

Gaicho Restaurant, 60 Charlotte Street, London, W1T 2NU

Application by Gaicho Restaurants

09/07/2019



BIDWELLS

**APPLICATION FOR PLANNING PERMISSION
PROPOSED REMOVAL OF CONDITION 3 OF
PLANNING PERMISSION 2007/5661/P**

1.0 Introduction

- 1.1 This Planning Support Statement (PSS) has been prepared by Jonathan Phillips, Planning Partner at Bidwells LLP, on behalf of Gaucho Restaurants who have operated Gaucho Restaurant at 60 Charlotte Street since 2008. The PSS supports an application for removal of condition 3 of planning permission 2007/5661/P to allow part of the ground floor reception space to be used by customers for consumption of food and drink.
- 1.2 The site has operated as a restaurant since 2008 with a reception area and ancillary space on the ground floor with the principal operation taking place at basement level.
- 1.3 Condition 3 of planning permission 2007/5661/P effectively states that the ground floor restaurant accommodation may not be used for the sales and consumption of hot/cold food and hot/cold beverages at any time.
- 1.4 This PSS comprises six sections, as follows:
1. Introduction
 2. Site Description
 3. Relevant Planning History
 4. Relevant Planning Policies
 5. Assessment of Planning Considerations
 6. Summary and Conclusions

2.0 Site Description

- 2.1 The application site comprises a seven-storey office building with basement facing Charlotte Street, Whitfield Street, Scala Street and Tottenham Street, lying c100m west of Godge Street underground station. Adjoining properties are principally commercial in nature at ground floor and representative of a typical city centre mix. There are residential properties in the locality, but not abutting the application site.
- 2.2 There is a single customer entrance into the restaurant from Charlotte Street, at the north-west corner of the building, beneath a first and second floor overhang. There is a fire escape route and delivery access to the rear of the restaurant from Tottenham Street.
- 2.3 The building comprises the restaurant venue at basement and part ground floor with offices occupying the majority of ground floor accommodation and part three and part seven storeys of office accommodation above.
- 2.4 The basement restaurant accommodation comprises customer seating areas, kitchen, bar servery, toilets, cloakroom and other back of house facilities and storage.
- 2.5 The premises is located within the Central London Area, albeit not in a designated shopping area, and is part of the Charlotte Street Conservation Area.

3.0 Relevant Planning History

- 3.1 Planning permission was granted on 8 June 2007 for the change of use of part basement to an alternative use as either offices (Class B1) or restaurant (Class A3 – Council Ref: 2007/1531/P). Condition 2 of the planning permission restricts operating hours to 0800-0100 Mondays to Saturdays and to 0800-2300 on Sundays and Bank Holidays (Reason: To safeguard the amenities of the adjoining premises and the area generally).
- 3.2 Planning permission was subsequently granted on 5 February 2008 for an amendment to planning permission (Ref 2007/1531/P) dated 08 June 2007 (for the change of use of part basement to an alternative use as either offices (Class B1) or restaurant (Class A3), relating to change of use of part of ground floor behind approved restaurant reception area to either additional restaurant space (Class A3) or office accommodation (B1) and minor works to Tottenham Street ground floor elevation (Council Ref: 2007/5661/P). Condition 2 brought forward the operating hours restriction as before; namely 0800-0100 Mondays to Saturdays and to 0800-2300 on Sundays and Bank Holidays (Reason: To safeguard the amenities of the adjoining premises and the area generally).
- 3.3 Condition 3 of planning permission 2007/5661/P effectively states that the ground floor restaurant accommodation may not be used for the sales and consumption of hot/cold food and hot/cold beverages at any time (Reason: In order to restrict restaurant activity to the basement level so that surrounding residential amenity and the character of the area is protected).
- 3.4 Planning permission was refused on 9 June 2008 for removal of condition 3 of planning permission 2007/5661/P for the following reason:
- The proposed removal of Condition 3 of planning permission dated 05/02/08 (2007/5661/P) in order to allow the sales and consumption of hot and cold beverages at ground floor level would have a detrimental impact on residential amenity and the character of the area contrary to policies SD6 (Amenity for occupiers and neighbours), R1 (Location of new retail and entertainment uses), R2 (General impact of retail and entertainment uses) and R3 (Assessment of food and drink uses and licensed entertainment) of the London Borough of Camden Replacement Unitary Development Plan 2006 and the advice contained in Camden Planning Guidance 2006.*
- 3.5 The current application seeks to remove condition 3 of planning permission 2007/5661/P for the site's longstanding operator, Gaucho Restaurant, in order to improve the restaurant environment for customers and to add some internal activity to an otherwise dead frontage at street level. There has been a material change in national and local planning policy since 2008 and there is now a firm presumption in favour of the proposed development, unless significant adverse impact can be demonstrated, which this statement shows there is not.

