

Address:	180 Kentish Town Road, London, NW5 2AE		4
Application Number:	2015/6246/P	Officer: Anna Roe	
Ward:	Cantelowes		
Date Received	06/11/2015		
Proposal: Change of use of ground and basement floors from use class A4 (drinking establishment) to use class A3 (restaurant).			
Background Papers, Supporting Documents and Drawing Numbers:			
Drawing Nos: Site location plan; 001; 002; 003; 004.			
Background Papers and Supporting Documents: Planning Statement dated 6th November 2015; Public House Assessment dated 27th November 2016 by Fleurets.			
RECOMMENDATION SUMMARY: Grant conditional planning permission			
Applicant:		Agent:	
Highgate Capital 31-35 Silver House Beak Street London W1F 9SX		CgMs Limited 7th Floor 140 London Wall London EC2Y 5DM	

ANALYSIS OF INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A4 - Drinking establishment	(vacant site)	<i>c. 200 sqm</i>
Proposed	A3 – Restaurant		<i>c. 200 sqm</i>

OFFICERS' REPORT

Reason for Referral to Committee: **The application involves the change of use to a Class A3 use (clause 3 (iv))**

1. **SITE**

- 1.1 The application site comprises a three storey plus basement public house, dating from the mid-19th century. The ground and basement floors are currently vacant and are the subject of this application. They were last in use as a public house in March 2014. The upper floors are in Class C3 (residential use).
- 1.2 The property is located on the eastern side of Kentish Town Road at its junction with Patshull Road, occupying a prominent corner location. Patshull Road is predominantly residential with a mix of terraced and semi-detached properties. Kentish Town Centre provides a broad range of shops and services for the local area, with many independent traders.
- 1.3 It does not lie within a conservation area but is adjacent to the Bartholomew Conservation Area. It is within the Kentish Town designated town centre, within the core retail frontage. It is a non-designated heritage asset, considered to have architectural, townscape and social significance.
- 1.4 An article 4(1) direction has been applied to the property removing the permitted development rights allowing a change of use of the premises. Further details can be found in the Relevant History section.

2. **THE PROPOSAL**

- 2.1 Planning permission is sought for change of use of the ground and basement floors, from use class A4 (drinking establishment) to use class A3 (restaurant), bringing the vacant premises back into active use. No external changes are proposed.
- 2.2 Under the proposed scheme the restaurant would have its main seating on the ground floor, with the kitchen facilities at basement level. The proposed hours of operation would be 11.00 - 23.00 Monday to Sunday (including Bank Holidays).
- 2.3 The proposal does not include any associated mechanical extract/flue system to remove odour emissions. This would be conditioned.

3. **RELEVANT HISTORY**

- 3.1 **02/07/2015** - Certificate of lawfulness existing (2014/7821/P) granted.

Implementation of application ref 2006/3605/P granted on 18/10/2006 for "Construction of a three-storey side/rear extension and a mansard-style extension to the roof, and alterations to the elevations to convert x2 existing residential flats ancillary to public house to self-contained flats and create x5 additional self-contained flats (Class C3)"

- 3.2 **20/03/2015** – Immediate Article 4(1) Direction implemented under the Town and Country Planning (General Permitted Development) Order 1995 removing permitted development rights for the change of use from Class A4 (drinking establishments) to Class A3 (restaurants and cafes) or to Class A2 (financial and professional services) or to Class A1 (shops); or to a temporary flexible use to Class A3 (restaurants and cafes) or to Class A2 (financial and professional services) or to Class B1 (business).

Due to the level of local opposition to the potential loss of the public house it was considered necessary to remove permitted development rights. An article 4 direction does not prevent an applicant applying for planning permission for a change of use, but by requiring a planning application to be submitted gives the local community a chance to be involved in the consultation process, an opportunity that wouldn't be available under permitted development.

Confirmation of the Article 4(1) Direction received on the 15/09/2015.

