

Delegated Report		Analysis sheet		Expiry Date:		08/02/2018	
		N/A / attached		Consultation Expiry Date:		16/02/2018	
Officer				Application Number(s)			
Alyce Keen				2017/6900/P			
Application Address				Drawing Numbers			
263 Eversholt Street London NW1 1BA				Refer to decision notice.			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use from A1 (retail) to A3 (restaurant) at ground level and the installation of an extract/ventilation duct to rear elevation (retrospective).							
Recommendation:		Refuse permission and warning of enforcement action					
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	00	No. of objections	01
				No. electronic	00		
Summary of consultation responses:		<u>Planning</u> Advertisement in local press on 25/01/2018 – 15/02/2018 Site notice displayed on 26/01/2018 – 16/02/2018 No consultation response were received during the consultation period.					
Camden Town CAAC:		No response was received from the Camden Town CAAC.					

Site Description

The application site is four storey mid-terraced property located on the west side of Eversholt Street. The building is not listed but lies within the Camden Town Conservation Area.

The site is designated as a protected frontage within the Eversholt Street (north) neighbourhood centre in the Central Activity Zone.

Relevant History

Planning cases:

2005/3519/INVALID - Change of use of ground & basement from A1 Retail to A3 Restaurant including the erection of a single storey rear extension and the installation of a extract/ventilation duct at rear, and new shopfront; conversion of upper floors to 3no. self contained flats incorporating a first floor rear extension and roof terrace (on roof of ground floor extension). Withdrawn 21/11/2005.

2006/1217/INVALID - Erection of full width ground, first, second and third floor extensions, the change of use of the basement from retail (Class A1) to residential (Class C3), the ground floor from retail (Class A1) to restaurant (Class A3) and upper floors from bedsits (sui generis) to self-contained flats (Class C3), together with the installation of a new shop front. Withdrawn 14/11/2006.

2013/3134/P - Use as 1 x 1 bedroom flat on lower ground floor, 1 x studio flat on lower ground floor and 6 x studio flats on first, second and third floors (Class C3). Granted 09/08/2013.

2014/5659/INVALID - Excavation to provide basement extension to rear; erection of single storey ground floor rear extension, single storey first floor rear extension and second floor roof terrace following demolition of existing rear extensions; to provide additional floor space to existing basement and upper floor flats (Use Class C3) and conversion of ground floor café/restaurant (Use Class C3) into two units comprised of a café/restaurant accessed from the front and retail shop accessed from the rear (Use Class A1), including new skylight to front and alterations to rear fenestration. Withdrawn 09/06/2015.

2017/1937/P - Change of use from A1 (retail) to A3 (restaurant) (retrospective). Withdrawn 02/08/2017 for the reason outlined below:

- Cumulative impact of the introduction of another A3 use is considered unacceptable and harmful to the overall character, function, vitality and viability of this neighbourhood area.
- The existing extraction units require planning permission and a noise report is needed for environmental health officers to make an assessment.
- The Council also notes there is no mention of the existing basement in this application and its intended use.

Enforcement cases:

EN18/0151

EN18/0152

EN18/0154

EN18/0156

- Cases to investigate a potential unlawful change of use from retail at nos.243, 249, 267 and 273 Eversholt St

Relevant policies

London Plan 2016

National Planning Policy Framework 2012

Camden Local Plan 2017

A1 Managing the impact of development

A4 Noise and vibration

D1 Design

D2 Heritage

TC1 Quantity and location of retail development

TC2 Protecting and enhancing Camden's Centres and other shopping areas

TC4 Food, drink, entertainment and other town centre uses

T1 Prioritising walking, cycling and public transport
T4 Promoting the sustainable movement of goods and materials

Camden Town conservation area appraisal and management strategy 2007

CPG1 Design – Ch.11
CPG5 Town Centres – Ch.6
CPG6 Amenity – Ch.4

Assessment

1. Proposal

1.1 The proposal is for the change of use from retail (A1 use) at ground floor (103m²) to a restaurant (A3 use). In addition, the proposed scheme also seeks consent for the installation of an extract/ventilation duct to rear elevation. An acoustic report has been submitted to support the proposal. Both the change of use and installation of the duct has already been implemented, therefore the applicant is seeking retrospective consent.

2. Assessment

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

- Land use;
- Design;
- Residential amenity;
- Plant/extraction Equipment;
- Transport;
- Servicing, waste and refuse.

