

Delegated Report		Analysis sheet		Expiry Date:	03/04/2018
		N/A		Consultation Expiry Date:	21/03/2018
Officer			Application Number(s)		
Tony Young			2018/0413/P		
Application Address			Drawing Numbers		
78 Southampton Row London WC1B 4AR			Refer to draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use of ground floor and basement from retail (Class A1) to restaurant/cafe (Class A3) use.					
Recommendation(s):		Grant Prior Approval			
Application Type(s):		GPDO Prior Approval Determination			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	42	No. of responses	02	No. of objections	02
			No. Electronic	00		
Summary of consultation responses from local residents	Site notice was displayed from 28/02/2018 to 21/03/2018					
CAAC/Local groups comments	An objection was received from a resident at <u>7 Bristol House, 80A Southampton Row WC1B 4BA</u> as follows:					
	<div>1. <i>“Bristol House is a block of family flats. My bedroom and sitting room are directly above these premises on 2nd floor and the flat above mine has two young resident children. Noise echoes up through the lightwell on to which we all open. Those leasing the premises under discussion have opened up the windows on to the lightwell and their workmen then made a great deal of disturbing noise including at weekends and on Christmas Day. I am particularly concerned about noise if these windows are open in the summer up to 11 pm. A restaurant might get quite noisy at night. If Messrs Greggs next door do not turn off their noisy extractor fan into the lightwell at 7 pm when they close the evenings and nights are disturbed causing lack of sleep.”</i></div> <div>2. <i>“I think also this might also lead to smells despite the internal arrangements offered. The area is now so full of restaurants that I feel we do not need another one and local councillors did say that no more would be licensed. I also wonder about the capacity of the drains to cope with yet more cooking waste. I would oppose the change of use from the present cafe or the extension of its hours beyond 9pm. I also request that no music licence is granted as we had one very loud episode I think on the day the present cafe opened.”</i></div> <div>An objection was received from a resident at <u>9 Bristol House, 80A Southampton Row WC1B 4BA</u> as follows:</div> <div>3. <i>“These premises are contained within a mostly residential block consisting of over 26 flats - over 50 people live here. The management of this cafe have already shown their contempt to the residents. The refurbishment works, which went on for months, involved a great deal of noise & was carried out in the evenings, weekends - even on Christmas day, despite their lease forbidding this. We have little faith that they will keep to their promises.”</i></div> <div>4. <i>“Therefore I would ask that should this application be granted that the noise limits be specified & to be very low, similarly with odours. It should be a part of the licence that all equipment that makes any noise be turned off during the night without fail & that due consideration be given to the quality of life & quiet enjoyment of the long term residents of this block. Failure to comply should mean that they would lose their permission. I should also point out that the</i></div>					

	<p><i>Victorian drains in this building were not designed to cope with the effluent of restaurants & cause frequent problems. The restaurant should be aware of this & make sure that nothing enters the drains, such as fat, that can block them."</i></p> <p>5. <i>"There are already a great many cafes and restaurants on Southampton Row: Greggs, Starbucks, Costa, Cafe Nero, Chinese, Italian x 2, Indian, French to name but a few in a stretch of 100-200 metres. Do we really need another one?"</i></p> <p><u>Officer response to above:</u></p> <p>1. The report take into consideration the concerns raised with regard to residential amenity including noise, odours, and hours of opening (see main body of report).</p>
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Site Description

The subject site is located on the north-east side of Southampton Row. The building is a mid-terrace 5-storey red brick building with contrasting white stone terracotta details typical within Southampton Row.

This application relates to the ground and basement levels of the building which are currently in Class A1 use. The upper floors are in residential use, the entrance to Bristol House being adjacent to the ground floor unit. The area is characterised by surrounding Class A1/A3 ground floor units and hotel/office accommodation on upper floors along this parade.

The property sits within the Bloomsbury Conservation Area but is not listed. The site is located within the Central London Area, but is not located within a designated Town Centre, Neighbourhood Centre, Central London Frontages, nor Specialist Retail Area.

Relevant History

8500022 - Installation of a new shopfront. Planning permission granted dated 06/02/1985

Enforcement cases:

EN15/0002 – Works to empty shop to create a café. No breach found. Case closed 05/01/2015

EN04/0637 - Installation of an extractor fan. No breach found. Case closed 14/07/2004

Relevant policies

National Planning Policy Framework 2012

Chapter 2 (Ensuring the vitality of town centres)

Chapter 4 (Promoting sustainable transport)

Chapter 7 (Requiring good design)

Chapter 12 (Conserving and enhancing the historic environment)

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Assessment

1. Proposal

1.1 The application seeks Prior Approval permission under Class C, Part 3, of the GPDO 2015 (as amended) for change the use of the basement and ground floors of the building from a retail use

(Class A1) to a restaurant use (Class A3) under permitted development.

