

Application No:	Consultees Name:	Received:	Comment:	Response:
2019/3138/P	Bidwells LLP	08/07/2019 11:10:06	WREP	<p>We write on behalf of The Columbo Group, who operate The Blues Kitchen at Nos. 111-113 Camden High Street and 1 Delancey Street, London, to make representations in relation to the above planning application for the reasons set out below:</p> <p>The Blues Kitchen</p> <p>1.1 The Blues Kitchen at Nos. 111-113 Camden High Street and 1 Delancey Street, London is a very successful, large leisure and entertainment venue, which has been established for many years and has evolved into a very popular local community facility which opens late at night. The Blues Kitchen has operated at the site since May 2009 and prior to this the premises were operated as a music venue called 'Oh Bar'. The Blues Kitchen is a blues, soul and jazz-orientated live and recorded music venue, which also offers its customers substantial food and bar facilities. There are two live music performances every night of the week, together with DJs on Thursday, Friday and Saturday nights and a blues jam every Sunday, with over 50 musicians taking part.</p> <p>1.2 The Blues Kitchen is open until late at night, daily, with the current closing times of: midnight on Mondays to Tuesdays; 0100 hours on Wednesdays to Thursdays and Sundays; 0230 hours on Fridays; and 0300 hours on Saturdays. However, the premises licence allows for the venue to open to until 0130 hours on Mondays to Wednesdays; 0330 hours on Thursdays; 0430 hours on Fridays and Saturdays; and 0230 hours on Sundays and the venue could choose at any time to trade these later hours.</p> <p>1.3 There have been no known complaints about noise and disturbance from The Blues Kitchen since it opened. There are other successful leisure and entertainment venues within the wider area around Camden High Street that also open until late at night.</p> <p>Local Considerations</p> <p>1.4 The immediate area around the application site is typical of a busy, active, mixed-use, major urban centre and the wider local area contains other businesses which operate successful late-night leisure and entertainment venues, including the famous KOKO premises further along Camden High Street. Immediately beyond the application site on Delancey Street is the former The Forge live music venue, at Nos 3-7 Delancey Street, which operated from 2009 until its closure in 2017.</p> <p>1.5 Our client's principal concern relates to the future noise and disturbance to residents and hotel guests at the application site from their existing, longstanding, authorised late-night entertainment venue. Furthermore, many of the properties within the wider vicinity of the application site also operate late in the night. Any complaints from future residential and hotel occupiers of the application site could lead to possible restrictions on our client's existing authorised late-night entertainment use and its respective operating hours. This in turn would adversely harm the profitability and viability of The Blues Kitchen, which could threaten its operations and survival; as well as potentially impacting upon other local, late-night, entertainment venues. Such potential declines conflict with the current national and local planning policies.</p> <p>Planning Policy Considerations</p> <p>1.6 Whilst it is accepted that existing planning policies support residential and hotel developments in appropriate locations, due consideration must also be given to existing uses and businesses on adjacent sites.</p> <p>1.7 The 2019 Framework requires that planning policies and decisions ensure that new development can be</p>

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integrated effectively with existing businesses and community facilities (including pubs and music venues). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on a new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before development has been completed (all paragraph 182).

1.8 The 2019 Framework also states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should promote the long-term vitality and viability of town centres and allow them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries and allow for a suitable mix of uses (all paragraph 85).

1.9 The 2019 Framework further requires planning policies and decisions to promote social interaction and opportunities for meetings between people who might not otherwise come into contact with each other (paragraph 91). The 2019 Framework adds that in order to provide the social and recreational facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces and meeting places, such as public houses (paragraph 92).

1.10 The 2019 Framework requires that planning policies and decision should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 117).

1.11 The 2019 Framework also states that planning policies and decision should ensure that developments create places that area safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (paragraph 127).

1.12 Adopted London Plan Policy 7.15 addresses the reduction and management of noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes. This policy states that development proposals should seek to manage noise by: a) avoiding significant adverse noise impacts on health and quality of life as a result of new development; b) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens on existing businesses; c) improving and enhancing the acoustic environment and promoting appropriate soundscapes (including Quiet Areas and spaces of relative tranquillity); d) separating new noise sensitive development from major noise sources (such as road, rail, air transport and some types of industrial development) through the use of distance, screening or internal layout – in preference to sole reliance on sound insulation; e) where it is not possible to achieve separation of noise sensitive development and noise sources, without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through the application of good acoustic design principles; f) having particular regard to the impact of aviation noise on noise sensitive development; and g) promoting new technologies and improved practices to reduce noise at source, and on the transmission path from source to receiver. Supporting paragraph 7.52 to adopted London Plan Policy 7.15 adds that the management of noise is about encouraging the right acoustic environment in the right place at the right time – to promote good health and a good quality of life within the wider context of achieving sustainable development. It is important

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that noise management is considered as early as possible in the planning process, and as an integral part of development proposals. Noise management includes promoting good acoustic design of buildings whenever opportunities arise.

