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**APPEAL SITE**

190 Finchley Road, London, NW3 6BX

**APPELLANT**

Mr A Kamali

Appeal Statement in support of the refusal by LB Camden of planning application 2022/0318/P for 'Change of use of the ground floor from a launderette (Sui Generis) to a cafe/retail unit (Class E (b))'

## 1. Summary

1.1 This Appeal Statement comprises the Council's case in respect of the refusal of planning for the 'Change of use of the ground floor from a launderette (Sui Generis) to a cafe/retail unit (Class E (b))' at 190 Finchley Road, London, NW3 6BX (Ref: 2022/0318/P).

The application was refused on 11/05/2022 for the following reasons:

1. *The proposed change of use, by reason of the loss of a launderette which provides a specific and essential service and social function, would be detrimental to the character, function, vitality and viability of the Finchley Road town centre, contrary to policies TC2 (Camden's centres and other shopping areas) and TC4 (Town centres uses) of the London Borough of Camden Local Plan 2017.*
2. *In the absence of a signed legal agreement securing a 'car-free' development, the proposal would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport, contrary to policies T2 (Parking and car free development) and CC1 (Climate change mitigation) of the London Borough of Camden Local Plan 2017.*

1.2 The Officer Report setting out the consultation responses, site description, planning history, relevant planning policies, proposal and assessment and a conclusion was sent with the Questionnaire. The Officer Report represents the council's main statement.

1.3 In addition the following statement amplifies the council's case in respect of the reasons for refusal, confirms the status of policies and suggests conditions and a S106 should the Inspector be minded to allow the appeal. It also, importantly, describes (in 2. Background) a subsequent application (2022/3588/P) which was submitted (by another party) for the same proposal, which partly addresses the reasons for refusal. The circumstances behind this subsequent application and its import in this appeal are described in 'Background' below.

## 2. Background

2.1 The application relates to the ground floor and rear basement unit of a four storey mid-terrace building. It is located on the eastern side of Finchley Road within a primary frontage in the designated town centre. The ground floor and rear basement are used as a launderette which has been vacant since July 2019 according to the submitted Planning Statement. The upper floors appear to be in residential use.

2.2 Finchley Road (A41) forms part of the Transport for London Road Network

2.3 The building is not in a Conservation Area. It is in the Redington & Froggnal Neighbourhood Area.

2.4 The planning application was submitted by the appellant on 26/01/2022.

2.5 When the application was submitted no evidence was included to demonstrate that a launderette was not viable or that, despite marketing, there had been no interest in renting the premises by another launderette operator. Furthermore, no evidence was submitted that there is or was another launderette which provides laundering facilities in the town centre. The appellant however submitted additional information with the appeal statement.

2.6 The proposal was also unacceptable because it did not include an agreement to prevent staff from obtaining car parking permits in accordance with the Council's (and London Plan and NPPF) policies for reducing car use in the interests of mitigating against carbon emissions and climate change.

Application 2022/3588/P submitted August 2022; granted subject to a legal agreement October 2022

2.7 Following the refusal of the appeal application on 11/05/2022 another, subsequent, planning application (2022/3588/P) was submitted by a different applicant, Nabil Shamshoom, in August 2022.

2.8 Within this later application (2022/3588/P) evidence was submitted to demonstrate that there is an existing launderette in Frogal Court, approximately 100 metres away from the appeal site. This launderette, in Frogal Court, provides laundry facilities in the town centre.

2.9 The applicant also informally agreed to enter into a required legal agreement to prevent staff at the site from obtaining car parking permits.

2.10 The Council resolved to grant planning permission for the later application 2022/3588/P in October 2022 subject to the completion of the legal agreement. It was considered that the proposal did NOT result in a lack of launderette facilities in the town centre and subject to agreeing to staff being prevented from obtaining car parking permits, there were no reasons for refusal. If the legal agreement should be completed by the applicant then planning permission 2022/3588/P would be granted.

2.10 While 2022/3588/P can be taken into consideration in the determination of this appeal, it must be noted that as the applicant for this application is different, and the legal agreement has not been completed, the appeal proposal must be determined separately. This is because the appeal application (2022/0318/P) also has a requirement for a legal agreement and this must be completed by the applicant for the appeal application, i.e. Mr A Kamali. The legal agreement for 2022/3588/P would be completed by Nabil Shamshoom and the applicant for the appeal proposal, Mr A Kamali would not necessarily be party to it.

2.11 Therefore this appeal statement will consider both of the reasons for refusal of application 2022/0318/P. Consideration will be given to the loss of the launderette issue and the lack of a legal agreement regarding car free development.

2.12 Consideration will be given to the Appeal Statement which accompanies the appeal (by RJS Planning – July 2022) although it should be noted that this statement includes information which was not submitted at the application stage. The Council cannot be held at fault for failing to consider this information when determining the application, because the information was not presented at the application stage.