4.0 Relevant Planning Policies

National Planning Policy Framework 2019

- 4.1 The 2019 Framework reiterates the presumption in favour of sustainable development (paragraph 11) which requires development proposals that accord with an up-to-date development plan to be approved without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless in conflict with the 2019 Framework. The 2019 Framework also requires LPAs to approach decisions on proposed development in a positive and creative way and to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible (all paragraph 38).
- 4.2 The 2019 Framework requires planning policies and decisions to help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development (paragraph 80). Planning policies and decisions should recognise and address the specific locational requirements of different sectors, including making provision for clusters or networks of knowledge and data-drive, creative or high technology industries at a variety of scales and in suitably accessible locations (paragraph 82).
- 4.3 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 their long-term vitality and viability by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries and allow a suitable mix of uses that reflects their distinctive characters. Meeting the anticipated needs of retail, leisure, office and other main town centre uses should not be compromised by limited site availability (all paragraph 85).
- 4.4 The 2019 Framework 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 2018 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 meeting places, cultural buildings and public houses (paragraph 92).
- 4.5 The 2019 Framework requires transport to be considered from the earliest stages to ensure the promotion of sustainable transport. The potential impacts of development on transport networks

need to be addressed (paragraphs 102 and 108). The planning system should actively manage patterns of growth in support of these objectives and significant development should be focussed on locations which are sustainable (paragraph 103). Planning policies should support an appropriate mix of uses across an area, and within larger sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities. Appropriate cycle parking facilities should be provided (all paragraph 104).

4.6 The 2019 Framework requires that planning policies and decisions promote an effective use of land (paragraph 117). Planning policies and decisions should encourage multiple benefits from urban land, including through mixed-use schemes and promote and support the development of under-utilised land and buildings (paragraph 118).

4.7 The 2019 Framework states that good design is a key aspect of sustainable development (paragraph 124). Planning policies and decisions should ensure that developments function well and add to the overall quality of the area; are visually attractive; are sympathetic to local character and history, while not preventing or discouraging appropriate innovation or change; create attractive, welcoming and distinctive places; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and create safe, inclusive and accessible places that do not undermine the quality of life or community cohesion and resilience (all paragraph 127).

4.8 The 2019 Framework requires that heritage assets are conserved in a manner appropriate to their significance (paragraph 184). Heritage assets should be put to viable uses consistent with their conservation and development should make a positive contribution to local character and distinctiveness (paragraph 185). Development proposals should avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal (paragraph 190). In determining applications, LPAs should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness (paragraph 192). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (paragraph 193). Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (paragraph 194). Where a development would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 196).

Planning Policy Guidance

- 4.9 The Planning Policy Guidance (PPG) (March 2014) 'Ensuring the Vitality of Town Centres' also states that local planning authorities should plan positively to support town centres to generate local employment, promote beneficial competition within and between town centres and create attractive diverse places where people want to live, visit and work. The PPG advises that any strategy for a town centre should be based on evidence of its current state and opportunities to meet development needs and support their viability and vitality.

Development Plan

- 4.10 The 2018 Framework 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 2018 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).