1.13 Policy 3.16 of the adopted London Plan concerns the protection and enhancement of social infrastructure. This policy states that London requires additional and enhanced social infrastructure provision to meet the needs of its growing and diverse population. Supporting paragraph 3.86 adds that social infrastructure covers a wide range of facilities such as health provision, nurseries, schools, colleges and universities, community, cultural, play, recreation and sports and leisure facilities, places of worship, fire stations, policing and other criminal justice or community safety facilities and many other uses and activities which contribute to making an area more than just a place to live.

1.14 Policy 4.6 of the adopted London Plan is titled Support for and Enhancement of Arts, Culture, Sport and Entertainment. This policy requires LPAs to support the continued success of London's diverse range of arts, cultural, professional sporting and entertainment enterprises and the cultural, social and economic benefits that they offer to its residents, workers and visitors. LPAs are required to identify, manage and co-ordinate strategic and more local clusters of evening and night time entertainment activities to address need, provide public transport, policing and environmental services and minimise impact on other land uses, taking account of the cumulative effects of night time uses and saturation levels beyond which they have unacceptable impacts on the environmental standards befitting a world city and quality of life for local residents. LPAs should also seek to enhance the economic contribution and community role of arts, cultural, professional sporting and entertainment facilities. Supporting paragraph 4.36 adds that London is a great city for night time entertainment and socialising, with a unique selection of bars, restaurants, performing arts venues, cinemas and night clubs. The night time economy also forms an important part of London's economy. The Mayor encourages a supportive approach to planning these diverse night time activities in appropriate locations. Planning policies should recognise and address the opportunities and challenges posed by the strategically important clusters of night time activities concentrated in some of the main town centres.

1.15 Draft London Plan Policy D12 concerns the Agent of Change principle. The Agent of Change principle places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. Boroughs should ensure that Development Plans and planning decisions reflect the Agent of Change principle and take account of existing noise and other nuisance-generating uses in a sensitive manner when new development is proposed nearby. Development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them. Development proposals should manage noise and other potential nuisances by: ensuring good design mitigates and minimises existing and potential nuisances generated by existing uses and activities located in the area; exploring mitigation measures early in the design stage, with necessary and appropriate provisions including ongoing and future management of mitigation measures secured through planning obligations; and separating new noise-sensitive development where possible from existing noise-generating businesses and uses through distance, screening, internal layout, sound-proofing, insulation and other acoustic design measures. Boroughs should refuse development proposals that have not clearly demonstrated how noise and other nuisances will be mitigated and managed.

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1.16 Supporting paragraph 3.12.1 to draft London Plan Policy D12 adds that for a long time, the responsibility for managing and mitigating the impact of noise and other nuisances on neighbouring residents and businesses has been placed on the business or activity making the noise or other nuisance, regardless of how long the business or activity has been operating in the area. In many cases, this has led to newly-arrived residents complaining about noise and other nuisances from existing businesses or activities, sometimes forcing the businesses or other activities to close. Supporting paragraph 3.12.2 continues that the Agent of Change principle places the responsibility for mitigating the impact of noise and other nuisances firmly on the new development. This means that where new developments are proposed close to existing noise-generating uses, for example, applicants will need to design them in a more sensitive way to protect the new occupiers from noise and other impacts. This could include paying for soundproofing for the existing use, such as a music venue. Supporting paragraph 3.12.5 adds that housing and other noise-sensitive development proposed near to an existing noise-generating use should include necessary acoustic design measures; for example, site layout, building orientation, uses and materials. This will ensure new development has effective measures in place to mitigate and minimise potential noise impacts or neighbour amenity issues. Mitigation measures should be explored at an early stage in the design process, with necessary and appropriate provisions secured through planning obligations. Supporting paragraph 3.12.7 continues that noise and other impact assessments accompanying planning applications should be carefully tailored to local circumstances and be fit for purpose. That way, the particular characteristics of existing uses can be properly captured and assessed.

