

Application ref: 2022/1293/P
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Date: 17 June 2022

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London Borough of Camden
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Katie Priest Town Planning
8 The Rosary
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United Kingdom

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:

**298-302 Kentish Town Road
London
NW5 2TG**

Proposal:

Change of use from mixed retail / restaurant use (former A1/A3 / Sui Generis) to restaurant (Class E)

Drawing Nos: KP.0027_01; KP.0027_02; 001; 002; Planning and Heritage Statement (undated); Waste and Recycling Statement (undated)

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: KP.0027_01; KP.0027_02; 001; 002; Planning and Heritage Statement (undated); Waste and Recycling Statement (undated).

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 The use hereby permitted shall not be carried out otherwise than between the hours of 07.00am and midnight Mondays to Thursdays, 07.00am to 00.30am Friday and Saturday, and 07.00am to 11.00pm on Sundays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1,A1, A4 and TC2 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting

Planning permission is sought for a change of use from mixed retail / restaurant use to sole use as a restaurant. The application has been submitted because, currently, condition 5 of planning permission 2004/3464/P, dated 22/11/2004 (for: reconfiguration of existing retail and restaurant uses at basement and ground floors to increase the proportion of restaurant floorspace and reduce the amount of retail floorspace; and associated works) requires the provision of at least 59 sqm of retail floorspace within the building (although it does not specify where in the building this must be provided) and condition 7 prevents takeaway sales from the premises. The applicant wishes to lawfully carry out a restaurant use at the premises, with an element of takeaway sales.

The application site is within the 'Kentish Town' town centre and forms part of a primary frontage. Policy TC2 of the Local Plan seeks to promote successful and vibrant centres throughout the borough and clause (f) seeks to protect primary frontages as locations with a high proportion of shops in order to maintain the retail function of the centre. The policy expects that within the 'Kentish Town' town centre primary frontages, a minimum of 75% units be in retail use and there should be no more than 2 consecutive non-retail uses. Currently, the whole of the frontage (292 to 302 Kentish Town Road) is in non-retail use (public house, café, restaurant). As such, the proposal is contrary to the policy aims.

Nevertheless, in recent years there have been changes to permitted development rights which mean permission is no longer required for a change of use between retail and restaurant uses and the supporting text to the Local Plan (written before the relevant changes came into effect) acknowledges that the Council cannot apply its planning policies if permitted development rights apply (paragraph 9.15). Taking this into consideration, and also the fact that the building is already in mixed use but appears to be predominantly in restaurant use (The Rabbit Hole / The Hutch), it is not considered that the proposed change of use, to allow for a sole restaurant use, would impact harmfully on the role and unique character of the 'Kentish Town' town centre, including its retail function.

Similarly, given that the premises is already in mixed use but appears to be used predominantly as a restaurant, it is not considered that the proposed

change of use would cause undue harm to the residential amenities of nearby and neighbouring properties, for example by way of noise, vibration, odour etc. A planning condition will ensure that the opening hours are the same as already approved under application reference 2009/0652/P, dated 10/11/2009 (for: variation of opening hours condition).

No objections have been raised in relation to the works. A comment has been made in relation to placing restrictions on delivery vehicles; however, such a condition would fail to meet the relevant tests in paragraph 56 of the National Planning Policy Framework insofar as the condition would not be necessary to make unacceptable development acceptable given that the main use of the premises would be a restaurant, with an element of takeaway sales (i.e. not solely or predominantly takeaway); and in most cases such a change of use would not even require permission. An additional informative is added to the decision notice to draw the applicant's attention to the relevant comments.

The application site's planning history and relevant appeal decisions were taken into account when coming to this decision.

Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under and s.72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

- 2 The proposed development is in general accordance with Policies A1, A4, D1, D2 and TC2 of the Camden Local Plan 2017 and Policy SW1 of the Kentish Town Neighbourhood Plan 2016. The proposed development also accords with the London Plan 2021; and the provisions of the National Planning Policy Framework 2021.
- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours

Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 5 The applicant's attention is drawn to the comments made by the Kentish Town Neighbourhood Forum, repeated here: "KTNF supports the application but would like to ask for the residents on Leverton Place to be protected from nuisance by delivery motorbike traffic. Vehicles that pick up delivery orders need to stop and park in front of the restaurant after 8pm, or use engine-less vehicles."

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is written over a light grey rectangular background.

Daniel Pope
Chief Planning Officer