Development Plan Policies

- 4.11 The Camden Local Plan was adopted by the LPA on 03/07/2017
- 4.12 Chapter 2 of the Local Plan addresses growth and the spatial strategy. Paragraph 2.2 states that the Council's objective is to create the conditions for growth to provide the homes, jobs and other facilities needed to support it, while ensuring that growth delivers opportunities and benefits for the borough's residents and businesses. The Local Plan aims to deliver sustainable growth while continuing to preserve and enhance the features that make Camden such an attractive place to live, work and visit. Policy G1 concerns the delivery and location of growth and states that the Council will create the conditions for growth to deliver the homes, jobs, infrastructure and facilities to meet Camden's identified needs and harness the benefits for those who live and work in the borough. The Policy adds that the Council will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden by supporting development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site; expecting the provision of a mix of uses where appropriate, in particular in the most accessible parts of the borough.
- 4.13 Chapter 5 of the Local Plan concerns the economy and jobs. Paragraph 5.1 states that Camden has a large number of jobs in the restaurant sector, amongst others. The Council want to maintain

and build on this success by encouraging investment that supports business growth creating further job opportunities for Camden residents and developing the infrastructure that will help existing businesses to thrive. Policy E1 addresses economic development and states that the Council will secure a successful and inclusive economy in Camden by creating the conditions for economic growth and harnessing the benefits for local residents and businesses. The Council will support businesses of all sizes, in particular start-ups, small and medium-sized enterprises and recognise the importance of other employment generating uses, including retail, education, health, markets, leisure and tourism. Supporting paragraph 5.33 adds that the Council recognises that jobs are provided by many types of uses within the borough, not just those based in offices or industrial premises. These include restaurants and leisure and tourism uses.

4.14 Chapter 6 of the Local Plan addresses protecting amenity. Policy A1 concerns managing the impacts of development and states that the Council will seek to protect the quality of life of occupiers and neighbours and will grant permission for development unless this causes unacceptable harm to amenity. The Council will seek to ensure that the amenity of communities, occupiers and neighbours is protected and seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities; whilst resisting development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network and require mitigation measures where necessary. 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. This paragraph adds that 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.

4.15 Policy A4 specifically addresses noise and vibration and states that the Council will seek to ensure that noise and vibration is controlled and managed. The Council will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity and the Council will also seek to minimise the impact on local amenity from deliveries. Supporting paragraph 6.99 adds that planning conditions will be imposed to require that plant and equipment which may be a source of noise is kept working efficiently and within the required noise limits and time restrictions. Air conditioning will only be permitted where it is demonstrated that there is a clear need for it after other measures have been considered (cross-referring to Policy CC2, which addresses adapting to climate change). Conditions may also be imposed to ensure that attenuation measures are kept in place and are effective throughout the life of the development. Supporting paragraph 6.102 adds that assessments for noise and vibration from entertainment and leisure premises must include consideration of amplified and unamplified music, human voices, footfall and vehicle movements and general activity. The impact of noise

and vibration from food, drink and entertainment uses is outlined in Policy TC4 (town centre uses). Generally, these uses and noise from leisure uses alter the noise environment through audio devices, amplified and unamplified music, footfall, congregations of people, plant and equipment, deliveries and transport and can be particularly evident when the background noise level is quieter. Supporting paragraph 6.103 continues that where such uses are considered acceptable, planning conditions restricting opening hours will be imposed to ensure that they do not adversely impact nearby noise sensitive uses.

- 4.16 Policy D2 specifically address heritage and states that the Council will preserve and, where appropriate, enhance Camden's heritage assets and their settings, including conservation areas and listed buildings. In terms of designed heritage assets, including conservation areas and listed buildings, the Council will not permit the loss of or substantial harm to designated heritage assets, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm. The Council will require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area.
- 4.17 Policy TC2 addresses Camden's centres and other shopping areas and states that the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors. This policy states that the Council will: seek to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located; provide for and maintain, a range of shops including independent shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice; make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area; support and protect Camden's Neighbourhood Centres, markets and areas of specialist shopping, local shops; and pursue the individual planning objectives for each centre, as set out in supplementary planning document Camden Planning Guidance on town centres and retail, and through the delivery of environmental, design, transport and public safety measures.
- 4.18 Chapter 9 contains a specific section on food, drink and entertainment uses. Paragraph 9.29 states that Camden's image as a dynamic and attractive place is in part due to the number and quality of restaurants, bars and entertainment venues in the borough. These uses play an important part in the night time economy of Camden and of London, socially, economically and in terms of job provision. Paragraph 9.30 adds that conflicts can arise as, due to the borough's densely developed, mixed use nature, much night-time activity occurs close to places where people live. In addition, large numbers of such uses can change the character of the area in which they are

located and reduce its range of shops or the quality of the shopping environment. Conflicts can be made worse where a particular location becomes a focus for late night activity. Paragraph 9.31 continues that eating, drinking and other leisure uses provide a key role in the attractiveness of Camden's centres. However, food, drink and entertainment uses can affect the overall viability and vitality of a centre by eroding the retail offer and can have an impact on amenity through noise and other impacts. In order to protect the primarily retail role of core frontages, the preferred location of food, drink and entertainment uses is secondary frontages.

