

Delegated Report		Analysis sheet		Expiry Date:		08/12/2017		
		N/A / attached		Consultation Expiry Date:		16/11/2017		
Officer				Application Number(s)				
John Diver				2017/3010/P				
Application Address				Drawing Numbers				
94 Camden High Street London NW1 0LT				See decision notice				
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature					
Proposal(s)								
Change of use of ground and lower ground floor unit from sandwich shop/cafe use (Class A1) to a restaurant (Class A3)								
Recommendation:		Refuse permission						
Application Type:		Full Planning Permission						
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice						
Informatives:								
Consultations								
Summary of consultation:		Two site notices were displayed close to the site on the 25/10/2017 (expiring 15/11/2017). The development was also advertised in the local press on the 26/10/2017 (expiring 16/11/2017).						
Adjoining Occupiers:			No. of responses		00	No. of objections		00
Summary of consultation responses:		No responses were received in relation to the proposed development.						
Camden Town CAAC:		Following a request for comment, no response was received from the Camden Town Conservation Area Advisory Committee.						

Site Description

The subject building is a 4 storey property used for commercial purposes fronting Camden High Street, close to the junction with Pratt Street. The application site relates to a commercial unit at ground and lower ground floor levels whose lawful use is as a bakery/sandwich shop (A1). The building is not listed but is situated within the Camden Town Conservation Area.

The commercial unit is situated within the designated Town Centre of Camden Town (as stipulated by the Council's Policy Framework). No.94 is located within the designated primary frontage (South) of the Camden Town centre.

Relevant History

The following planning history for the application site (no.94) is of relevance to this assessment:

18570: Planning permission was granted on the 25/01/1960 for the *'use for a limited period of the ground, first and that part of the second floor other than comprises residential accommodation, at No. 94 Camden High Street, for the purposes of shops and showrooms'*

TP3678: Planning permission was granted on the 11/08/1960 for the *'change of use of the basement and ground floor of 94 Camden High Street from Club Premises to shop purposes'*

TP100176/NW: Planning permission was granted on the 11/11/1960 for the *'use for a limited period of the first and second floors (with the exception of residential accommodation), for commercial photography'*

CTP/J12/17/G/21138: Planning permission was granted on the 05/11/1975 for the *'Continued use of the first, second and third floors as photographic studios'*

CTP/J12/17/G/31866: Planning permission was refused on the 13/04/1981 for the *'Change of use of ground and basement floors from retail shop to restaurant'*

Reasons for refusal:

- 1) The proposed use for restaurant is contrary to the Council's policy as expressed in the District Plan and the Camden Town Action Area Plan to retain retail units in the interests of safeguarding the quality and character of the existing shopping parade.*

8400786: Planning permission was granted on the 15/08/1984 for the *'Change of use from photographic studio to ladies gymnastic studio with ancillary offices showers and changing rooms on first second and third floors with entrance from Pratt Mews'*

2016/3773/P: An application was submitted for the *'Change of use from bakery/café use (A1) to restaurant (A3)'*. This application was withdrawn on the 30/09/2016 after the applicant was advised that the change of use would be contrary to adopted policy.

2016/4455/P: Certificate of Lawfulness (existing) was granted on the 20/09/2016 for the *'Retention of existing mechanical extraction / ventilation system to ground floor unit'*

Relevant policies

National Planning Policy Framework (2012)

The London Plan (2016)

Policy 2.9 - Inner London

Policy 2.15 - Town centres

Policy 4.7 - Retail and town centre development

Policy 7.4 – Local character

Policy 7.5 – Public realm

Policy 7.6 – Architecture

Policy 7.8 - Heritage assets and archaeology

Camden Local Plan (2017)

G1 - Delivery and location of growth

C6 - Access for all

A1 - Managing the impact of development

A4 - Noise and vibration

D1 - Design

D2 - Heritage

D3 - Shopfronts

CC4 - Air quality

CC5 - Waste

TC1 - Quantity and location of retail development

TC2 - Camden's centres and other shopping areas

TC4 – Town Centre uses

TC5 - Small and independent shops

T1 - Prioritising walking, cycling and public transport

Camden Planning Guidance

CPG1 (Design) Chapters: 2 Design excellence, 3 Heritage, 11 Building services equipment