- 3.3 **11/03/2015** - Full permission (2014/7572/P) granted to Foxtons Estate Agents for alterations to elevations to create x2 shopfronts. Associated advertisement consent (2014/7631/A) granted for installation of x2 externally illuminated fascia signs and x2 internally illuminated projecting signs.

This application was submitted in preparation for a change of use of the basement and ground floors, from public house (Class A4) to estate agency (Class A2). The applicant did not expressly apply for a change of use, as this would have been permitted development. 39 responses were received, many from individuals objecting to the loss of the public house because it provided a community function. Similar objections were received from the three ward Councillors (Cllrs Beale, Jones and Mason) as well as from Kentish Town Road Action, Bartholomew Area Residents' Association, Kelly Street Residents Association and Bartholomew Estate and Kentish Town Conservation Area Advisory Committee.

- 3.4 **27/02/2015** - nomination as an asset of community value under the Localism Act 2011 unsuccessful.

The application was rejected because there was insufficient evidence of 'community events taking place, social groups meeting there or a group of regulars who drank at the pub'.

4. CONSULTATION

- 4.1 The following groups/individuals were consulted on the proposal. To date no responses have been received.

- Kentish Town Road Action
- Ward Councillors Beale, Jones and Mason (Cantelowes)
- Bartholomew Estate and Kentish Town Conservation Area Advisory Committee
- Kelly Street Conservation Area
- Bartholomew Conservation Area Advisory Committee

- Bartholomew Area Residents' Association

4.2 A site notice was displayed on 16/12/2015 expiring 06/01/2016.
A press notice was published on 06/01/2016 expiring 27/01/2016.

ADJOINING OCCUPIERS

4.3 Letters were sent to adjoining occupiers and those who objected to application nos. 2014/7572/P and 2014/7631/A.

<i>Number of letters sent</i>	35
<i>Total number of responses received</i>	2
<i>Number in support</i>	1
<i>Number of objections</i>	1

4.4 The 1 objection received was from a resident at 42 Bartholomew Villas, summarised below:

- The description fails to identify whether this is a typical fast food outlet like a Burger King or whether it is a proper restaurant. The 20 dwellings above and behind in Northumberland House do not appear to have been consulted.

4.5 The 1 letter of support was received from a resident at 34 Raglan Street. The letter received is summarised below:

- This application should be approved because it brings vacant commercial property back into use, to bolster the vitality of the high street without loss of neighbouring amenity.

5. POLICIES

5.1 National and London wide policies and guidance
Planning (listed building and conservation area) Act 1990 as amended
Enterprise and Regulatory Reform Act (ERR) 2013
National Planning Policy Framework 2012
National Planning Policy Guidance 2014
London Plan 2015

5.2 LDF Core Strategy
CS1 Distribution of growth
CS5 Managing the impact of growth and development
CS7 Promoting Camden's centre and shops
CS14 Promoting high quality places and conserving our heritage
CS19 Delivering and monitoring the Core Strategy

5.3 LDF Development Policies
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

DP20 Movement of goods and materials
DP21 Development connecting to the highway network
DP24 Securing high quality design
DP25 Conserving Camden's heritage
DP26 Managing the impact of development on occupiers and neighbours
DP28 Noise and vibration

5.4 Camden Planning Guidance (2011) (as amended 2013)

CPG1 Design
CPG5 Town centres, retail and employment
CPG6 Amenity
CPG7 Transport

6. ASSESSMENT

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

- Land use principles (the loss of the public house)
- Community function
- Principle of the proposed restaurant use
- Neighbouring amenity
- Design and impact on the non-designated heritage asset
- Highways
- Refuse and waste recycling
- CIL

LAND USE PRINCIPLES (THE LOSS OF THE PUBLIC HOUSE)

6.2 The proposal relates to the redevelopment of the vacant ground and basement floors which were last in use as a public house in March 2014. There are no policies to support the retention of this type of use, therefore the loss of the public house is acceptable in principle, unless it can be demonstrated that it provides a community function.