4.19 Policy TC4 of the Local Plan concerns town centre uses and states that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. The Council considers: a. the effect of development on shopping provision and the character of the centre in which it is located; b. the cumulative impact of food, drink and entertainment uses, taking into account the number and distribution of existing uses and non-implemented planning permissions and any record of harm caused by such uses; c. the Council's expectations for the mix and balance of uses within frontages for each centre are set out in Appendix 4; d. the individual planning objectives for each centre, as set out in the supplementary planning document Camden Planning Guidance on town centres and retail; e. impacts on small and independent shops and impacts on markets; f. the health impacts of development; g. the impact of the development on nearby residential uses and amenity and any prejudice to future residential development; h. parking, stopping and servicing and the effect of the development on ease of movement on the footpath; i. noise and vibration generated either inside or outside of the site; j. fumes likely to be generated and the potential for effective and unobtrusive ventilation; and k. the potential for crime and antisocial behaviour, including littering. This policy adds that in order to manage potential harm to amenity or the local area, the Council will, in appropriate cases, use planning conditions and obligations to address the following issues: l. hours of operation; m. noise/vibration, fumes and the siting of plant and machinery; n. the storage and disposal of refuse and customer litter; o. tables and chairs outside of premises; p. community safety; q. the expansion of the customer area into ancillary areas such as basements; r. the ability to change the use of premises from one food and drink use or one entertainment use to another (within Use Classes A3, A4, A5 and D2); and s. the use of local management agreements to ensure that the vicinity of premises are managed responsibly to minimise impact on the surrounding area.

4.20 Supporting paragraph 9.35 states that new shops, services, food, drink and entertainment uses can add to the vitality and vibrancy of Camden's centres and local areas. However, they can also have other impacts such as diverting trade and displacing existing town centre functions. As a result, the Council will seek to guide such uses to locations where their impact can be minimised. When assessing proposals for these uses, the Council will seek to protect the character and function of these centres. The Council will prevent any reduction in vitality and viability of the

centres by requiring sequential assessments and impact assessments where appropriate (in accordance with the National Planning Policy Framework) and through implementing this policy. Supporting paragraph 9.36 adds that the Council will not grant planning permission for development that it considers would cause harm to the character, amenity, function, vitality and viability of a centre or local area. The Council will consider that harm is caused when an impact is at an unacceptable level, in terms of: trade and turnover; vitality and viability; the character, quality and attractiveness of a centre; levels of vacancy; crime and antisocial behaviour; the range of services provided; and a centre's character and role in the social and economic life of the local community.

4.21 Supporting paragraph 9.38 states that the supplementary planning document Camden Planning Guidance on town centres and retail provides detailed guidance on how the Council will treat planning applications for shops, food, drink and entertainment uses in particular centres, taking into account their specific circumstances.

4.22 Supporting paragraph 9.39 adds that within each of Camden's centres, the Council will seek to prevent concentrations of uses that would harm an area's attractiveness to shoppers or its residential amenity. The Council wishes to see a wide range of entertainment uses within its centres, not just those that primarily involve drinking and will encourage suitable uses that contribute towards this. Supporting paragraph 9.40 adds that where food, drink and entertainment uses are permitted, they will need to be managed to protect the amenity of residents. To ensure such uses do not harm amenity or the character of an area, either individually or cumulatively, the Council will consider applying controls on: hours of operation; refuse and litter; noise/vibration; fumes; customer area; local management issues; and changes of use. Supporting paragraph 9.43 adds that the supplementary planning document Camden Planning Guidance on town centres and retail provides further advice on the impact of food, drink and entertainment uses and provides detailed guidance on how we will consider applications for such uses in each centre.