CPG5 Town Centres, Retail & Employment (2013) Chapters: 2 Retail Uses, 3: Town Centres, 5:

Small shops: 6: Food, Drink and Entertainment uses

CPG6 Amenity (2011): Chapters: 4 Noise and vibration,

CPG7 Transport (2011): Chapters: 4 - Delivery and servicing management

The Council is currently undergoing the process of updating a number of the above CPGs. At the time of writing, the following updated CPGs of particular relevance to this assessment had gone out for public consultation (expected adoption spring 2018):

- Town Centres & Retail CPG (2017)
- Amenity CGP (2017)

Camden Town Conservation Area Appraisal and Management Strategy (2007)

Sub area 1: Commercial area appraisal (pgs. 8 – 14)

Ventilation ducts – pg.44

1. Introduction

- 1.1. Planning permission is sought for the change of use of the ground and basement floor unit from a bakery/sandwich shop (Use Class A1) to a restaurant use (Use Class A3).
- 1.2. Although it is noted that the existing use of the premise as a bakery, sandwich shop and café involves the sale of food; the existing use still remains within the definitions of Use Class A1 and the business still functions as such. During the site visit it was observed that, although the premise did include some limited seating, the business primarily functioned on the sale of freshly baked goods, prepared sandwiches and cold food items (usually for takeaway) as well as smoothies and hot drinks. During the site visit, no evidence of primary cooking was found and so the existing business was confirmed to remain within the lawful A1 use class for the premises. The existing use is unique in the frontage and Centre and serves the local population of residents, workers and tourists.
- 1.3. Planning permission is sought for a change of use from retail (including the existing use as described above) to a restaurant (Class A3). Restaurants uses are fundamentally different to all uses within the A1 class in a number of ways. First of all they predominately operates based upon a model of seated dining, where patrons are served at their table and order freshly cooked meals from a menu. Restaurants tend to include the use of formal cutlery and crockery (rather than disposable containers/wrappers) and involve the use of primary cooking by trained chiefs. Restaurants include the use of kitchen equipment (i.e. hobs, cookers, fryers, cool rooms etc) not associated with non-A3 uses. They also tend to have business models geared more towards evening/late night operation and feature the sale of alcohol, so that patrons tend to spend longer within the unit, often extending covers/sittings into the late hours. Although a full business case has not been presented, submitted plans and documents indicate that all of the above elements would be included for the proposed unit.
- 1.4. Due to the existing bakery use, the unit does currently feature a kitchen extract fan which vents to an area of flat roof above the application unit. Although this equipment was never granted planning permission, it was confirmed that the existing plant was lawful due to the passage of time under a previous certificate of lawfulness (see planning history above).
- 1.5. The submitted plans, supporting documents and description of development make no reference to any external alterations and suggest that this assessment should be limited purely to the assessment of the land use and the acceptability of the proposed change. Notwithstanding this, a Noise Impact Assessment has been submitted which states that *“current proposals are to install kitchen extract plant serving the ground floor restaurant. The fan is understood to be located within the light well above the restaurant, with ducting running up to the roof, terminating above 3rd floor level”*... *“The proposed plant installation comprises the following: 1 No. S&P TCBBx2/4/560 Co-Axial Kitchen Extract Fan”*. As such consideration must also be paid for the acceptability of this proposed plant equipment.

2. Planning Appraisal

- 2.1. The principal considerations material to the determination of this application are as follows:
 - Principle of the proposed change land use (Land use)
 - The impacts caused upon the residential amenities of any neighbouring occupier (Residential Amenity)
 - The visual impact upon the character and appearance of the host building, streetscene and the Camden Town Conservation Area (Character and Conservation)
 - Transport and highways considerations