1.17 Draft London Plan Policy GG3 concerns creating a healthy city. This policy states that, in order to improve Londoners' health and reduce health inequalities, those involved in planning and development must, amongst others: ensure that the wider determinants of health are addressed in an integrated and co-ordinated way, taking a systematic approach to improving the mental and physical health of all Londoners and reducing health inequalities; and assess the potential impacts of development proposals and development plans on the mental and physical health and wellbeing of communities, in order to mitigate any potential negative impacts, maximise potential positive impacts, and help reduce health inequalities, for example through the use of Health Impact Assessments. Supporting paragraph 3.13.2 adds that the Agent of Change Principle places the responsibility for mitigating impacts from existing noise-generating activities or uses on the new development. Through the application of this principle existing land uses should not be unduly affected by the introduction of new noise-sensitive uses. For noise-generating uses regard should be had to not prejudicing their potential for intensification or expansion. Supporting paragraph 3.13.3 continues that the management of noise also includes promoting good acoustic design of the inside of buildings. Section 5 of BS 8223:2014 provides guidance on how best to achieve this. The Institute of Acoustics has produced advice Pro:PG Planning and Noise (May 2017) that may assist with the implementation of residential developments. BS4214 provides guidance on monitoring noise issues in mixed residential/industrial areas.

1.18 Draft London Plan Policy HC6 addresses supporting the night-time economy, requiring boroughs to develop a vision for the night-time economy, supporting its growth and diversification. In Development Plans, town centre strategies and planning decisions, boroughs should, amongst others: promote the night-time economy and protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues.

1.19 Supporting paragraph 7.6.1 to draft London Plan Policy HC6 states that the night-time economy refers to all economic activity taking place between the hours of 6pm and 6am, and includes evening uses.

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Night-time economic activities include eating, drinking, entertainment, shopping and spectator sports, as well as hospitality, cleaning, wholesale and distribution, transport and medical services, which employ a large number of night-time workers. Supporting paragraph 7.6.2 adds that the night-time economy is becoming increasingly important to London's economy. The Mayor is keen to promote London as a 24-hour global city, taking advantage of London's competitive edge and attractiveness for businesses and people looking to expand beyond the usual daytime economy into night-time economic opportunities. Supporting paragraph 7.6.6 adds that there are many benefits to promoting night-time economic activity such as generating jobs, improving income from leisure and tourism, providing opportunities for social interaction, and making town centres safer by increasing activity and passive surveillance.

1.20 Draft London Plan Policy D1 addresses London's form and characteristics. This policy requires that development proposals should ensure the design of places addresses the following requirements, amongst others: deliver appropriate outlook, privacy and amenity; help prevent or mitigate the impacts of noise and poor air quality; and achieve indoor and outdoor environments that are comfortable and inviting for people to use. Supporting paragraph 3.1.3 adds that measures to design out exposure to poor air quality and noise from both external and internal sources, should be integral to development proposals and be considered early in the design process.

1.21 Camden Local Plan Policy C3 seeks to protect cultural and leisure facilities, stating that the Council will seek to protect cultural and leisure facilities and manage the impact of adjoining uses where this is likely to impact their continued operation. Supporting paragraph 4.49 states that cultural and leisure facilities, such as theatres, galleries and museums; live music, comedy and dance venues; and provision for sports and exercise, contribute enormously to Camden's attractiveness as a place to live, work or study. These facilities support opportunities for people from all walks of life to meet and interact and promote a sense of belonging and connection. The variety and richness of culture and leisure facilities has an influence on community identity and mix, townscape character and the local economy. Supporting paragraph 4.52 adds: Some of Camden's cultural and leisure facilities are considered to be at risk from demolition or a change of use due to the high values generated by alternative uses, particularly housing. Also, development in the vicinity of some facilities, particularly live music venues and theatres, can potentially lead to pressure from their occupants for additional restrictions on venues to be applied. This could affect their viability and may even lead to a facility closing despite of its wider community benefit. This risks diminishing the mix and richness of Camden's culture and leisure offer. Pubs are closely linked to the vibrancy of Camden's culture by providing space for live music, comedy and theatre and are protected through Policy C4 Public houses.

