

Prior Approval Delegated Report	Application number	2019/5915/P
Officer	Expiry date	
Rachel English	14/02/2020	
Application Address	Authorised Officer Signature	
93 Fairfax Road, London, NW6 4DY		
Conservation Area	Article 4	
No	A1 to A2 only	
Proposal		
Change of use from retail (Use Class A1) to bakery (Use Class A3) and installation of an extraction duct to the rear		
Recommendation:	Refuse Permission	

Consultation

Site notices were displayed near the site.

Two objections received from 95 and 95a Fairfax road concerned about how the proposed development would affect their businesses. They raised the following concerns:

- Problems of waste and pollution.
- Potential odours
- Concern about smokers
- Concern about litter
- Potential noise from the bakery
- There is a saturation of cafes/restaurants on Fairfax Road and Fairhazel Gardens.
- Concern about lack of parking which would be exacerbated by the proposal.
- Concern about deliveries as there is a shortage of parking bays

Relevant policies

London Borough of Camden Local Plan 2017

A1 – Managing the impact of development

A4 – Noise and vibration

D1 – Design

CC4 – Air quality

CC5 - Waste

TC2 – Camden's centres and other shopping areas

TC5 – Town centre uses

Camden Planning Guidance

London Plan 2016
Draft New London Plan 2019
NPPF 2019

Recent relevant planning history

Application site -
No relevant history

69 Fairfax Road -
2019/5321/P - Change of use of ground floor and basement from retail (Use Class A1) to beauty salon (Use Class Sui Generis). Granted on 15th January 2020

35-37 Fairfax Road -
2019/4826/P Change of use of ground and lower ground floors from A1 (retail) to D1 (Community Use) with ancillary retail sales. Decision pending

51 Fairfax Road -
2017/4528/P - Variation of condition 4 of planning permission 2015/3916/P dated 05/04/2016 "Change of use and subdivision of mixed A1/A3 to form an A3 unit at 51. Alteration to the shopfront and the installation of an extract duct from first floor to roof level on the rear elevation" to allow customers to be on the premises between 08:00 to 21:30 on any day. Refused on 2017/4528/P

The site

The site is located on Fairfax Road near to the junction with Belsize Road and Fairhazel Gardens. It is located within the Finchley Road Neighbourhood Centre outside the Central London area. The site comprises the ground floor unit which is currently a vacant A1 retail unit. Above the site are residential units. The site is located outside a Conservation Area.

Proposal

Permission is sought to change the unit from a retail unit (Use Class A1) to a bakery (Use Class A3) with an extraction duct to the rear.

Prior Approval

This application is made under Schedule 2, part 3, Class C – retail, betting office or pay day loan shop or casino to restaurant or café.

Permitted development

C. Development consisting of—

(a) a change of use of a building from a use—

(i) falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order,

(ii) as a betting office or pay day loan shop, or

(iii) *as a casino,*

to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order, and

(b) *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.

Assessment

Permission is sought to change the unit to a bakery (Class A3). Floorplans show there would be seating for visitors to the bakery. The application involves the installation of an extract duct to the rear of the site and will require the storage of rubbish. There is a service delivery entrance to the rear of the site at Marston Close.

The operating hours proposed would be Mon-Fri 6am – 12pm, Sat 7am – 11pm and Sun 8am – 10pm.

Development not permitted

C.1 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;

(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;

(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;

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

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

Assessment

The development would be less than 150sqmetres at only 93sqm floor area therefore meeting C1 (a) of the above.

Conditions

C.2—(1) 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,
- (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),

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class C(a) only, 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 the items referred to in sub-paragraphs (1)(a) to (f) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class C is permitted subject to the condition that development under Class C(a), and under Class C(b), if any, must begin within a period of 3 years starting with the prior approval date.

Officer Assessment:

The proposed is development under Class C(a) together with development under Class C(b) however the conditions a – g must be met. These are discussed below:

Noise impact - (a) noise impacts of the development

Policy A1 (Managing the impact of development) seeks to protect the quality of life of occupiers and neighbours. The Council will grant permission for development unless this causes unacceptable harm to amenity. The applicant proposes to install plant in the form of an extraction duct and has submitted the following details:

- Details of Helios centrifugal fan,
- Acoustica silencer details,
- Carbon discarbs and panels
- Operational Criteria,
- Details of Electrostatic Precipitator

The applicant has not however submitted an acoustic nor odour report. The site is sensitive to noise, odours and vibration as residential units are above and adjacent to the site and the proposed use as a bakery is likely to generate noise and odours. As the details submitted are just manufacturing details and the proposals are contrary to policies A1 and A4 of the Camden Local Plan 2017. Therefore the lack of supporting information would form a reason for refusal.

Odour impact - (b) odour impacts of the development

As above policy A1 seeks for all development likely to generate nuisance odours to install appropriate extraction equipment and other mitigation measures. The applicant has not submitted an odour report which discusses the impact on residential properties above the site. Therefore the proposal is contrary to policy A1 of the Camden Local Plan 2017, due to the insufficient information provided as part of the application.