Supplementary Planning Documents

4.23 Camden Planning Guidance on Design (CPG1) is dated July 2015. Part 3 concerns Heritage. Its key messages include that Camden has a rich architectural heritage and the Council has a responsibility to preserve, and where possible, enhance these areas and buildings. The Council will only permit development within conservation areas that preserves and enhances the character and appearance of the area.

4.24 Part 4 Camden Planning Guidance on Town Centres, Retail and Employment (CPG5) concerns food, drink and entertainment, specialist and retail uses within the Central London Area. Its key messages include that the Council will seek to maintain the mixed use character of the Central

London Area, protect the retail function of shopping streets and maintain specialist uses. The Council will also seek to prevent concentrations of food drink and entertainment uses that cause harm to the character of the area and the amenity of local residents. Furthermore, guidance is given for individual frontages, taking into account their specific circumstances. Paragraph 4.1 adds that Camden's Central London Area plays an important part in providing the vibrancy, diversity and identity that makes the borough such a popular place to visit and live in. It also forms a key part of London's Central Activities Zone whose unique role, character and mix of uses provides much of the capital's distinctiveness.

4.25 Part 6 of CPG5 addresses food, drink and entertainment uses. Its key messages include that food, drink and entertainment uses should be located in areas where their impact can be minimised. Planning conditions and legal agreements will be used to control the impact of food, drink and entertainment uses. Paragraph 6.1 states that 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, litter, anti-social behaviour, parking and traffic impacts. The level of impact depends on the type of the use, its location, its size and the character and nature of its surroundings. As a result, the Council seeks to guide such uses to locations where their impact can be minimised, and to use planning conditions or obligations to ensure that any remaining impact is controlled. Planning permission will not be granted if proposals are likely to generate harmful impacts. Paragraph 6.4 adds that a suitable location is not in itself enough to secure planning permission for a new or expanded food, drink or entertainment use. For all applications for such uses the Council will assess the potential impacts of the proposal on local amenity, the character and function of the area and its overall mix of uses.

4.26 Part 6 continues, in paragraph 6.17, that ambient noise levels reduce around midnight, and consequently residential amenity can be badly harmed by amplified music, plant and machinery and on-street activity that continues late at night. Where appropriate, the Council will attach conditions to planning permission for food and drink and entertainment uses to control hours of operation. In some instances, depending on the location, character of the area, the nature of the proposed use and its likely impact on amenity, earlier closing times may be more appropriate. Generally, earlier closing times will be more appropriate in neighbourhood centres and residential areas than in town centres and other commercial areas. Closing time will be considered to be the time by which all customers should be off the premises and all noise-generating clearing up activities audible from outside of the premises should cease. Where appropriate, hours of operation may be set to prevent premises in close proximity to each other closing at the same time to avoid the cumulative potential for antisocial behaviour.

5.0 Assessment of Planning Considerations

- 5.1 This application seeks to amend the current planning restriction that prevents consumption of food and drink by customers at ground floor level. The proposed changes at ground floor would widen customer choice and better meet the needs of the whole community. The principle of the extended use and consequential improved customer choice and broadened leisure time options is supported by the 2019 Framework. In addition, it is important to note the valuable contribution that uses such as this make to the local economy and the character of the area; adding diversity and vitality as well as enhanced consumer choice.
- 5.2 The proposed extended operation will retain existing employment positions and create additional jobs and will ensure the viability of the current operation, thus protecting existing jobs and economic activity as well as enhancing the existing commercial leisure facilities available within this part of Charlotte Street.
- 5.3 Bearing in mind the above, it is also appropriate to consider the numerous benefits to the proposal, including the following positive consequences:
- benefits to the vitality and viability of the local area, through continued investment and economic drive;
 - an increase in business activity; an increase in consumer expenditure and enhanced business turnover;
 - retention of existing employment and the addition of new employment positions;
 - enhancement of access to an existing local commercial leisure facility;
 - increased consumer choice; a direct response to local demand for an enhanced opening hours of this existing commercial leisure facility;
 - a response to the emergence of flexible lifestyles and living;
 - an increase to natural surveillance of the locality, resulting in reduced crime incidents and opportunities.
- 5.4 In reality, the benefits of the proposed use outweigh any perceived harm based upon supposition.