1.22 Supporting paragraph 4.56 to Camden Local Plan Policy C3 continues that the LPA will seek to retain cultural and leisure facilities. In assessing planning applications, the LPA will consider the effects of the proposal on both the local area and the wider borough and whether the loss of a use would be detrimental to the range of leisure and cultural facilities, including specific cultural and leisure activities (e.g. live music), where appropriate. The LPA will also consider whether the scheme would be detrimental to health and well-being through the loss of facilities which provide meeting spaces for the community. Supporting paragraph 4.57 adds that the civic importance of cultural and leisure facilities, such as theatres and music venues, is often reflected by the quality of their architectural design and internal fabric and fittings. Cultural and leisure facilities support consumer expenditure, tourism and business investment in the Borough and contribute to the vibrancy and success of town centres and the night-time economy. The specifically identified types of facility that the LPA consider to be important in helping to define Camden's cultural and leisure offer

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include small, affordable accommodation highly valued by artists and performers; and the range of live music venues and performance spaces, including the concentration of these uses in Camden Town. Supporting paragraph 4.60 specifically states that: The Council wants to ensure that existing cultural and leisure attractions are sustained and enhanced. It is important that noise sensitive uses, such as residential, built adjacent to an established facility, do not affect the ability for cultural and leisure premises to continue operating successfully, e.g. live music venues. Policy A4 Noise and vibration provides further advice on this matter.

1.23 Policy A1 of the Camden Local Plan seeks to manage the impact of development through protecting the quality of life of occupiers and neighbours. Ensuring the protection of the amenity of occupiers and requiring mitigation measures where necessary are stated goals of this policy, together with ensuring development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities. Noise and vibration are included within the stated factors considered by this policy. Supporting paragraph 6.3 adds that protecting amenity is a key part of successfully managing Camden's growth and ensuring its benefits are properly harnessed. The Council will expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or, where this is not possible, to take appropriate measures to minimise potential negative impacts. Supporting paragraph 6.19 continues that noise and vibration can have a major effect on amenity. The World Health Organisation (WHO) for example states that excessive noise can seriously harm human health, disturb sleep and have cardiovascular and behavioural effects. Camden's high density and mixed-use nature means that disturbance from noise and vibration is a particularly important issue in the borough. Supporting paragraph 6.20 adds that where uses sensitive to noise are proposed close to an existing source of noise or when development that is likely to generate noise is proposed, the Council will require an acoustic report to accompany the application. Further detail can be found in Policy A4 Noise and vibration and the LPA's supplementary planning document Camden Planning Guidance on amenity.

1.24 Policy A4 of the Camden Local Plan address noise and vibration. This policy states that the LPA will seek to ensure that noise and vibration is controlled and managed and that the LPA will not grant planning permission for development sensitive to noise in locations which experience high levels of noise, unless appropriate attenuation measures can be provided and will not harm the continued operation of existing uses. Supporting paragraph 6.84 adds that this policy seeks to ensure that noise and vibration is appropriately considered at the design stage and that noise sensitive uses are not negatively impacted by noise and vibration or that existing uses (such as music venues, theatres and some employment uses) are not unduly restricted through the introduction of nearby noise sensitive uses. Supporting paragraph 6.89 adds that where uses sensitive to noise and vibration are proposed close to an existing source of noise, the Council will require an acoustic report to accompany the application. In assessing applications, the LPA will have regard to noise and vibration thresholds and other relevant national and regional policy and guidance and British Standards. Noise sensitive development includes housing (paragraph 6.90).

1.25 Supporting paragraph 6.92 to Policy A4 of the Camden Local Plan specifically states: Planning permission will not normally be granted for development sensitive to noise in locations that have unacceptable levels of noise and vibration. The Council will only grant planning permission for development sensitive to noise and vibration, in locations that experience high levels of noise and for development likely to generate noise impacts, if appropriate attenuation measures can be taken. Such attenuation measures should be included on plans. Supporting paragraph 6.93 continues: In cases where noise sensitive development is

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proposed in close proximity to an existing noise generating use (such as music venues and pubs) the Council will determine whether the introduction of the sensitive use will be harmful to the existing premises continued operation. In some cases the Council may require the developer to be responsible for future costs of soundproofing (known as the “agent of change” principle), secured by a legal agreement. Supporting paragraph 6.97 adds: Planning permission will not be granted where it is not possible to achieve suitable and sufficient internal noise levels with reference to the most up to date and appropriate guidance. This will be of particular relevance to new residential developments in areas of existing noise but will also include other noise sensitive uses. Conditions may be imposed to require that suitable internal noise levels are achieved and where appropriate, post installation testing to demonstrate that the standards have been met.