3. Principle of land use

- 3.1. As aforementioned, the application site is located within a designated core retail frontage (south) within the Camden Town town centre. Camden Town is the borough's biggest centre with the largest range of shops and services, and is designated as a 'Major Centre' in the London Plan. Camden Town currently has a good diversity of uses, including food, non-food, and services uses. The centre does not have a single character but is broadly comprised of three parts:
- The commercial heart in the markets and around Camden Town tube station,
 - The southern section which provides more traditional 'high street' shopping and serves a more local role (within which the application site sits), and
 - Chalk Farm Road to the north with its mixed street frontage of restaurants, bars and specialist shops
- 3.2. In terms of designation within the centre, the Council has identified key frontages within Camden Town's centre to which further policy and guidance apply. These protected frontages are identified as either primary or secondary frontages and are shown on the Local Plan Policies Map. As outlined by this map, the application site is situated within the Southern Primary frontage of the centre.
- 3.3. Adopted policy TC2 of the Local plan states that the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors. Of relevance in this case, to achieve this policy TC2 states that the Council will:
- seek to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located;
 - make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area;
 - pursue the individual planning objectives for each centre, as set out in supplementary planning document Camden Planning Guidance and through the delivery of environmental, design, transport and public safety measure; and
 - protect the primary frontages as locations with a high proportion of shops (A1) in order to maintain the retail function of the centre.
- 3.4. The Council's expectations for the mix and balance of uses within frontages for each designated centre are set out in Appendix 4 of the Local Plan. These include the minimum proportions of shops (A1 use) and the maximum proportions of food, drink and entertainment (FD&E) uses (A3, A4, A5 uses) that the Council expects on primary and secondary frontages in order to protect and enhance the role and character of each of Camden's centres.
- 3.5. For Camden Town (south), the Local Plan stipulates that the minimum proportion of A1 shops shall not be fewer than 75% of ground floor units within each individual frontage. It also stipulates a maximum proportion of 20% of A3, A4, and A5 units combined in each individual frontage and a further restriction for there to be no more than two consecutive non-retail uses. It should be noted that the Local Plan, including these policy stipulations, were suggest to a full public examination prior to their adoption.
- 3.6. Adopted policy TC4 furthers the above requirements by stating that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

Existing/proposed frontage proportions

- 3.7. The Local plan confirms that the above frontage controls apply to each individual frontage. e.g. where it states a Minimum 75% A1 retail in a primary frontage, this relates to a minimum of 75%

A1 shops in each individual primary frontage in that centre, rather than a minimum of 75% of A1 retail in all primary frontages in that centre. Appendix 3 of CPG5 sets out the methodology to calculate the percentages of uses for any given frontage. It is confirmed that the percentage is calculated as the number of premises in the specified use as a percentage of the total number of premises within the frontage. This document notes that frontages may continue around corners, or across entrances to premises above or rear, and may include isolated ground floor residential uses, but are ended at roadways that interrupt the run of premises or at the beginning of the first two consecutive non-residential uses at ground floor level.

3.8. In this instance, no.94 is located within a frontage which includes a total of 19 units stretching from no.98 – 48 Camden High-street (odd numbers) as well as nos.1 and 2 Plender Street. In order to ascertain the existing levels of the various uses across the units within the frontage, a retail survey was completed. An overview of this retail survey of these units is outlined below:

Table one – Camden Town primary frontage survey

No.	Address	Occupier	Use class	Extant CoU Permissions?
<i>Beginning of frontage</i>				
1	2 Plender Street	Planet Nails	A1	n/a
2	1 Plender Street	O Tino	A3	n/a
3	48-50 Camden High Street	Belushi's	A4	n/a
4	52-56	Pound Land	A1	n/a
5	58	Camden Metro	A1	n/a
6	60	Pronta Print	A2	n/a
7	62	William Hill	Sui Generis	n/a
8	64-70	Lidl	A1	n/a
9	72-76	Argos	A1	n/a
10	78	Savers	A1	n/a
11	80	Topcuts	A1	n/a
12	82	GHF	A1	n/a
13	84	Key Cutting and Shoe Repair Camden	A1	n/a
14	86	Subway	A1	n/a
15	88	Melissa	A1	n/a
16	90	My Bond Pawnbrokers	Sui Generis	n/a
17	92	Tusk Hair	A1	n/a
18	94	(Subject Site)	A1	n/a
19	96 - 98	Halifax Bank	A2	n/a
<i>End of frontage</i>				
Existing (x units):		Proposed (x units):		
A1 – 13		A1 – 12		
A2 – 2		A2 – 2		
A3 - 1		A3 - 2		
A4 – 1		A4 – 1		
Sui Generis - 2		Sui Generis - 2		
<i>Existing A1 (13/19) 68%</i>		<i>Proposed A1 (12/19) 63%</i>		
<i>Existing FD&E (2/19) 11%</i>		<i>Proposed FD&E (3/19) 16%</i>		

