

Delegated Report		Analysis sheet		Expiry Date:		05/10/2018	
		N/A		Consultation Expiry Date:		01/10/2018	
Officer				Application Number(s)			
Charlotte Meynell				2018/3878/P			
Application Address				Drawing Numbers			
43 Store Street London WC1E 7DB				Refer to draft decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of basement and ground floor from retail (Class A1) to restaurant (Class A3) and associated alterations including the installation of extraction system to rear under the General Permitted Development Order 2015 Schedule 2, Part 3, Class C as amended.							
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	0	No. of responses	0	No. of objections	0
Summary of consultation responses from local residents		<u>A site notice was displayed on 07/09/2018 and expired on 01/10/2018.</u> <u>A press notice was advertised on 06/09/2018 and expired on 30/09/2018.</u> No responses were received from neighbours.					

Site Description

The subject site comprises a three-storey mid-terrace building with basement and habitable accommodation in the roof on the south-eastern side of Store Street, close to the junction with Gower Street to the north-east.

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 as a single self-contained flat, accessed from a separate entrance on Store Street adjacent to the ground floor unit.

The host building is located within the Bloomsbury Conservation Area but is not listed. However, the building is attached to the Grade II listed buildings at Nos. 1-15 (odd) Gower Street which are directly adjacent to the east of the site. The site is located within the Central London Area, but is not located within a designated Town Centre, Neighbourhood Centre, Central London Frontages or Specialist

Retail Area. The Store Street Neighbourhood Centre is located directly adjacent to the building, between Nos. 28 and 42 Store Street (consec.).

Relevant History

43 Store Street

9501488 – Change of use and conversion of the first, second and third floors to a single family dwelling together with alterations to the front elevation. **Planning permission granted 30/11/1995 (This permission was not implemented)**

9301383 – Change of Use of ground floor from retail use within Class A1 to use as an information centre on Japanese Culture. **Planning permission granted 17/02/1994**

Relevant policies

- **Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended)**

- **National Planning Policy Framework (2018)**
 - Chapter 7 (Ensuring the vitality of town centres)
 - Chapter 9 (Promoting sustainable transport)
 - Chapter 12 (Achieving well-designed places)
 - Chapter 16 (Conserving and enhancing the historic environment)

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.

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 146 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 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.

3.7 The proposed extract flue would be affixed to the rear of the building and would run vertically and discharge above roof level. The nearest noise sensitive residential receptors have been identified as the rear windows in the upper floor flat at 43 Store Street. A noise measurement

survey and assessment has been carried out to identify the prevailing ambient and background noise climates. The Council's Environmental Health Officer has reviewed the submitted information and has confirmed that the noise levels from the kitchen extraction system incorporating air supply and extract silencers impacting the two closest noise sensitive residential receptors complies with the Council's plant noise criterion of 10dB or more below background noise. Subject to the predicted levels being secured on site, it is not considered that noise from plant/equipment would lead to a detrimental impact upon any adjoining occupier. As such, a condition is recommended to ensure that noise levels do not exceed those outlined within the submitted report.

3.8 The proposal includes the retention of external tables and chairs for 12 covers on the front forecourt of the site, which are already in use in relation to the existing café. Due to 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 increase in footfall or the continued use of external tables and chairs. As such, it is not considered that the proposal would not be harmful in terms of noise.

(b) odour impacts of the development

3.9 The submitted documents include a Technical and Operational Manual which specifies the cleaning and maintenance programme, and a Plasma Clean Extract document which recommends that the Ozone Unit be serviced annually. However, the Council's Environmental Health Officer has recommended that a pre-commencement condition be added to any approval to secure the submission and approval of an Odour Management Plan which consolidates the cleaning/maintenance and servicing commitments, including a log confirming when work is to be undertaken and the date of the next scheduled cleaning/maintenance service requirement. This is to ensure that the occupiers of the neighbouring premises do not suffer a loss of amenity in terms of odour nuisance from food preparation activities. Subject to this condition, the proposal is considered to be acceptable in this regard.

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

3.10 The accompanying Planning Statement notes that the waste, including recycling, will be stored within internal rubbish bins and collected from the street in the morning on a daily basis, as per the current arrangement for the 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

3.11 The applicant has stated the proposed opening hours as follows: Monday to Sunday: 07:00 - 00:00. Although the application unit is situated within a retail parade adjacent to a designated Neighbourhood Centre, officers are of the view that these proposed hours would give rise to disturbances. Notwithstanding this, in accordance with the criteria set out under this class, a condition can be applied to restrict opening hours on these days to a more appropriate limit in accordance with Part W. As such, it is recommended that the proposed opening hours of the business be amended/conditioned to the following: 07:00 - 23:00 Monday to Saturday and 08:00 - 22:00 Sundays and Bank Holidays.

3.12 The proposed opening hours to be conditioned are comparable to the opening hours of other A1 and A3 units within the immediate vicinity along Store Street, and as such, it is not considered that they would give rise to anti-social behaviour during the evening and late night period. The proposal is therefore considered to have an acceptable impact in this regard.

(e) transport and highways impacts of the development

3.13 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 street.

3.14 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. Given the size of the unit and as the development would not create any additional floor space, the proposal does not include the provision of any internal cycle storage.

3.15 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.

3.16 Whilst 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.

3.17 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.

3.18 The application site is located adjacent to the Store Street Neighbourhood Centre, 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 Class A1 use. The site also lies approximately 140m to the north-west of the Tottenham Court Road Central London Frontage Area, which contains approximately 160 ground floor commercial premises and is home to a number of large scale developments and large retail premises, intermingled with High Street multiples providing a range of convenience goods and services, as well as food, drink and entertainment uses.

3.19 Appendix 4 (Centre frontages) of the Camden Local Plan identifies that the Store Street Neighbourhood Centre should retain a minimum of 50% of Class A1 shops within the frontage and a maximum of 25% of Classes A3, A4 and A5 uses with no more than 2 consecutive food, drink and entertainment uses. The Tottenham Court Road Central London Frontage Area should retain a minimum of 80% of Class A1 shops within the primary frontage, and a minimum of 66% of Class A1 shops within the secondary frontage. 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.

3.20 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.**

3.21 As outlined above, the proposed external ducting would run vertically along the rear elevation of the building and discharge above roof level. The rear building line of No. 43 Store Street is completely enclosed by Nos. 9-15 (odd) Gower Street to the east and Gower Mews Mansions to the south. As such, whilst the rear building line is visible in private views from these properties, it is not visible in any public views. Given the minimal protrusion of the proposed flue above roof level, the proposed extraction equipment would not be visible from the public realm. Overall, it is not considered that the proposed design or siting would result in any harm to the character or appearance of the host building or the Bloomsbury Conservation Area or the setting of the adjacent Grade II listed buildings at Nos. 1-15 (odd) Gower Street to the east; however, in order to ensure that the ducting is less apparent in private views, a condition is recommended that the external surface of the ducting shall be painted black.

3.22 As noted above, waste and refuse storage would be accommodated internally, no objection is raised in this regard.

4. Recommendation

4.1 Prior Approval is required and granted