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

Policy CC5 of the Local Plan seeks to ensure that developments include facilities for the storage and collection of waste and recycling. The applicant has shown the bin area at the rear of the site, on Fairfax Place from the service entrance. This is considered appropriate in this instance.

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

The operating hours proposed would be Mon-Fri 6am – 12pm, Sat 7am – 11pm and Sun 8am – 10pm.

These are considered to be excessive opening hours as residential occupier are located above the site and the potential for bakery products to be baked on premises late in the evening. This would however not form a reason for refusal as if the application was otherwise acceptable then the opening hours would be conditioned and suitably enforced.

Transport impacts - (e) transport and highways impacts of the development,

The proposed development would be serviced with deliveries sent to the rear on Fairfax Place. This is considered appropriate and in line with policy A1 of the Camden Local Plan.

Impact on Neighbourhood Centre - (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),

Camden Planning Guidance (Town Centres and retail) identifies that Fairfax Road is located in a Neighbourhood Centre. As a guide the Council will resist schemes that result in: less than 50% of ground floor premises being in retail use; or, more than 3 consecutive premises being in non-retail use.

The frontage runs from number 35-37 Fairfax Road to number 95B Fairfax Road. It contains the following:

- 35-37 Fairfax Road – retail (Use Class A1)
- 39 Fairfax Road – retail (Use Class A1)
- 41 Fairfax Road – retail (Use Class A1)
- 43 Fairfax Road – retail (Use Class A1)
- 45 Fairfax Road – delicatessen (Use Class A3)
- 47 Fairfax Road – current planning application to change to D1 community use
- 51 Fairfax Road – delicatessen (Use Class A3)
- 53 Fairfax Road – delicatessen (Use Class A3)
- 55 Fairfax Road – delicatessen (Use Class A3)
- 57 Fairfax Road – office (Use Class A2)
- 59-61 Fairfax Road - retail (Use Class A1)
- 63 Fairfax Road – retail (Use Class A1)
- 65 Fairfax Road – restaurant (Use Class A3)
- 69 Fairfax Road – currently A1 interior design shop but planning permission granted to change to sui generis beauty salon (ref 2019/5321/P)
- 71 –73 Fairfax Road - retail (Use Class A1)
- 75 Fairfax Road – restaurant (Use Class A3)
- 79-81 Fairfax Road - personal training (Use Class D2)
- 83 –85 Fairfax Road - restaurant (Use Class A3)
- 87 Fairfax Road - betting office (Use Sui generis)
- 91 Fairfax Road - retail (Use Class A1)
- 93 Fairfax Road - application site A1 retail to change to A3 cafe**
- 95A Fairfax Road - retail (Use Class A1)
- 95 Fairfax Road – restaurant (Use Class A3)
- 95B Fairfax Road –Gym (Use Class D2)

24 commercial units in total

As the proposed 69 Fairfax Road application has been granted this should assume that this is no longer Class A1. With the proposed change of use at 93 Fairfax Road the Neighbourhood Centre would be left with just 11 units in A1 retail use class. This would mean that there would be less than 50% of retail units in the parade. As a result the proposals are contrary to the aims of policies TC2 (Camden's Centres and other shopping areas) and TC4 (Town centre uses) of the London Borough of Camden Local Plan 2017 as well as the Town Centres Planning Guidance. The proposal would not give rise to a run of 3 or more consecutive non-retail uses; however, it would still be unacceptable due to the above.

The proposed extraction duct would run from the rear of the ground floor bakery A3 use to the roof level. It would be visible from Fairfax Place to the rear. Whilst it would be located near another extract duct this would exacerbate the visual harm to the character and appearance of the surrounding area. The building is not located within a conservation area however the proposed extraction duct would harm the character and appearance of the terrace and be unduly prominent in the streetscene contrary to policy D1 of the Camden Local Plan. The above two matters form further reasons for refusal.

Recommendation

It is recommended that the prior approval is refused for the following reasons:

1. The proposed loss of a retail unit (Class A1), by reason of the reduction of the total number of retail units within this parade, would harm the retail character, function, vitality and viability of the Fairfax Road neighbourhood centre, contrary to policies TC2 (Camden's Centres and other shopping areas) and TC4 (Town centre uses) of the London Borough of Camden Local Plan 2017 and chapter 7 of the National Planning Policy Framework 2019.
2. The proposed kitchen extraction flue, by reason of its size, location and detailed design would have a detrimental impact on the character and appearance of the host building and the terrace in which it is located, contrary to policy D1 (Design) of the London Borough of Camden Local Plan 2017 and chapter 12 of the National Planning Policy Framework 2019.
3. The applicant has failed to demonstrate, by way of a suitably comprehensive acoustic survey and a risk-based odour control assessment, that all extraction equipment, when operating at full capacity, would be capable of doing so without causing noise or odour disturbance and harm to the local residential environment, contrary to policies A1 (Managing the impact of development), A4 (Noise and vibration), TC2 (Camden's centres and other shopping areas) and TC4 (Town centre uses) of the London Borough of Camden Local Plan 2017, and chapter 15 of the National Planning Policy Framework 2019.