- 1.2 It should be noted that the photographs included in the applicant's supporting statement do not show the current business and might be misinterpreted as being a different use than that which falls within Class A1. However, during a site visit to the premises (20/03/2018), the case officer noted that the premises, 'Mauve Kitchen', operates with a customer service and retail counter, a seating area, and a significant amount of space displaying various cakes and pastries and cold juices, consistent with a Class A1 retail use as required.

2. Procedure

- 2.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class C allows for the change of use of a building from a use falling within Class A1 (shops) of the Schedule to the Use Classes Order, to a use falling within Class A3 (restaurants and cafes) of that Schedule.
- 2.2 Class C (b) also allows for building or other operations for the provision of facilities for: (i) ventilation and extraction (including the provision of an external flue), and (ii) the storage of rubbish, which are reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.
- 2.3 The change of use is subject to a number of conditions listed within sub-paragraph C.1 [(a)-(e)] and a subsequent condition in sub-paragraph C.2 relating to the need for the developer to apply to the local planning authority for a determination as to whether prior approval of the authority is required for:
- (a) noise impacts of the development,
 - (b) odour impacts of the development,
 - (c) impacts of storage and handling of waste in relation to the development,
 - (d) impacts of the hours of opening of the development,
 - (e) transport and highways impacts of the development,
 - (f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use -
 - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
 - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
 - (g) the siting, design or external appearance of the facilities to be provided under Class C(b),
- 2.4 Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required.

3. Assessment under Part 3, Class C of the General Permitted Development Order 2015

3.1 Compliance with Paragraph C.1

3.2 Development is not permitted by Class C if –

(a) the cumulative floor space of the existing building changing use under Class C exceeds 150 square metres;

The proposal complies. The cumulative floor space of the existing building changing use does not exceed 150 square metres; it would amount to approximately 107 square metres.

(b) the development (together with any previous development under Class C) would result in more than 150 square metres of floor space in the building having changed use

under Class C;

The proposal complies. No other part of the building has previously changed use under Class C and no other applications under Class C at the building are pending determination.

(c) the land or the site on which the building is located is or forms part of –

(i) a site of special scientific interest;

(ii) a safety hazard area; or

(iii) a military explosives storage area;

The proposal complies. The application site is not within a site of special scientific interest, a safety hazard area or a military explosive storage area.

(d) the site is, or contains, a scheduled monument; or

The proposal complies. The application building is not a scheduled monument, and does not contain a scheduled monument

(e) the land or building is a listed building or is within the curtilage of a listed building.

The proposal complies. The application building is not statutorily listed and neither is it within the curtilage of a listed building.

3.3 The proposal therefore constitutes permitted development, pursuant to the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Part C.1.

3.4 Compliance with Paragraph C.2

3.5 Where the development proposed is development under Class C(a) together with development under Class C(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –

(a) noise impacts of the development

3.6 No external extraction and ventilation system or external flue are proposed as part of this prior approval application. The proposal involves the cooking of food with a modern Rational Ultravent System that uses a condensation system connected directly into the water and waste system and filters odours within a fixed hood above. As such, the method and equipment used for extraction and ventilation is wholly internal with no need for extract vents or equipment to be located or housed externally. The submitted information has been reviewed by the Council's Environmental Health Team and considered to acceptable.

3.7 Due to the proposed internal siting and operation of the equipment, the nature of the site location on a busy road, and the relatively small floor area of the proposed activity, it is not envisaged that there would be a significant increase in noise level to neighbouring residential properties from any equipment or increase in footfall, and as such, the proposal would not be harmful in terms of noise.

3.8 Any future proposal to install external plant or machinery would require the submission of a planning application. Nevertheless, part W (13) of the legislation notes that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. Therefore, in order to ensure that the current and future occupants of the premises operate in a way that all neighbouring residents and properties are protected from any potential harmful effects of noise, a condition has been attached with regard to noise of any equipment. Subject to this condition the proposal is considered to be acceptable in this regard.

(b) odour impacts of the development

3.9 As noted above in paragraph 3.6, the proposal does not involve any external extraction and

ventilation system or flue. The wholly internally housed Rational Ultravent System filters odours within a fixed internal hood condensation system. Having reviewed the submitted information alongside officers from the Council's Environmental Health Team, it is considered that the specification would ensure that food odours arising from cooking would be adequately controlled within the building such that there would be no undue concentration of odour or air pollution and that residential amenity would not be prejudiced by the proposed use.

- 3.10 As these submitted documents remain listed as approved documents, the applicant is required by any approval to ensure that this equipment is installed and maintained as outlined in approved documents. The proposal is therefore considered to comply with this criteria.

(c) impacts of storage and handling of waste in relation to the development

- 3.11 The accompanying Planning Statement notes that the waste will be stored in the basement and collected each day as per the current arrangement for the premises and a common arrangement for neighbouring premises. As such, there is no requirement to store waste externally. Taking into consideration the constraints of the application site, this is considered to represent an appropriate solution to waste storage and handling and the prior approval of the Council is not considered to be necessary in this respect.