- 5.5 The applicant is also comfortable with the LPA imposing a temporary planning permission for the proposed use of the ground floor space, to act as a 'trial period' to test the actual and genuine impacts and implications of the proposed extended weekend hours on the ground and in reality. In terms of potential wider impacts on the general amenities of the local area, the grant of a 'trial period' would follow the advice of Planning Practice Guidance (Use of Planning Conditions). This identifies that there may be circumstances where a temporary permission may be appropriate to act as a trial run, in order to assess the effect of proposed development on the local area. Following a successful trial period, there is a presumption in favour of the grant of a permanent permission. This temporary consent period could therefore be used to allow the applicant to demonstrate on the ground and in reality that the management of the application site and the controls imposed by Camden Council as the Licensing Authority are sufficient to prevent demonstrable harm being caused to the general amenity of the local area. It is suggested that an appropriate period for the trial period should be 12 months, but the applicant would accept a shorter time period, of, say, 6 months, if the LPA deemed this to be necessary. During any trial period, local residents (who might be affected by the proposal) would keep a close, watchful eye on the operations at the site and can provide objective feedback on the situation prior to any grant of permanent planning permission or, indeed, refusal of permission.
- 5.6 The applicant is unaware of any issues or incidents related to this site to date from the existing established restaurant operation that have caused any adverse impact upon the surrounding area and there is no reason to believe that the proposed extended use will suddenly trigger any issues or incidents.
- 5.7 The application site is also located in a busy mixed use urban area, where existing pedestrian and vehicular traffic levels are high through the day and night. The accompanying noise assessment provides objective evidence of the existing ambient noise environment within the general vicinity of the application site. This demonstrates that there is already an existing ambient noise climate upon which the proposed additional trading area at the application site would have no material impact. Consequently, the proposal would not have any significant detrimental impact on the living amenities of local residents.
- 5.8 The accompanying noise management policy demonstrates how staff will manage the application premises to ensure that any noise created from lawful activities associated with the restaurant would be kept to an acceptable level whereby no detriment to local amenity would result.
- 5.9 It is also important to note that the application site will be required to continue to hold a Premises Licence to trade the proposed later weekend hours. The Licensing Authority is also Camden Council. In addition to the controls of the LPA, the Licensing Authority, in consultation with the Police and Environmental Health, is required to assess and agree the proposed opening hours on

a continuing basis and will consider whether there is any harm to the general amenities of the local area, taking into account the requirements of the site's Operating Schedule, and any conditions of the Premises Licence. The Licensing Authority also has a whole raft of potential actions to seek recourse and resolution of any issues raised, regardless of the planning situation. Through the Premises Licence controls, if planning permission is granted for the proposed additional opening hours, the Council will retain full control over the activities taking place at the application site. Powers under the Licensing Act enable a Premises Licence to be revoked, suspended or amended at any time; therefore, Camden Council, as Licensing Authority, has the power to cease the extended trading hours (indeed the use itself) at any time if unacceptable nuisance were to occur.

- 5.10 The Premises Licence is an ongoing regulatory tool. At any time the licence can be made the subject of an application for review, as a result of which the conditions can be changed or the licence revoked. It follows that licensing is a flexible and responsive regulatory tool and any sustained or serious objection can be tackled by way of a review of the licence. At all times, and regardless of any controls of the LPA, the Licensing Authority therefore has many methods of recourse, if the operation of the application site failed to respect the amenities of the local area, including ultimately revoking the Premises Licence. Both the Licensing Act and the Council's own Licensing Policy are material considerations in the determination of planning applications. There is no reason to consider that these controls cannot be effective at the application site.
- 5.11 For your information, condition 27 of the premises licence (Camden Ref: PREM-LIC/3085 – copy attached) requires that the sale of alcohol at the premises must be ancillary to the purchase of food. Conditions 32, 33 and 34 will ensure protection of the noise climate of the surrounding area.
- 5.12 In addition, any statutory noise nuisance caused would also be subject to recourse through the environmental protection legislation.
- 5.13 The requirement for a Premises Licence and the controls that would be exercised over the operation of this site by both the licensing regime and the environmental protection legislation, do not mean that the planning system should ignore or overlook residential amenity issues. They will still need to be examined in the planning system. However, that examination has to take account, as a very material consideration, the fact that all of these matters will also need to be examined on a continuing basis as part of the Premises Licence approved by the Licensing Authority, which is the same Council that will consider this planning application.
- 5.14 The proposed extension of the restaurant use at a centrally located commercial leisure venue is considered to constitute sustainable development, for all of the reasons rehearsed within this Support Statement, and consequently would accord with the requirements of the 2019 Framework.