COMMUNITY FUNCTION

6.3 Paragraph 15.6 of policy DP15 states that the Council will protect existing community facilities to ensure that Camden's residents have access to a range of buildings and facilities for community use. Paragraph 15.7 of policy DP15 states that the Council will resist the loss of local pubs that serve a community role.

6.4 The proposal site was nominated as an asset of community value (ACV) under the Localism Act 2011, however the application was refused on the 25/02/2015 because there was insufficient evidence of the public house providing a community function.

6.5 On the 20th March 2015 the Council made an immediate Article 4(1) Direction preventing the change of use of the premises under permitted development. The justification for the Article 4(1) Direction was that when in operation the site provided a community function. This was evidenced by the level of objection from local residents and ward Members to application nos.

2014/7572/P and 2014/7631/A. The criteria for making an Article 4 Direction under the Localism Act 2011, is different to the criteria under the GPDO 2015 and as such it was considered that the public house contributed to the social wellbeing of the area. It is important to note that an article 4 direction does not prevent an applicant applying for planning permission for change of use, but requires a planning application to be submitted giving the local community a chance to become involved in the consultation process, an opportunity that would not otherwise be available under permitted development.

- 6.6 On balance and in light of the limited response to the consultation, the lengthy vacant period of 2 years and the rejection of its nomination as an Asset of Community Value, the application site is considered not to provide a community function. As such the application cannot be assessed against DP15 - community and leisure uses and the applicant is not required to demonstrate that alternative provision is available nearby, or that the premises are no longer economically viable for pub use.
- 6.7 It should be noted however that the Article 4 was issued solely to protect the pub use, and the schedule only removes permitted development rights insofar as they relate to a change of use from A4 to another use, not from an A3 use to an alternative use, therefore granting a change of use would nullify the Article 4 (1), once that change of use had been implemented. Accordingly a further change to an A1 (retail) or A2 (financial and professional services) would be able to take place under permitted development rights without the need for a formal application.
- 6.8 It is possible, exceptionally to impose conditions to restrict further development which would normally be permitted by a development order, or to restrict changes of use. The government's Planning Practice Guidance advises on such conditions that they should only be used in exceptional circumstances and notes that LPAs have powers under Article 4 to enable them to withdraw permitted development rights where considered necessary. Circular 11/95, although now superseded by the Guidance stated that 'conditions should not be imposed which restrict either permitted development rights granted by development orders or future changes of use which the Use Classes Order would otherwise allow' (paras 87-88). The Secretaries of State would therefore regard such conditions as unreasonable unless there were clear evidence that the uses excluded would have serious adverse effects on amenity or the environment, that there were no other forms of control, and that the condition would serve a clear planning purpose. Such a condition is not considered reasonable in this instance.

PRINCIPLE OF THE PROPOSED RESTAURANT USE

- 6.9 Policy CS7 seeks to protect and enhance Camden's centres in order to provide a range of shops, services, food, drink and entertainment uses; it ensures that food, drink and entertainment uses do not have a harmful impact on residents and the local area. This is supported by policy DP12 which aims to support strong centres and manage the impact of food, drink and other town centre uses. Development should not cause harm to the character, function and vitality of a centre. The effect of non-retail development on shopping provision and the character of the centre and the cumulative impact of food, drink and entertainment uses, should be taken into account.

- 6.10 The host property lies within a core frontage of the Kentish Town Centre. The proposal would not result in the loss of an A1 unit nor would it result in more than 2 consecutive premises within the core frontage being in non-retail use. It was also previously a bar use, which has the potential to cause a greater degree of disturbance in the evening. It would therefore comply with chapter 3 of CPG5 - Town Centres, Retail and Employment.
- 6.11 Given the mixture of commercial uses, it is considered that the restaurant use would be acceptable in principle. The proposed use would bolster the range of uses within the Kentish Town Centre without resulting in a concentration of this development type. Given that the ground and basement levels have been vacant for an extended period of time, the proposal would contribute positively to the character, function and vitality of the centre.