3. Land Use

- 3.1 Policy TC2 of the Camden Local Plan seeks to retain convenience shopping for local residents in Camden's Neighbourhood Centres and will ensure that development in them does not harm the function, character or success of that centre.
- 3.2 Para. 9.2.3 states that as a guide, we will resist schemes that would result in less than half of ground floor premises in a neighbourhood centre from being in retail use or in more than three consecutive premises being in non-retail use.
- 3.3 Camden's Local Plan further specifies criteria for Neighbourhood Centres in the Central Activity Zone.
- 3.4 Camden Planning Guidance 5 Map 18 also shows the designated neighbourhood centre frontages for Eversholt Street North. 235-277 and 3 Millbrook Place are located within the Eversholt Street north neighbourhood centre.
- 3.5 The Eversholt Street (North and South) neighbourhood centre specifies a minimum proportion of 50% of A1 shops in each individual frontage. In addition, additional food, drink, and entertainment uses would be acceptable subject to the assessment of impacts.
- 3.6 The subject site is located on an individual frontage of 23 commercial properties between Camden High Street and Lidlington Place. A site visit was carried out on Friday 2nd February 2018, to establish the existing mix of uses within the frontage. This was verified against the Council's planning records to establish the lawful uses within this part of the Core Frontage as well as the information provided on Camden's retail survey 2016.

The lawful uses are as follows:

Address	Fascia	Activity	Use
277	Capital Food	Off Licence	A1
275	Day Lewis Pharmacy	Pharmacy	A1
273	HB Clinic	Beauty	(A1*)
271	Home Clean	Office	B1
269	Sandwiches etc	Takeaway	A3/A5
267	SMJ Groups	Serviced Apartments	(A1*)
265	Asa Kusa	Restaurant	A3
263	C-Town Lounge	Café	A3
261	Mayling	Restaurant	A3
259	House of Camden	Hairdresser	A1
257	William Hill	Betting Office	Sui Generis
255	Vacant	Previous use was a shop	A1
253	KG Shore & Luggage Repairs	Shop	A1
251	Camden Cycles	Shop	A1
249	Nashmils Beauty	Beauty	(A1*)
247	Sam Cain	Estate Agent	A2
245	El Parador	Restaurant	A3
243	SIS beauty Clinic	Beauty	(A1*)
241	Camden Cycles	Shop	A1
239	George	Hairdresser	A1
237	Hygrade Sewing Machines	Office	B1
235	Palsat	Shop	A1
% of A1 uses	63% (existing) 59% (proposed)		

**During the site visit it was noted that these units appear to have changed use without planning consent. The lawful use of these units remain as A1 retail and enforcement investigations have commenced to investigate this situation (see history section). For the purposes of this assessment the lawful use of these units will be considered. If it is found that an unlawful change of use has occurred, the Council will seek to take formal enforcement action.*

3.7 From the table above, 63% of the uses are A1. As a result of the proposed change of use, 59% would be A1.

3.8 Therefore as a result of the change of use the individual frontage within Eversholt Street (north & south) neighbourhood centre is compliant as it would still retain 56% of uses as A1.

3.9 Based on the lawful uses it was noted that the unit is situated within a row of 3 non-retail units. However

as noted by the analysis of the existing uses there are a number of existing operational uses which are unlawful including no. 267. Therefore based on the unlawful uses the retrospective change of use would result in more than 3 consecutive non-retail uses.

- 3.10 The retention of the A3 use would not lead to a continuous row of more than 3 non-retail uses (based upon *lawful* not existing uses – see * above). Notwithstanding this, the guidance outlined in the relevant CPG must be considered alongside the overall policy intent of TC2. As outlined above, policy TC2 states that the Council will primarily seek to protect the function, character / success of neighbourhood centres – in particular their role in providing convenience shopping for local residents.
- 3.11 As observed onsite, the Eversholt Street (north) centre currently features an unbalanced provision. At present the Southern section of the frontage (i.e.253-257) providing a range of uses but maintaining a good proportion of retail uses, whereas the top section (i.e.259 - 277) is performing badly in this regard. At present, this top section of the frontage host very little convenience retail uses and provides little for the local community in terms of a range of useful services. Considering that the closest node for public transport is to the North (Morningson Crescent station and major bus route junction), users travelling to the centre are most likely to travel from the North, meaning that this section of the Centre is of particular importance to its success. Notwithstanding the potential unlawful conversions observed (see above), at present a visitor to the centre traveling from the North currently would have to walk past eight GF units (a distance of 45m) to find a convenience retail use after no.277. This concentration of non- convenience retail uses is considered to have detrimentally altered the character and function of this section of the centre. As a result of cumulative changes in this particular street frontage it was observed that the function, character and success of the centre has been adversely harmed and the proposed retention of a restaurant use within this section is considered to exacerbate this harmful impact. Therefore in light of this the change of use is not considered to be acceptable as the Council seeks to ensure that convenience shopping for local residents in Camden's Neighbourhood Centres is retained.

4. Design

- 4.1 The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. The Local Plan policy D1 (Design) requires development to be of the highest architectural and urban design quality which improves the function, appearance and character of the area. Policy D2 (Heritage) requires that development within conservation areas preserves or, where possible, enhances the character or appearance of the area. Camden's Local Plan Document is supported by CPG1 (Design).
- 4.2 The application seeks retrospective approval for the installation of an extract/ventilation duct to rear elevation. Due to the sites arrangement the rear elevation of the property is highly visible from the public realm via Hurdwick Place. The scale and choice of materials for the extract duct are considered to be inappropriate as they result in the duct being visually prominent on this rear elevation and subsequently within the conservation area. In terms of design it is clear that the equipment will be visible and subsequently will impact the appearance and character of the area. Therefore the proposed installation of this equipment does not comply with policies D1 or D2 of the Camden Local Plan 2017.

5. Residential amenity

- 5.1 Policy A1 of the Local Plan 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, and impact on daylight and sunlight. Policy A4 seeks to ensure that residents are not unduly disturbed as a result of noise or vibration. Camden's Local Plan Document is supported by CPG6 (Amenity).
- 5.2 Policy TC4 states that the Council will consider the impact of food and drink related uses on nearby residential uses and amenity and noise and vibration generated inside or outside the site. In order to manage the potential harm to amenity and the local area, the Council will use planning conditions to address hours of operation, noise and vibration and the siting of plant and machinery.
- 5.3 The Council recognises that while food, drink and entertainment uses can contribute to the vibrancy and vitality of town centres, they can also have harmful effects such as noise and disturbance to residents. Camden Planning Guidance 5 seeks to prevent concentrations of food, drink and entertainment uses that cause harm to the character of the area and the amenity of local residents.

5.4 The nearest residential properties are located on the upper floors of the host building as well as to adjoining properties. The proposed hours of operation have not been indicated. However if the proposed scheme were otherwise considered to be acceptable these would have been requested and conditioned.

Plant extraction/equipment

5.5 An acoustic report has been submitted to accompany the application which has been assessed alongside the Council's Environmental Health Officers.

5.6 From this review it was found that the report does not reference Camden's current policy nor demonstrate compliance with Camden's requirements for industrial and commercial noise sources. Under BS4142:2014 (the British Standard that describes methods for rating and assessing sound of an industrial or commercial nature), the author of the report needs to state credentials to demonstrate competence. In addition, a Class/Type 1 instrument needs to be used to undertake the measurements. From the evidence provided it appears that the instrument used to conduct the survey does not comply. This was not clarified within the report. As a result, officers are not confident that the baseline measurements to identify the typical background level of (L90) were undertaken in line BS4142:2014 and therefore the data presented in the report is not considered to be in line with Camden's requirements.

5.7 The noise report is considered to be insufficient in that it does not demonstrate that the installation of the extract/ventilation duct would not adversely impact the residential properties situated within the property via virtue of noise and disturbances. Therefore the retention of this equipment does not comply with policies A1 and A4 of the Camden Local Plan 2017.

6. Transport

6.1 Policy TC4 considers the effect of the food and drink uses in terms of parking, stopping and servicing.

6.2 In terms of transport matters, considering the size of the GF unit it is unlikely that there will be any net increase in scale of transport impacts from the proposed restaurant (Class A3) use. It is likely most customers would arrive and leave using public transport (bus stops are located nearby). The site has a PTAL rating of 6(b) indicating excellent access to public transport. No onsite parking is available to staff or customers and therefore no parking issues are considered to occur.

7. Servicing, waste and refuse

7.1 Policy TC4 seeks to ensure the storage and disposal of refuse is managed to safeguard the amenity of the surrounding area. Sufficient accommodation for the necessary refuse/recycling storage requirements for the proposed use have not been demonstrated. As for servicing TfL recommends that a Delivery & Servicing Plan is produced in accordance with TfL guidance. If the proposed scheme were considered to be acceptable, further information regarding refuse/recycling storage and servicing would have been requested and secured by condition.

8. Recommendation

9.1. A) Refuse planning permission

9.2. B) Authorise enforcement action

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

The unauthorised change of use from retail (A1) to restaurant (A3) and the installation of rear extract ducting /plant equipment

The Notice shall require within a period of 3 calendar months of the Notice taking effect:

- 1) Revert to lawful use of the ground floor unit;
- 2) Remove the plant equipment from rear elevation and make good this part of the building after the equipment has been removed.

REASONS WHY THE COUNCIL CONSIDERS IT EXPEDIENT TO ISSUE THE NOTICE:

- (1) The continued use of the ground floor unit for restaurant (A3) purposes would, by virtue of an over concentration of non-retail uses, cause harm to the function, character and success of the Eversholt Street Neighbourhood Centre. The change of use therefore remains contrary to Policy TC2 of the Camden Local Plan 2017 and CPG5 Town Centres.
- (2) The installed extract ducting to the rear elevation of the property, by virtue of its size, design and siting, is an overly prominent and incongruous addition, which detracts significantly from the character and appearance of the host property and row of terraced properties, as well as the wider Conservation Area. The retention of this ducting therefore remains contrary to Policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.
- (3) Submitted reporting has failed to adequately demonstrate that the proposed use of the site and extract equipment would not adversely impact upon the residential amenities of adjoining neighbours by virtue of sound and vibration. The application therefore remains contrary to policies A1 and A4 of the Camden Local Plan 2017.