The assessment and determination of the proposal should be exercised in a positive and creative way, as required by the 2019 Framework (paragraph 38).

- 5.15 The proposed extension of use is a critical element of the applicant's continued investment into these central commercial leisure premises. Paragraph 80 of the 2019 Framework requires that significant weight be given in the decision-making process on the need to support economic growth and productivity, taking into account the local business needs of the applicant. The applicant's proposed extension of weekend trading hours is to enhance the existing customer offer and attraction at the site, in order to ensure the continued economic well-being of this existing commercial leisure facility.
- 5.16 Paragraph 85 of the 2019 Framework requires the LPA to take a positive approach to the growth, management and adaptation benefits that the proposed extension of weekend trading hours would generate for this part of Camden. The proposal would help to promote the long-term vitality and viability of this part of Camden and would directly benefit this area by helping it to grow and diversify in a way that responds to the rapid changes in the retail and leisure industries. It is therefore considered that the proposed extension of hours would accord with the aspirations of paragraph 85 of the 2019 Framework.
- 5.17 It is considered that the proposal would also directly assist in enhancing social interaction and the opportunities for meetings between people who might not otherwise come into contact with each other. It is therefore considered that the proposal would accord with the aspirations of paragraph 91 of the 2019 Framework. Furthermore, paragraph 92 of the 2019 Framework requires LPAs to take a positive approach towards the enhancement of the provision of meeting places within central areas.
- 5.18 For all the reasons set out above, the proposed removal of condition 3 of planning permission 2007/5661/P would accord with the relevant requirements, aims and aspirations of the 2019 Framework and relevant development plan policies. The application proposals are considered to be actively supported by the 2019 Framework and the development plan, therefore there should be a presumption in favour of the grant of this application.

6.0 Summary and Conclusions

- 6.1 The proposed extended use would widen customer choice and better meet the needs of local residents, workers and visitors to the area. The principle of the extended use and consequential improved customer choice and broadened leisure time options is supported by the 2019 Framework. In addition, it is important to note the valuable contribution that uses such as this make to the local economy and the character of the area; adding diversity and vitality as well as enhanced consumer choice.

- 6.2 Staff will manage the application premises to ensure that any noise created would be kept to an acceptable level whereby no detriment to local amenity would result. **The applicant's noise management and dispersal policies**, together with the controls exercised through the premises licence conditions, are already in force on the operation of the site and will ensure that the implications of the operation of these premises are acceptable for the local amenities of the area. These site management policies and licensing conditions will remain in place at the site and will ensure that the operation of the application site would be respectful to its neighbours and the local community. The applicant is unaware of any issues or incidents related to this site since first occupation in 2008 and there is no reason to believe that the proposal will suddenly trigger any issue or incident.
- 6.3 The application site is located in a busy mixed use urban area, where existing pedestrian and vehicular traffic levels are high through the day and night. The accompanying noise assessment provides objective evidence of the existing ambient noise environment within the general vicinity of the application site. This demonstrates that there is already an existing ambient noise climate upon which the proposed additional trading at the application site would have no material impact. Consequently, the proposal would not have any significant detrimental impact on the living amenities of local residents.
- 6.4 **The accompanying noise assessment concludes that the proposal is unlikely to adversely impact upon existing residential amenity at this location.**
- 6.5 The applicant would be comfortable with the LPA imposing a temporary planning permission, to act as a 'trial period', to test the actual and genuine impacts and implications of the proposal. The Council, as Licensing Authority, will ensure that no significant adverse impact will be caused during any trial period.
- 6.6 The proposal accords with the aims and objectives of the 2019 Framework and relevant development plan policies.