1.26 Policy TC2 of the Camden Local Plan concerns Camden’s centres and promotes successful and vibrant centres throughout the borough, to serve the needs of residents, workers and visitors; including through the provision for and maintenance of a range of food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice. Policy TC2 identifies and protects primary and secondary frontages within Camden’s centres (the application site is understood to be located within a designated secondary frontage) specifically protecting the secondary frontages as locations for shops (A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre. Policy TC2 states that the LPA supports the development of housing within centres and Central London, including above and below shops, where this does not prejudice the town centre function and particularly the ability of the ground floor to be used for town centre uses. Policy TC2 specifically states that: In order to protect the retail and town centre function of our centres the Council will only permit conversion of retail and other town centre uses to residential use on the protected frontages where it does not harm the role and character of the centre, including maintaining the supply of shop premises in centres across the borough.

1.27 Supporting paragraph 9.19 to Policy TC2 of the Camden Local Plan adds that the LPA supports development of housing within centres where they do not cause harm to the vitality and viability of these centres, for example by limiting the use of the premises at the ground floor for retail or other town centre uses. In accordance with Policy A4 Noise and vibration the LPA will not permit development of housing in locations with high levels of noise unless appropriate attenuation measures are provided. Supporting paragraph 9.20 continues that due to high demand for housing and high housing prices in Camden, shop units across the borough face pressure for conversion to residential use. The most significant way that the LPA can protect the function of centres is by ensuring that sufficient ground floor premises remain in retail or other town centre uses.

1.28 In seeking to avoid potential conflict between established and active leisure uses, the current application must give sufficient consideration to potential noise issues and the requirements in the 2019 Framework, the adopted and draft London Plan and in the Camden Local Plan on amenity issues created by established late night leisure uses and the important Agent of Change principle. It is considered essential that the applicant’s recommended noise attenuation measures (contained with the 24 Acoustics noise impact assessment), must be secured by condition as otherwise there will be a clear conflict between the longstanding, established leisure use immediately adjoining and surrounding the application site and the proposed residential and hotel uses. A construction method statement should be secured, which is open to third party assessment and comment.

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1.29 Steve Quatermain (Chief Planner) of the Department for Communities and Local Government wrote to all Local Planning Authorities on 11 April 2016 concerning planning guidance on noise. He wrote;

“We would like to re-emphasise that updated planning guidance on noise (supporting the National Planning Policy Framework) was published in December 2014. It makes clear that the potential effect of a new residential development being located close to an existing business giving rise to noise, for example a live music venue, should be carefully considered. The guidance also underlines planning’s contribution to avoiding future complaints and risks to local business from resulting enforcement action”.

1.30 In seeking to assess this application in respect of noise, consideration should be given to paragraph 6 of the Planning Practice Guidance: Noise, which highlights that proposals for conflicting uses which need to exist cheek by jowl on the same street will require appropriate consideration:

“The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business, even if intermittent (for example, a live music venue), may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such instances, appropriate mitigation should be considered, including optimising the sound insulation provided by the new development’s building envelope.”

1.31 Paragraph 7 continues on the same theme of recognising that noise may already exist in the area and therefore that noise will contribute to the established character of the locality:

“When assessing whether a statutory nuisance exists, local authorities will consider a number of relevant factors, including the noise level, its duration, how often it occurs, the time of day or night that it occurs and the ‘character of the locality’. The factors influencing the ‘character of the locality’ may include long-established sources of noise in the vicinity – for example, church bells, industrial premises, music venues or public houses”.

1.32 These changes reflect the increasing concern that some areas of our towns and cities are being sanitised through increased residential development. As flats and houses are built or converted in urban centres, existing businesses are being driven away, leading to more vacant properties which in turn are then converted into residential use.

Material Considerations

1.33 It is considered that the proposed residential uses and hotel accommodation must be constructed to meet minimal levels of living amenity. As rehearsed above, the 2019 Framework (paragraphs 117 and 127); the adopted London Plan Policy 7.15; the draft London Plan Policies GG3 and D1; and Policies A1 and A4 of the Camden Local Plan provide the relevant national, regional and local planning policy context with regard to ensuring appropriate living amenity is secured for the would-be occupants of the proposed residential units and hotel accommodation.

