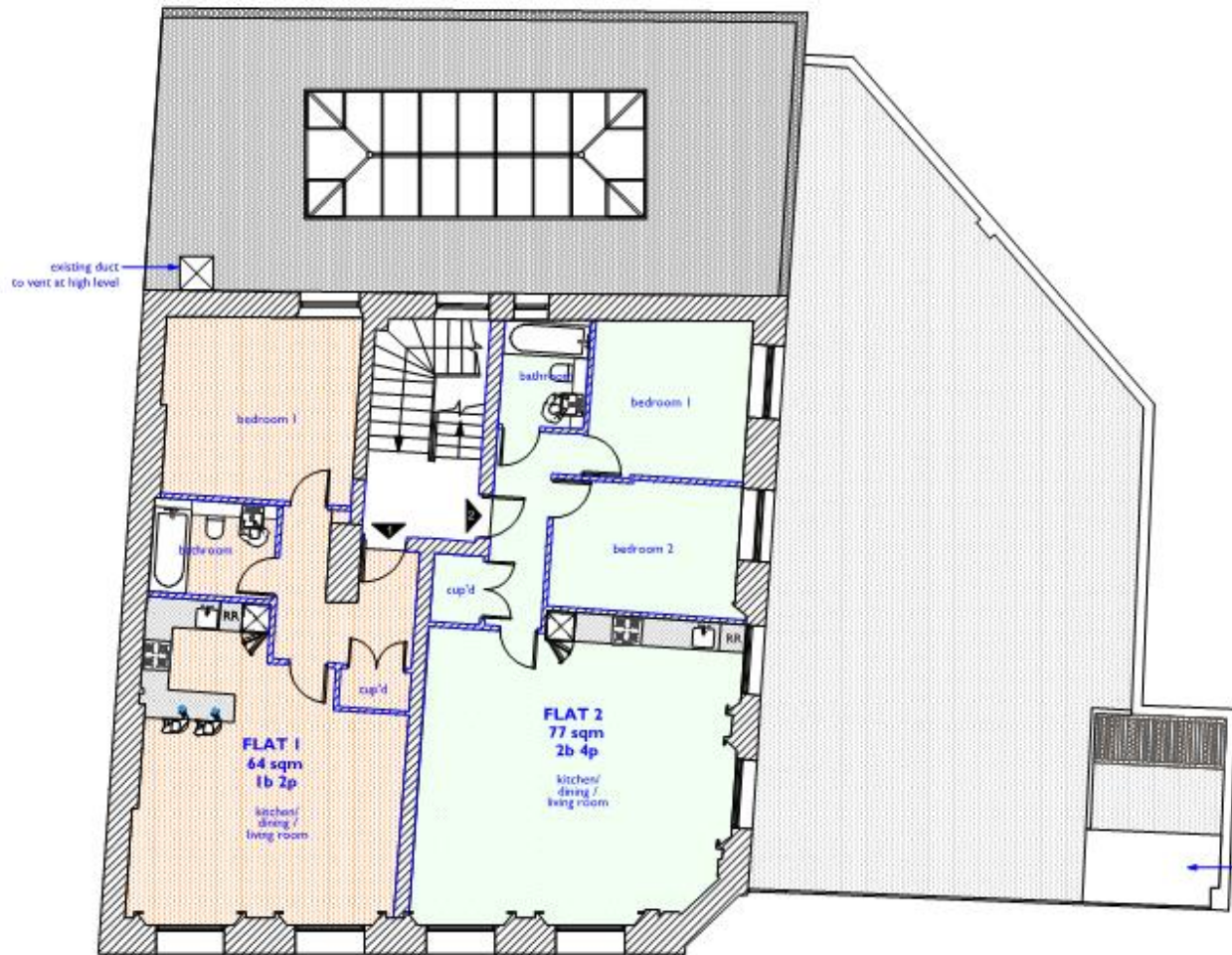


Proposed ground floor



# Sir Richard Steele PH, 97 Haverstock Hill

## 2016/1189/P



Proposed 1<sup>st</sup> floor



# Sir Richard Steele PH, 97 Haverstock Hill

## 2016/1189/P



Proposed 2<sup>nd</sup> floor