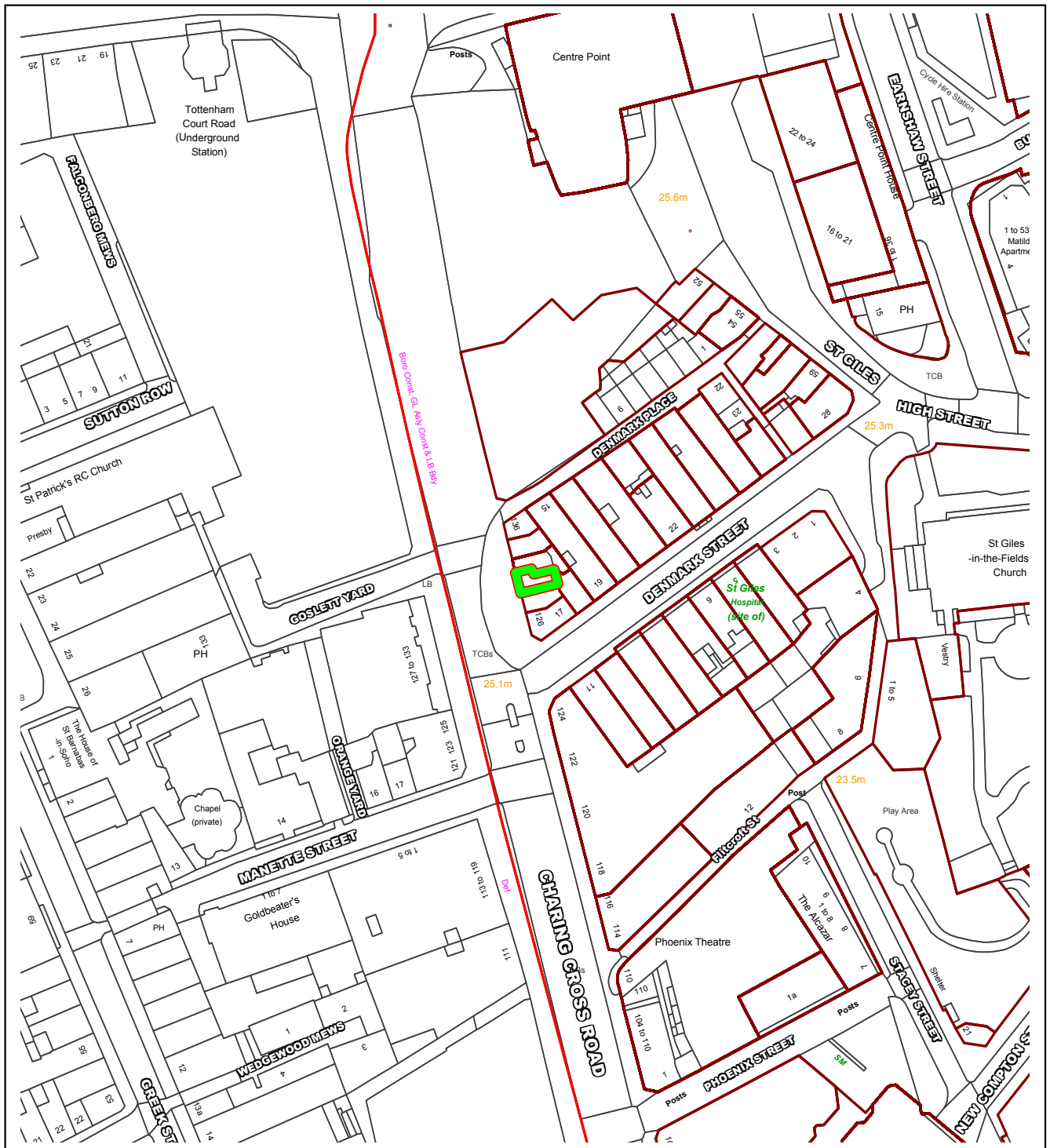


130 Charing Cross Road - 2017/4541/P



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Site photographs

1. Application site, 130 Charing Cross Road.



2. Front facades of Nos. 130 and 128



3. No.128 Charing Cross Road (Class A1)



4. No.134 Charing Cross Road (Class A1)



5. No. 136 Charing Cross Road (Class A1) currently unoccupied.



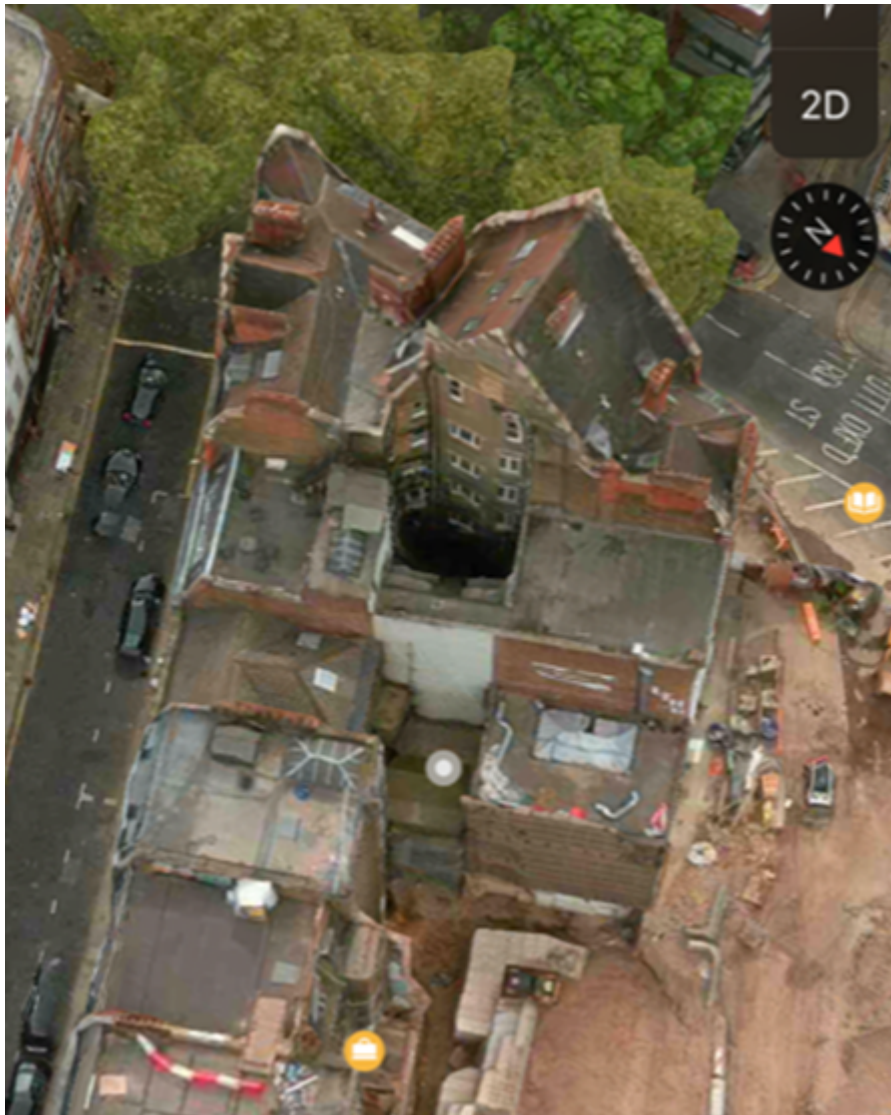
6. Nos. 128 and 126 Charing Cross Road (Class A1)



7. Entire frontage 136-126 Charing Cross Road (5 units)



8. Aerial view of the site



Delegated Report (Members' Briefing)		Analysis sheet		Expiry Date:		06/11/2017	
		N/A		Consultation Expiry Date:		05/10/2017	
Officer				Application Number(s)			
Patrick Marfleet				2017/4541/P			
Application Address				Drawing Numbers			
130 Charing Cross Road London WC2H 0LA				See draft decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Change of use of existing ground floor unit from retail (Class A1) to hot food takeaway (Class A5) including installation of extract duct to the rear.							
Recommendation(s):		Grant conditional planning permission					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:	No. notified	00	No. of responses No. electronic	03 03	No. of objections	03	
Summary of consultation responses:	<p>Site notice: displayed from 13/09/2017 - 04/10/2017 Press notice: displayed from 14/09/2017 - 05/10/2017</p> <p>Three objections were received from neighbouring residents and the following concerns raised:</p> <ol style="list-style-type: none"> 1. Object to proposed change of use. Previous unlawful takeaway use caused significant noise, odour and disturbance issues to residents of the flats above. 2. Enough disturbance caused already by Crossrail works and Denmark Street development and do not want noise, smell and social disturbance all night as well. 3. Customers previously dropped food and rubbish outside the building which attracted pigeons and vermin. 4. Lightwell to the rear of the flat is not big enough to accommodate an extract flue. 						