### **3. PLANNING POLICY FRAMEWORK**

The Development Plan currently consists of:

#### **National Planning Policy Framework (2021)**

#### **London Plan (2021)**

#### **Camden's Local Plan (2017)**

E1 Promoting a successful and inclusive Camden economy

A1 Managing the impact of development

TC1 Quantity and location of retail development

TC2 Camden's centres and other shopping areas

TC4 Town centres uses

#### **Redington Froggnal Neighbourhood Plan 2021**

None relevant

#### **Camden Supplementary Guidance**

Town centres and retail (2021)

Amenity (2021)

Copies of the relevant policies and relevant sections of the Development Plan documents were sent with the Questionnaire.

### **4. OTHER RELEVANT PLANNING HISTORY**

Permission granted 09/06/1969 - Installation of new shop front and erection of external flue pipe at rear in connection with the use of the premises as a coin-operated laundry at 190 Finchley Road.

### **5. STATEMENT OF CASE AMPLIFIED**

5.1 The relevant considerations in this case are the effects of the loss of the launderette facility on the function and purpose of the Finchley Road Town Centre in terms of its needs, vitality, viability and character. The lack of a legal agreement to secure a car-free use would also be contrary to the Council's (and London Plan and NPPF) policies for reducing car use and encouraging sustainable modes of transport in the interests of mitigating against carbon emissions and climate change. These were therefore also reasons for refusal.

#### **Reason for refusal no. 1: Change of Use (Town Centre impacts)**

5.2 Note: This section relates to the application and the submission documents for which planning permission was refused.

5.3 At the time of application 2022/0318/P no evidence was submitted to demonstrate that a launderette is not viable at the premises. Furthermore no marketing evidence was submitted to demonstrate that there is no interest in renting the premises for another launderette operator. The lack of aforementioned information compounded the Council's view that a launderette can contribute to the function, character, viability and vitality of the town centre and that its loss would be harmful to the needs of the local community.

5.4 Evidence has been submitted in the appellant's statement, including evidence of the Diamond launderette in the town centre at 12 Froggnal Parade, which was not presented at the application stage and hence it was not considered when the application was assessed, and refused.

5.5 The further evidence corroborates the evidence which information which was submitted with application 2022/3588/P (on the application form) which led to the lack of launderette facilities in the town centre reason for refusal falling away.

5.6 On the basis of the information presented in para. 5.13 of the appellant's statement (vis: *'Diamond Laundry Limited which previously occupied the appeal unit has relocated just 150m to the south to no. 12 Frognall Parade on Finchley Road, NW3 5HH which was also a vacant unit but is still within the Finchley Road/Swiss Cottage Town Centre'*) the Council would have no objections to the appeal proposal on grounds of a lack of launderette facilities in the town centre and the first reason for refusal would fall away.

## **Reason for refusal no. 2 (Need for car-free legal agreement)**

5.7 Notwithstanding the situation vis-à-vis the first reason for refusal and the fact that this might now fall away, without a legal agreement to prevent staff of the proposed unit from obtaining car parking permits the second reason for refusal remains.

5.8 The Council's adopted policies T1 and T2 seek to limit the opportunities for parking within the borough as well as to prioritise the needs of pedestrians and cyclists to ensure that sustainable transport will be the primary means of travel, reduce air pollution and local congestion. Therefore, the development should be secured as car-free via a covenant under s.16 of the Greater London Council (General Powers) Act 1974 and other local authority powers if the appeal were allowed.

5.9 A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free". The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from businesses or residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ("TMO"), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming businesses and residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a "Car-Free" legal obligation. The TMO sets out that it is the Council's policy not to give parking permits to occupiers of premises designated as "Car-Free", and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free".

5.10 Use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential

future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

### Comments on the appellant's grounds of appeal against Reason 2

5.11 It is noted, in paragraph 5.32 of the appellant's planning appeal statement that 'the appellant highlights his willingness to enter into a legal agreement to prevent future occupiers from obtaining car parking permits'. However, the legal agreement should be completed prior to planning permission being granted. If planning permission is granted prior to the legal agreement being completed then the legal agreement might not be completed.

## **6. S106 AND CONDITIONS**

6.1 Should the Inspector be minded to allow this appeal then the Council requests that the second reason for refusal should be dealt with by way of a S106 agreement. A draft is being sent to the appellant. The legal agreement has not been completed yet but it is possible that it will be in due course. The Council will therefore update the Inspector at final comment stage.

6.2 The Council also request imposition of the following conditions listed in appendix 1.

6.3 Should PINs have any queries, please contact myself direct.

Yours sincerely

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Supporting Communities  
London Borough of Camden  
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## **APPENDIX 1**

### Conditions

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 drawings: Location Plan, 2203 002 (Current Plan), 2203 002 (Proposed Plan), Planning Statement

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