1.34 Due regard in assessing this application should be had to how the LPA considers such proposed residential and hotel uses, alongside the existing late-night leisure use immediately adjoining the application site, and whether this will give rise to unacceptable living conditions for future occupiers.

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1.35 The application proposal clearly falls to be considered by imposition of the established Agent of Change principle. The proposed creation of new residential and hotel development immediately adjoining our client's long-established, existing late-night leisure use could give rise to future complaints by the new residents and hotel occupiers to existing, longstanding noise levels and activities late at night. This could ultimately lead to a review of the premises licence and could lead to the cessation of this established use, resulting in loss of this established local community facility contrary to the 2019 Framework (paragraphs 85, 91, 92 and 182); Policies 3.16 and 4.6 of the adopted London Plan; Policies D12, GG3 and HC6 of the draft London Plan; and Policies C3 and TC2 of the Camden Local Plan; together with the relevant planning guidance on noise considerations, as rehearsed above.

Existing Late-Night uses

1.36 Providing additional residential accommodation and hotel accommodation in appropriate locations should be welcomed. However, a random distribution of residential accommodation throughout an existing town centre containing important and long-established late-night bars and entertainment uses can add to tensions and could result in entertainment activities being curtailed in the future through statutory nuisance action and enforcement. Late night entertainment and residential uses should be located and designed to minimise tensions and the risk of entertainment activities being curtailed in the future.

1.37 The Blues Kitchen currently directly employs 59 individuals and provides income for a further 25 indirectly employed people (including security staff, cleaners, DJs and local suppliers). This is a total of 84 people who rely on the Blues Kitchen operation for their livelihood. If the licensed operation is forced to close or has its hours of trading cut back, up to 84 people could be directly affected to the severe detriment by this.

1.38 It is also relevant to note that the nature of activities and character of the use at 111-113 Camden High Street and 1 Delancey Street have not materially changed for many years and the existing The Blues Kitchen premises have operated at this site since May 2009. Consequently, all activities at The Blues Kitchen are established and lawful and the nature of these uses must be taken into account in the assessment of the noise and vibration attenuation requirements of the adjoin proposed residential conversion. The proposed residential and hotel accommodation must demonstrate the inclusion of robust and appropriate noise attenuation from all existing noise sources.

1.39 In support of these concerns, we can advise of two recent high-profile cases in City of Westminster, where long established licensed premises have been forced to close due to complaints from new residents to established and long-standing lawful activities and noise generation at the premises (Limelight Club in Shaftesbury Avenue and Endurance PH in Berwick Street). There has also been the recent high-profile case relating to Ministry of Sound in London Borough of Southwark, where the owners and operators of the world-renowned venue raised fundamental concerns about the development of residential units on adjacent land.

1.40 In the latter case, the developers of the residential units were required to enter into a S106 Legal Agreement to prevent any changes to noise attenuation works following occupation of the building. In addition, a Deed of Easement was granted to Ministry of Sound to allow existing noise from the venue to pass over the residential development site, thus protecting the long-established use and its associated activities.

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1.41 Both a S106 Legal Agreement and a Deed of Easement, in similar terms to those related to Ministry of Sound, would be essential in this case as a minimum, to enable the current application to be determined appropriately, but first of all there must be a scheme of noise attenuation works to be agreed.

1.42 Planning officers may also be aware of the locally-relevant recent High Court decision on 8 September 2015, relating to proposed residential development adjoining KOKO nightclub and live music venue, very close to this application site along the Camden High Street. High Court Judge Mr Justice Stewart ruled that insufficient attention had been paid by the local planning authority to the setting of nearby heritage assets and that noise impact had not been adequately assessed (our emphasis). The grant of planning permission for the proposed residential development was quashed and the Council was required to pay the claimant's full costs.

1.43 The consideration of noise impact is key here and the High Court ruling on KOKO nightclub confirms that the concerns raised by The Blues Kitchen are very material considerations.

Conclusions

1.44 It is considered that the applicant has rightly identified the very real issue of noise pollution entering the proposed residential units and hotel accommodation from the existing, lawful adjoining late-night leisure venue. The results and recommendations of the applicant's noise report should be secured by condition and further submissions in relation to this should be made available for public comment and representation.

1.45 There is a very real danger that the proposed residential units and hotel accommodation could lead to disturbance and a substandard living environment for future occupiers without a holistic noise strategy being incorporated into the design.

If you have any queries on the above or would like to discuss these objections further, please do not hesitate to contact us.

Yours faithfully,

Bidwells LLP

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