	<p><u>Officer comments</u></p> <ol style="list-style-type: none"> 1. The amenity impact of the proposal is discussed in paragraph 2.4 of this report. 2. The amenity impact of the proposal is discussed in paragraph 2.3 of this report. 3. The design and amenity impacts of the proposal are discussed in paragraphs 2.3 and 2.4 of this report. 4. It is considered there is sufficient room to fix the proposed extract flue to the existing rear elevation.
CAAC/Local groups comments:	<p>Denmark Street CAAC: No comments received.</p> <p>Covent Garden Community Association:</p> <ol style="list-style-type: none"> 1. Proposed hours of operation (7:00am-01:00am on Monday to Wednesday, 7:00am 04:00am on Thursday to Saturday and 7:00am-00:00am on Sunday) are highly inappropriate given the proximity to neighbouring residents. 2. Development results in the unacceptable loss of a class A1 retail shop, harmful to the character, function, vitality and viability of the designated shopping frontage. 3. Any permission granted must include conditions to control noise, disturbance and odour generated by proposed use. <p><u>Officer Comments</u></p> <ol style="list-style-type: none"> 1. See paragraph 2.4.4 of this report. 2. See paragraph 2.2 of this report. 3. See paragraphs 2.4.2 and 2.4.3 of this report.

Site Description

The application relates to an existing ground floor retail unit (Class A1) located within a seven storey residential mansion block located on the north eastern side of Charing Cross Road. The application site forms part of a row of five ground floor retail units, which are identified as a secondary frontage within the Tottenham Court Road/Charing Cross Road Central London Frontage.

The unit at No.130 was last in use as an unauthorised hot-food takeaway. This use has since ceased and the unit is currently unoccupied.

The property is not listed but is located within the Denmark Street Conservation Area. Whilst the retail unit is not identified as being of any architectural merit, the mansion block, located above (Shaldon Mansions) is identified as making a positive contribution to the character and appearance of the Denmark Street Conservation Area.

Relevant History

Application site

2015/2945/P - Change of use from A1 (Retail) to A5 (hot food take-away). Retrospective.

Refused and warning of enforcement action 19/08/2015 - due to unacceptable loss of A1 unit and insufficient information relating to proposed mitigation measures and impact the use would

have on neighbouring amenity.

Following the refusal of the application, the applicant was served with an enforcement notice (ref: EN14/1163) to cease the unauthorised A5 use and remove all associated extract equipment. The enforcement notice was subsequently appealed by the applicant (APP/X5210/C/15/3136064) and dismissed by the inspector on 24/02/2016.

Relevant policies

National Planning Policy Framework 2012

The London Plan 2016

Camden Local Plan 2017

A1 Managing the impact of development

A4 Noise and vibration

CC1 Climate change mitigation

D1 Design

D2 Heritage

TC2 Camden's centres and other shopping areas

TC4 Town centres uses

Camden Planning Guidance 2011/2015

CPG1 (Design)

CPG5 (Town Centres)

CPG6 (Amenity)

Denmark Street Conservation Area Appraisal and Management Statement 2010

Assessment

1.0 PROPOSAL

- 1.1 Planning permission is sought for the change of use of an existing ground floor retail unit (Class A1) to a hot-food takeaway (Class A5). Permission is also sought for the erection of an extract flue that would be fixed to the rear elevation of the host building and discharge fumes from the proposed use at main roof level. No other external alterations are proposed.

Previous Refusal and Inspectors Appeal Decision APP/X5210/C/15/3136064

- 1.2 As noted in the history section above, the site has been subject to an appeal following a previous refusal and enforcement notice. Within the appeal decision, the inspector generally agreed with the Council's two reasons for refusal, which related to the unacceptable loss of an A1 retail unit and the failure of the applicant to sufficiently demonstrate the proposal would not cause harm to the amenity of neighbouring residents. The information provided as part of the current application is considered to overcome these issues.
- 1.3 The officer report for the previous refusal stated that the proposed change of use would reduce the proportion of shop units in the frontage to 59%. In their appeal decision the inspector confirms that 59% of the frontage being in use as shops was broadly in line with their observation of the mix of uses on the frontage. However, an assessment of the frontage and review of the site history demonstrates that all 5 units are in A1 use and the change of use of the application site would not bring it below the 66% minimum, but would result in 80% of the units being in A1 use.