NEIGHBOURING AMENITY

- 6.12 The closest residential occupiers are located within the upper floors of 180 Kentish Town Road. The proposed change of use is not expected to cause any amenity concerns for the adjacent retail use.
- 6.13 Due to the town centre location the proposal would not be considered to result in an unacceptable level of disturbance to nearby residents by way of noise or general disturbance associated with the restaurant use. The proposed hours of operation are considered appropriate as they are less than the operating hours of the existing pub use and they would be compatible with other food, drink and entertainment activities within the locality. The hours of operation would be secured by condition.
- 6.14 The applicant has not provided details of plant or ventilation ducting and has not submitted a noise survey. Any plant or extraction equipment would need to be assessed by the Council in order to ensure that it would not harm the amenity of neighbouring occupiers. As such, any permission would include a condition requiring the submission of plant details.
- 6.15 Details of a mechanical extract and flue have not been provided as part of this application as there is currently no end users for the development therefore, their precise requirements are unknown. There is already an external flue running up the rear elevation of the building which has been used in conjunction with the existing pub, although once an A3 occupier has been identified this may need to be renewed/upgraded. The rear of the building is prominent in views including from within the Bartholomew Estate Conservation Area and any further visible plant and equipment would need to be carefully controlled in the interests of visual amenity. The Council has reviewed suitable positions for an extract duct and considers it likely that it could be accommodated internally via a new flue that would replace the current chimney flue and would be extracted at roof level. Any permission would require the submission of details of any mechanical extraction equipment and flue outlet to demonstrate its visual impact (if any) as well as the odour and noise attenuation capabilities to ensure that no odour or noise nuisance would occur from cooking. It is recommended that a condition be imposed preventing the A3 use from commencing until such approved arrangements are in place.

DESIGN AND IMPACT ON THE NON-DESIGNATED HERITAGE ASSET

- 6.16 The overarching aim of policies CS5, CS14 and DP24 is to secure high quality design that consider the character, setting, context and form of neighbouring buildings.
- 6.17 The applicant proposes no physical changes to this building, and the planning statement asserts that the exterior will not be altered –although it is noted that this would be subject to the preferred method of fume extraction being achievable via the existing chimney (see section above).
- 6.18 The application is for change of use, therefore the conservation issue is the risk to the heritage asset from the new use. 180 Kentish Town Road is Locally Listed, but the List description stresses that its main contribution to the townscape is architectural. The building was formerly a brightly painted Irish public house which served as a landmark on the Kentish Town Road by virtue of its prominent corner location. At ground-floor level the building has a relatively plain frontage, its traditional timber doors and windows having been removed under a previous refurbishment; it is therefore able to accommodate the proposed restaurant use without physical changes that would harm the building's architectural interest.

TRANSPORT

Parking

- 6.19 No car parking is proposed, this is appropriate in the town centre of Kentish Town and compliant with Policy DP18. The proposed A3 unit does not meet the thresholds for provision of parking as set out in Camden's Parking Standards for cycle parking, disabled parking or taxi bay.

Servicing

- 6.20 Loading and unloading for the public house took place on-street where there is a recessed kerb area. The proposed restaurant would be serviced from this existing front loading bay and therefore it was not necessary to secure a service management statement.

Travel plan management plan

- 6.21 Given that the ground and basement floors were previously in use as a public house and that the application site is located in an area of high transport accessibility (PTAL 6a), the proposal is not judged to generate sufficient additional movement to warrant a travel plan.

Construction management plan

- 6.22 Given the scale and nature of the proposed works it was not considered necessary to secure a construction management plan.

REFUSE AND WASTE RECYCLING

- 6.23 All new developments are required to provide adequate facilities for recycling and the storage and disposal of waste in accordance with Core Strategy policy CS18 and Development Policy DP26. The proposal includes an internal refuse and recycling store as was the previous arrangement for the public house. The details of waste and recycle collection would be required by condition.

CIL

- 6.24 The proposal does not involve the creation of a new dwelling house or new floor space and therefore is not CIL liable.

7. CONCLUSION

- 7.1 In light of the limited response to the consultation, the lengthy vacant period of 2 years and the rejection of its nomination as an Asset of Community Value, the application site is considered not to provide a community function and cannot be assessed against DP15 - community and leisure. The loss of the public house is acceptable in principle as there are no policies to support the retention of this type of use. The restaurant use would contribute positively to the character, function and vitality of the Kentish Town Centre without resulting in an over-concentration of this development type. The development is not considered to result in an unacceptable level of disturbance to nearby residents subject to the recommended control over hours of use and noise attenuation for any plant. The applicant proposes no physical changes to the property.

8. RECOMMENDATION

- 8.1 It is recommended to grant conditional planning permission.

CONDITIONS AND REASONS:

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. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; 001; 002; 003; 004; Planning Statement dated 6th November 2015; Public House Assessment dated 27th November 2016 by Fleurets.

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

3. Before the use commences, a scheme for the ventilation of and the extraction of fumes from the premises to an adequate outlet level, including details of sound attenuation for any necessary plant shall be submitted to and approved by the local planning authority in writing. The use shall not be carried out otherwise than in accordance with any approval given and shall thereafter be maintained in effective order to the reasonable satisfaction of the Council.

Reason: To safeguard the amenities of the neighbouring premises and the area generally in accordance with the requirements of policies CS5, CS7 and CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP24, DP25, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

4. Before the relevant part of development commences, details of the refuse and recycling collection and the storage of waste and recycling on site shall be submitted to and approved by the Council and the approved details shall be implemented from first occupation of the new units and permanently maintained and retained thereafter.

Reason: To safeguard the amenities of the neighbouring 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 DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

5. No music shall be played within the unit that is the subject of this permission so as to be audible outside the unit.

Reason: To safeguard the amenities of the neighbouring 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 DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

6. Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

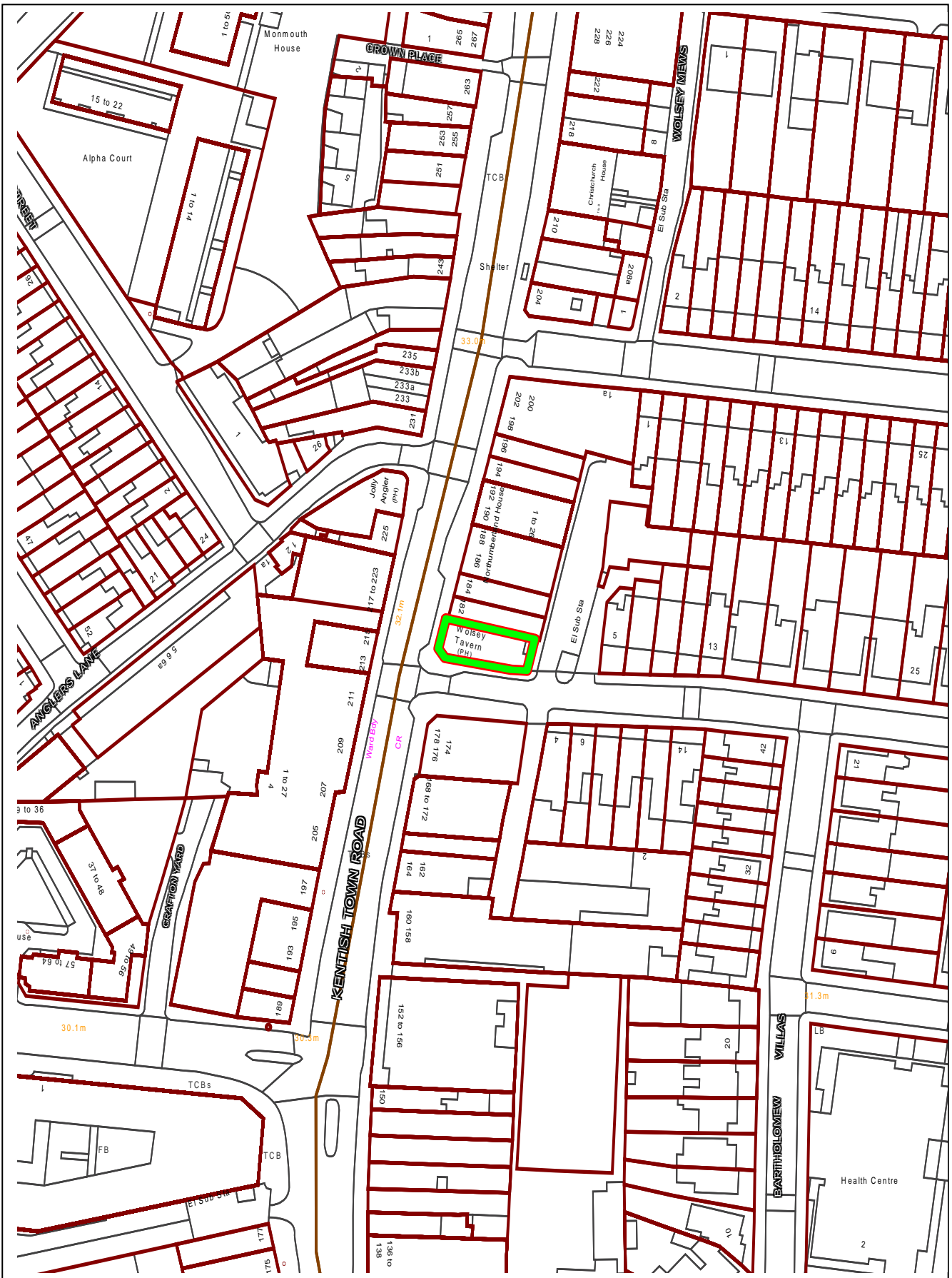
7. The use hereby permitted shall not be carried out outside the following times 11.00am to 23.00pm Mondays to Sundays and Bank Holidays.

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

INFORMATIVES:

- 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.



Application No: 2015/6246/P

**180 Kentish Town Road
London
NW5 2AE**

**Scale:
1:1250
Date:
23-Mar-16**



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1. DC Committee

25th February 2016

2015/6246/P

**180 Kentish Town Road
London
NW5 2AE**

2015/6246/P

180 Kentish Town Road

Site Location Plan



2015/6246/P

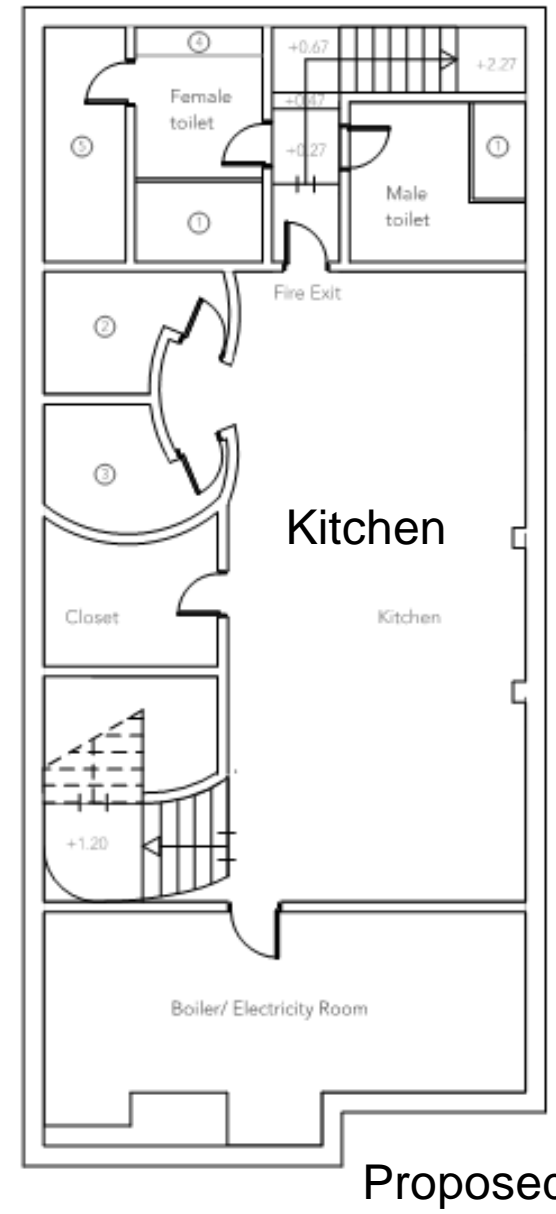
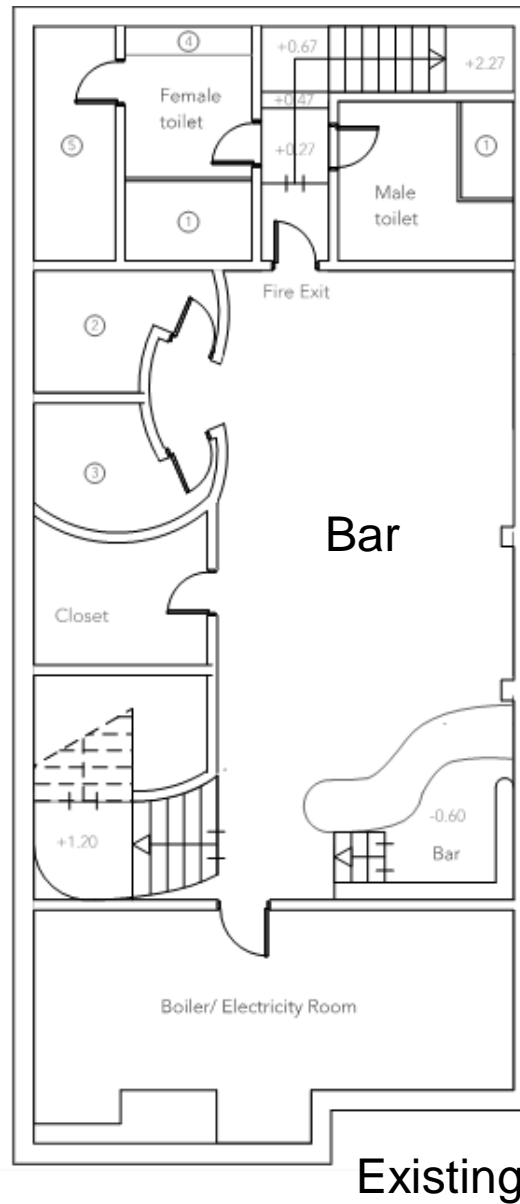
180 Kentish Town Road