3.9. As outlined within the above table, as existing this frontage is already below the expected minimum proportion of A1 retail (75%) uses across the frontage. The proposed change would reduce this proportion further to be less than two thirds of units across the frontage (63%). The resulting proportion of retail uses is significantly below the minimum level expected within this Town Centre and would result in a noticeable variation to the character and function of the frontage. As outlined above, the character of this section of the Town Centre is defined by its

traditional 'high street' shopping function and is predominantly focused to serve a more local role. The proposed change of use at no.94 would result in a further loss of retail space within a frontage already below expected levels. It is therefore considered that the loss of A1 retail space proposed would reduce the proportion of retail units (Class A1) within the designated primary shopping frontage, diminishing its retail function to a point of detriment to the character, function and sustainability of the frontage and wider Town Centre, contrary to policies TC2 and TC4. It should also be noted that adopted policy TC5 prioritises small units such as the application site for the ability to support small and independent units and that the development would be contrary to the aims of this policy.

3.10. In terms of food, drink and entertainment uses, the proposed change would increase the number of A3, A4 or A5 uses within the frontage however the resulting proportion (16%) would remain within the Council's policy thresholds and no objection would be raised in this regard. Furthermore, the proposed change would not result in a row of more than 2 consecutive non-retail units (with hairdressers falling within the A1 use class). No objection is raised in this regard.

3.11. It is noted that within the submitted planning statement the applicant takes issue with the consideration of no.90 (My Bond Pawnbrokers) as Sui Generis. During the site visit for the retail survey, it was noted that although this unit did feature a small display area for goods, the vast majority of the unit was laid out as a waiting room for the private office at the rear of the unit (where customers are invited in on an appointment basis to discuss options for personal lending). In line with the guidance outlined by the Estates Gazette, based upon this layout the retail function of the business was considered by planning and enforcement officers to remain ancillary to the main business function (services for private lending). The use was therefore deemed as Sui Generis. Notwithstanding this it should be noted that even if this unit were to be considered as a retail unit (A1), the resulting proportions would still remain below the policy thresholds as acknowledged by the applicant in their submitted statements (resulting proportion of A1 retail – 68%).

3.12. It is also noted that within the submitted documentation, the applicant takes issue with the Council's adopted methodology of calculating the percentages of uses for any given frontage (as discussed in para.3.6), referencing an appeal decision as evidence for the application of a differing approach. It is accepted that within the application frontage, a number of chain stores (i.e. Lidl and Poundland) have historically combined units for form larger stores. Notwithstanding this, the attraction of the town centre for shopping purposes is constituted by the range and variety of its retail function and as such the measurement of units (rather than cumulative frontage widths) gives a far more accurate reflection of the overall health of the centre. Either way the methodology outlined in para.3.6 is in line with the adopted Local Plan policies and Policy Guidance documents, all of which were subject to scrutiny at public examination and were upheld. It should also be noted that the appeal decision submitted as evidence was not for a planning application but was regarding an application made under Schedule 2, Part 3, Class C(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As this application was made under the GPDO, its assessment was a process of legal determination against the GPDO. In the case of the appeal decision, the Council was not afforded the right to form an assessment of the planning merits of the proposal under adopted policies or guidance set out within the Camden development policy framework and as such this decision is considered immaterial to the assessment of this case.

3.13. In this instance, no special circumstances have been presented that might suggest that the adopted methodology should be varied for this specific case, particularly considering the existing low performance of the frontage in terms of its retail offer.

4. Character and Conservation

4.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the application: development should consider the character, setting, context and the form and scale of

neighbouring buildings, and the quality of materials to be used. Policy D2 'Conserving Camden's Heritage' states that within conservation areas, the Council will only grant permission for development that 'preserves and enhances' its established character and appearance.

- 4.2. As aforementioned, there are discrepancies in the submitted documents in terms of the level of external alterations proposed as part of this application. The submitted plans make no reference of any external alterations and indeed, no elevation drawings were thus submitted (with any resulting alterations to shopfront/signage to be sought at a later date). This is however contradicted by the submitted Noise Impact Assessment, which refers to additional plant equipment to be installed including a Kitchen Extract Fan with ducting up to roof level of the property. Although the unit already features extract plant which vents at 1st floor level, as it is proposed to replace this equipment with no details in terms of the siting or design. Due to this discrepancy in the information submitted, the Council cannot be confident that this proposed plant equipment would be sited in a suitable location and designed in a suitable manner so as to ensure that the character and appearance of the host property and wider conservation area is preserved by these works.
- 4.3. As the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act [ERR] 2013; this absence of full details is considered to warrant a reason for refusal.

5. Residential Amenity

- 5.1. Policy A1 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, outlook, daylight and sunlight, as well as noise and disturbance. Policy A4 aims to ensure that noise and vibration is controlled and managed and sets out the Council's thresholds for noise and vibration.
- 5.2. As with any new or expanded food, drink or entertainment uses within proximity to residential accommodation, concern was raised in relation to the impact that the use might cause to adjoining occupiers. This is particularly the case for larger units such as the application site. CPG5 states that in order to ensure that residential amenity is protected, proposals for FDE uses will need to demonstrate that they will not create harmful impacts for residents or undermine the character of the area.
- 5.3. In this instance the existing, established use features a bakery which runs 24/7 and a retail business which currently opens until 23:00pm. The unit is not immediately adjacent to any residential units and is situated within the Town Centre. The submitted Noise Impact Assessment confirms that the proposed plant would remain within the Council's acceptable Noise Threshold limits. Although the proposed change of use would result in greater levels of activity from within the unit (particularly in the late evening), however, the only public access into the unit is from Camden High street which is already a busy thoroughfare with late night establishments. Due to this access arrangement, the separation from the closest residential unit as well as the Town Centre location, it is not considered that the proposed use would result in noise and disturbances to neighbouring residents to a point of detriment. It is also noted that should the Council have otherwise supported the change, conditions could have been sought in terms of levels of amplified music, opening hours and maximum noise emission levels so as to ensure that existing amenity levels are protected. As such it is not considered that impact from noise and disruption to neighbouring residents would form a reason for refusal, given the town centre location and existing established use.

6. Transport and servicing

- 6.1. Policy A1 states that the Council will resist development that fails to adequately assess and

address transport impacts affecting communities, occupiers, neighbours and the existing transport network. As the proposed use is one which would require the delivery of fresh produce and the removal of waste, the management of servicing and deliveries was noted as an initial concern.

- 6.2. During the site visit it was noted that due to the existing use requiring fairly heavy levels of servicing (i.e. the delivery of ingredients and the pick up of baked items for delivery), the proposed use would not likely result in any significant increase in servicing demand above existing. Furthermore, as the unit feature a rear access onto Pratt Mews, servicing may take place to the rear of the unit where it would be unlikely to cause disruption to local residents or traffic conditions. Similarly, the proposed use restaurant use could ensure adequate waste storage provision at lower ground floor level and could reasonably maintain the existing waste collection arrangements (from a private provider).
- 6.3. As such the proposed change of use is not considered to give rise to any concern in terms of impact to local traffic conditions or through disturbances to residents from the servicing of the unit, remaining in accordance with policy A1.

7. Conclusion

- 7.1. Overall the proposed loss of a retail unit within the core frontage of the designated town centre is considered to diminish its retail function to a point of detriment to the character, function and sustainability of the frontage and wider Town Centre. The proposals are therefore contrary to adopted policies TC2 and TC4 and are unacceptable in principle.
- 7.2. It was also noted that due to the lack of information provided, the Council are not confident that the replacement plant and any associated extraction duct would remain sensitive for this heritage setting and preserve the character and appearance of the host building and conservation area.

8. Recommendations

- 8.1. Refuse planning permission

9. Suggested conditions

- 9.1. In the event of an appeal, the inspector is requested to take consideration of the following conditions which the Council would seek to secure were an appeal allowed:

1. Hours of operation

The use hereby permitted shall not be carried out outside the following times 07:30-23:00 Mondays to Fridays, 07:30-00:00 Saturdays and 09:00-20:00 on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

2. Details of plant equipment

Prior to the first use of the premises for the A3 use hereby permitted, full details of a scheme for ventilation, including manufacturers specifications, noise levels and attenuation, shall be submitted to and approved by the Local Planning Authority in writing. The use shall not proceed other than in complete accordance with such scheme as has been approved. All such measures shall be retained and maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

3. Plant noise emissions

The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

4. Plant vibration isolators

Prior to commencement of use, plant or equipment 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 in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

5. Amplified music

No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017