1.4 With regard to the amenity impact of the proposal the inspector concluded that, given the lack of any substantive information relating to the plant equipment necessary to mitigate noise and odour, it was not clear if such a use could be accommodated without harming the amenity of neighbouring residents. The submitted documents for the current proposal include two noise reports and details of the proposed extraction system. These have been reviewed by the Councils Environmental Health Officer who is satisfied that the proposed extract flue would sufficiently protect the amenity of neighbouring residents subject to conditions, details of which are discussed below.

2.1 ASSESSMENT

The material considerations for this application are summarised as follows:

- Land use;
- Design;
- Amenity of neighbouring residential occupants;

2.2 Land Use

2.2.1 Policy TC4 of the Camden Local Plan seeks to ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function and vitality and viability of a centre, the local area or the amenity of neighbours. In order to protect the primarily retail role of core frontages, the preferred location of food, drink and entertainment uses is secondary frontages.

2.2.2 The Council will also consider the individual planning objectives for each centre, as set out in the supplementary planning document Camden Planning Guidance on town centres, retail and employment.

2.2.2 The application site is located within the Charing Cross Road secondary shopping frontage. Paragraph 4.16 of CPG5 (Town centres, retail and employment) states: This part of the Central London Frontage has the potential to accommodate some additional non-retail uses provided that the overall level of shop use (Use Class A1) does not fall below two thirds (66%) of uses of that particular frontage.

Identifying a frontage and calculating A1 percentage

2.2.3 Paragraph 8.5 of the guidance states that a frontage will start at a road junction and 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. Once the frontage is established, the percentage is calculated as the number of premises in the specified use (e.g. food, drink and entertainment use) as a percentage of the total number of premises within the frontage. All calculations should be based upon the existing lawful use of the properties and valid planning permissions with potential to be implemented, and refer only to ground floor uses.

2.2.4 Therefore, with regard to the current application, the frontage would be defined by the roadways of Denmark Place to the north and Denmark Street to the south which encompass 5 ground floor retail units (136-126 Charing Cross Road).

2.2.5 Having checked the planning history for each of the 5 units, no applications appear to have been approved to change the use of any of these units, and it is considered that 100% of the

frontage is currently in lawful A1 use. Therefore, the proposed change of use of No.130 from A1 to A5 would reduce the retail offering on this particular frontage to 80%, which is well above the 66% minimum stated in CPG5 and considered acceptable in terms of its impact on the retail function of the secondary frontage.

2.2.6 At present, only one food/drink/entertainment use is provided within the frontage at No.128 (Lebaneats), this is considered to operate as an A1 use given the layout of the unit and the fact no primary cooking happens on site. The other occupied units within the frontage currently comprise a guitar shop (No.126) (Use Class A1) and an off license (No.134) (Use Class A1). No.136 is currently unoccupied but was previously in use as an A1 café.

2.2.7 Given the above, the proposed takeaway would result in one food/drink/entertainment (FDE) uses located within the frontage. This proportion is not considered to cause an over-concentration of FDE uses and would not damage the vitality and viability of the secondary retail frontage.

2.3 Design

2.3.1 Local Plan Policies D1 (Design) and D2 (Heritage) are aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.

2.3.2 The only external alterations proposed as part of the current application relate to the installation of an extract flue to the rear of the site.

2.3.3 For it to be considered acceptable from an environmental health and amenity perspective, the proposed flue would extend all the way up the existing rear elevation of the property and project 1m above the eaves line. However, given its location to the rear of the building, the proposal would have limited visibility from the surrounding public realm and would not cause significant harm to the character and setting of the host and neighbouring buildings as a result.

2.3.4 Furthermore, the application site is a large, six storey corner building that has a frontage on both Charing Cross Road and Denmark Street. This double frontage would further screen the proposed extract flue from public view, ensuring no significant harm is caused to the character of the surrounding conservation area as a result of the development.

2.4 Amenity of neighbouring residential occupants

2.4.1 Local Plan Policies A1 and A4 seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes privacy, outlook, daylight/sunlight noise and odour.