(d) impacts of the hours of opening of the development

- 3.12 The applicant has stated the proposed opening hours as follows: Monday to Sunday: 07:00 - 23:00.
- 3.13 The application site is within a ground floor frontage which mainly comprises Class A1, A2 and A3 uses. Given that the street is a busy and active commercial area with a variety of uses of this kind, it is considered that the proposed Class A3 activity would likely be acceptable in this location if it were to operate within these hours. The proposed opening hours are not considered to give rise to an increase in anti-social behaviour during the evening and late night period. A condition would be attached to any approval to ensure that the amenities of adjoining premises and the area generally are safeguarded. The Council's Licensing Team will enforce operating hours as necessary.
- 3.14 During a site visit to the premises (20/03/2018), the case officer identified a small number of table and chairs sited outside the premises at the front. The applicant has confirmed that he does not intend to operate external seating and all tables and chairs would be removed from the forecourt area. This is considered to be acceptable in terms of further limiting any external noise from the use of the premises.
- 3.15 The proposal is therefore considered to have an acceptable impact in this regard.

(e) transport and highways impacts of the development

- 3.16 The application site has a PTAL rating of 6b (the highest), which means it is highly accessible by public transport. The nearest on-street cycle parking stands are located on the opposite side of the road (affixed to a lamp column) and to the south of the site (2 Sheffield stands).
- 3.17 The proposal is unlikely to generate significant travel demand and the scale of development is not large enough to warrant the provision of staff or customer cycle parking facilities. Notwithstanding this, the applicant has indicated a willingness to provide a secure storage space for a single bicycle within the general storage area at the lower ground.
- 3.18 The proposal is therefore considered to have an acceptable impact in this regard.

(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use-

(i) on adequate provision of services of the sort that may be provided by a building

falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
(ii) where the building is located in a key shopping area, on the sustainability of that shopping area.

- 3.19 Paragraph 17 of National Planning Policy Framework (NPPF) 2012 sets out core planning principles and states that planning should proactively drive and support sustainable economic development and should take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- 3.20 While the application site is located within the Central London Area, it is not located within a designated Town Centre, Neighbourhood Centre, Central London Frontages, or Specialist Retail Area as identified within the Camden Local Plan 2017 which sets out the Council's overall strategy for designated centres and associated uses. As such, the impact of the proposal does not need to be assessed for compliance under Class C.2(1)(f)(ii) in terms of the sustainability of a key shopping area.
- 3.21 The matter then turns to an assessment of the impact of the proposed change of use under Class C.2(1)(f)(i) with regard to the adequate provision of Class A1 services.
- 3.22 There are a number of designated centres within approximately 5-10 minutes walk (0.5km) of the application site where the provision of retail shops is protected under separate policies in the Local Plan and for which a minimum is set on the proportion of buildings that should be retained as shops within the Class A1. These include Lambs Conduit Street to the east and the Brunswick Centre to the north which are both designated as neighbourhood centres in the Camden Local Plan 2017. The site also sits within approximately 250m of the Holborn Central London Frontage Area to the south which contains approximately 150 ground floor commercial premises and largely operates as a town centre for workers and the Holborn area's residential community.
- 3.23 Appendix 4 (Centre frontages) of the Plan identifies that a minimum of 50% of Class A1 shops should be retained in each individual frontage and a maximum of 25% of Classes A3, A4 and A5 uses with no more than 2 consecutive food, drink and entertainment uses. As such, this is considered to demonstrate that there is adequate retail provision within 5-10 minutes walk of the application site within designated centres and frontages that are protected by specific policies, and as such, would provide adequate and sustainable Class A1 retail provision.
- 3.24 Though it is evident in this part of Southampton Row (which is outside of a designated centre) that there is a wider mix of uses that also includes hotels, the London Borough of Camden Retail Survey 2016 shows there is also existing retail provision within Southampton Row where the application site is located. Consequently, the loss of the existing retail use would not result in any adverse impact with respect to such provision within the immediate locality.
- 3.25 The Council seeks to maintain the mixed use character of within the Central London Area, and protect the retail function of shopping streets and maintain specialist uses, as well as, prevent concentrations of food drink and entertainment uses that cause harm to the character of the area and the amenity of local residents. The proposal is considered to comply in this regard.

(g) the siting, design or external appearance of the facilities to be provided under Class C(b), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application. Class C (b) allows for building or other operations for the provision of facilities for:

- (i) ventilation and extraction (including the provision of an external flue), and**
- (ii) the storage of rubbish, reasonably necessary to use the building for a use falling within Class A3 (restaurants and cafes) of that Schedule.**

- 3.26 No external extraction and ventilation system, nor external flues or ducting, are proposed as

part of this prior approval application. As noted above, waste and refuse storage would be accommodated within the basement level.

4. Recommendation

4.1 Prior Approval is required and granted