Site Photograph

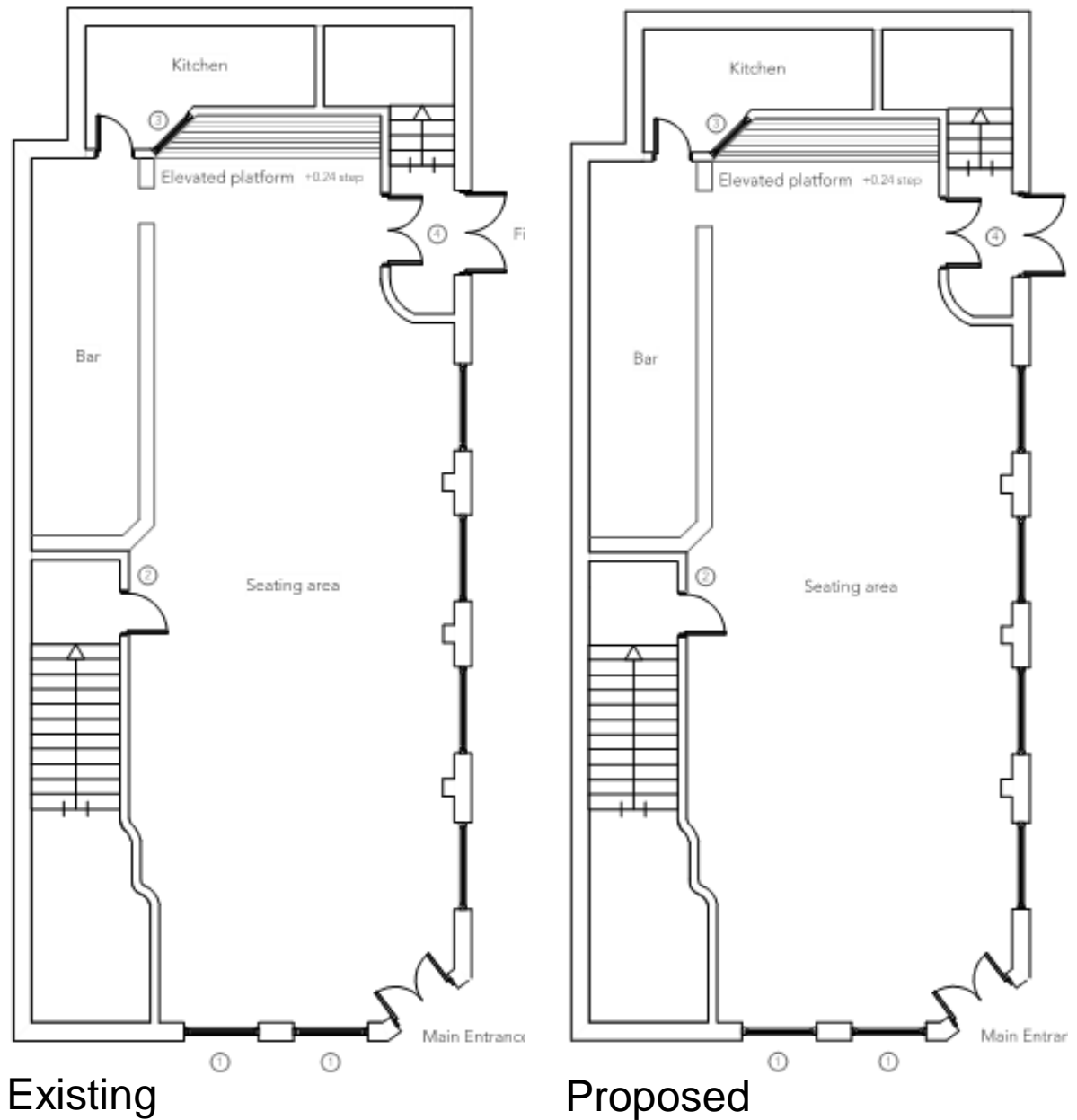


180 Kentish Town Road
Basement Floor Plan

- ① Bathroom stall
- ② Male Toilet
- ③ Female Toilet
- ④ Sink
- ⑤ Closet/ Storage space



180 Kentish Town Road
Ground Floor Plan



- ① Pub originally has wooden double doors, full height, now used as windows both of 126mm width.
- ② Bookcase hidden door
- ③ Current permanently open window space 89mm.
- ④ Fire-proof doors

Existing

Proposed

2015/6246/P

180 Kentish Town Road

Rear Elevation

No change proposed under this application.



Existing and Proposed

2015/6246/P

180 Kentish Town Road

Position of proposed internal flue