Noise

2.4.2 The Council's environmental health officer has reviewed the submitted acoustic reports and identified a number of mitigation measures that would need to be imposed to ensure the Council's minimum noise standards are met which include: An acoustic silencer, acoustic enclosure panels for the external duct and anti-vibration mounting. Therefore, subject to

adequate mitigation measures, internal/external noise levels at nearby habitable rooms would comply with the adopted noise targets. Details of noise mitigation measures will be secured by condition.

Odour

- 2.4.3 The proposed extract flue would terminate 1m above the main roof level of the host building and would discharge any fumes/odours emanating from the site a sufficient distance away from the nearest habitable room window. Notwithstanding this, the applicant would be required to provide further details relating to odour control prior to the commencement of the proposed use. The Council's environmental health officer is satisfied that the control of odours emanating from the site can be suitably addressed through the imposition of a relevant planning condition. It is therefore considered the applicant has now overcome this previous reason for refusal which was also upheld by the Inspector.

Hours of operation

- 2.4.4 In his appeal decision (see site history) the inspector stated: 'With suitable hours of operation, controlled through a condition, I consider that the use of the site as a hot food take away could operate without harm to the living conditions of occupiers of the residential properties in respect of noise from customers'.
- 2.4.5 Concerns have been raised from neighbouring residents with regard to the proposed hours of operation at the site (7:00am-01:00am Monday to Wednesday, 7:00am-04:00am Thursday to Saturday and 7:00am-00:00am Sunday). Officers agree that the proposed hours of operation are inappropriate given the existing residential dwellings located on the floors above the application site. Therefore, to ensure the amenity of neighbouring residents is protected, the Council consider opening hours of 09:00am-11:00pm Monday-Sunday to be more appropriate in this instance as they would match the opening times of similar uses in the area. The hours of operation for the proposed use will be secured by condition.

Light / Outlook / Privacy

- 2.4.6 Whilst the extract flue would be located in close proximity to the windows of some neighbouring properties, its size and width is not considered to cause a loss of light or outlook to existing residents.

3.0 Recommendation

- 3.1 Grant conditional planning permission

DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 22nd January 2018, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'

Mr David Pickford
Pegasus Group
5 The Priory Old
London Road
B75 5SH

Application Ref: **2017/4541/P**
Please ask for: **Patrick Marfleet**
Telephone: 020 7974 **1222**

16 January 2018

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
130 Charing Cross Road
London
WC2H 0LA

DECISION

Proposal:
Change of use of existing ground floor unit from retail (Class A1) to hot food takeaway (Class A5) including installation of extract duct to the rear.

Drawing Nos: KP Acoustics Noise Impact Assessment dated 25th July 2017, KP Acoustics Planning Compliance Report dated 24th July 2017, Pegasus Group Planning Statement dated August 2017, 130CC-105, 130CC-104 01, 130CC-101 I, 130CC-102 I, 130CC-103, FR-CC-M001 P3.

The Council has considered your application and decided to grant permission subject to the following condition(s):

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.

Executive Director Supporting Communities



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 D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: KP Acoustics Noise Impact Assessment dated 25th July 2017, KP Acoustics Planning Compliance Report dated 24th July 2017, Pegasus Group Planning Statement dated August 2017, 130CC-105, 130CC-104 01, 130CC-101 I, 130CC-102 I, 130CC-103, FR-CC-M001 P3.

Reason:

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

- 4 Prior to the commencement of the approved use, full details of the ventilation system for the extraction and dispersal of cooking odours including details of the flue, method of odour control and maintenance regime shall be submitted to and approved by the Local Planning Authority in writing.

The extraction system should terminate unimpeded in a vertical direction at least 1m above the eaves level of the building.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy G1, A1, A4 and D1 of the London Borough of Camden Local Plan 2017.

- 5 The use hereby permitted shall be in operation only for the hours of 09:00am - 11:00pm Monday to Sunday.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, CC1, D1, A1, A4, TC1, TC2 and TC4 of the London Borough of Camden Local Plan 2017.

- 6 Prior to commencement of the approved use, details of all sound insulation and mitigation measures shall be submitted to and approved in writing by the local planning authority. The use shall thereafter not be carried out other than in accordance with the approved details.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, D1, A1, and A4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that 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, Judd St, Kings Cross, London NW1 2QS (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 Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website 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.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning