

Our Ref: 23001/CJ/EC
Your Ref: PP-11818212
Email: cjones@firstplan.co.uk
Date: 02 February 2023

Planning Department
Camden Town Hall
Judd Street
London WC1H 9JE

Dear Sir/Madam,

**FULL PLANNING APPLICATION FOR INSTALLATION OF PLANT AND EXTRACT DUCTING
MERLIN HOUSE, 2A QUEX ROAD AND 122-126, KILBURN HIGH ROAD, LONDON, NW6 4HY**

We have been instructed by our client, PLK Chicken UK Ltd (trading as “Popeyes”), to submit the enclosed planning application for the installation of plant and extract ducting, to facilitate their occupation of the ground floor and basement commercial unit at Merlin House 122-126, Kilburn High Road, London, NW6 4HY.

The application has been submitted online via Planning Portal (PP-11818212) and the requisite planning fee of £462.00 has been paid online along with the service charge at the time of submission.

According with national and local validation requirements, the application is supported by the following documents:

- Planning Application Form and Site Ownership Certificates prepared by Firstplan;
- Site Location Plan and Block Plan by Firstplan;
- Existing and Proposed Drawings prepared by Chapman Ventilation Limited;
- Risk Assessment of Odour document prepared by Chapman Ventilation Limited;
- Noise Impact Assessment prepared by ACA Acoustics; and
- Plant equipment brochures (various).

Background Information

The application site relates to a ground floor (196.4sqm) and basement (135.6sqm) commercial unit, which was last used as a dental practice (by Asia Dental). The building has been vacant since March 2022.

The building is located on the junction of Kilburn High Road and Quex Road. The ground floor commercial unit spans the corner of these two roads. There is a first-floor flat roof area to the rear of the building, which currently houses a VRF plant system. Residential flats occupy the upper floors of the building.

A satellite view and photographs of the front and side elevation as existing are included in **Figure 1** below.



Kilburn High Road frontage



Quex Road frontage



View from Quex Road to KHR

Figure 1. Aerial View, Front Elevation and Side Elevation

The site has an excellent PTAL rating of 6A and is located within a highly accessible location. The site is further located in the Kilburn High Road designated Town Centre and frontage, together with an Archaeological Priority Area.

The site is not located within a Conservation Area and there are no listed buildings on or immediately adjacent to the site. The site is not located within Flood Risk Zones 2/3.

Planning History

A review of the online planning history records held by Camden Council has been undertaken.

The most relevant permission at the site is ref: 2016/6163/P, which granted planning permission in 2016 for:

“Change of use from retail (Class A1) to dental surgery (Class D1) including alterations to shopfront and installation of louvered roof and doors in rear elevation.”

The existing dental surgery use is now within Class E (formerly D1); however, Condition 4 of the above permission limited the use of the building to a health centre / dental surgery only. An application (ref: 2022/5006/P) is currently before the Council seeking to remove this restriction.

It is also relevant to note that applications for conversion of the unit to a restaurant (ref: 2020/2409/P) and similar plant (ref: 2020/3580/P) were withdrawn in 2020. These were withdrawn following the removal of interest from the ingoing tenant.

Application Proposals

The application proposals seek the provision of new associated plant and mechanical ventilation to allow for the occupation of the currently vacant Class E unit by the ingoing tenant, Popeyes. The application description is as follows:

“Installation of extract riser and plant”

The proposals will assist in facilitating the occupation of the site by Popeyes as a restaurant under its lawful Class E use, under Class E(b) of Schedule 2, Part A of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (“2020 Amendment”) once the existing restrictive condition is removed under application ref: 2022/5006/P.

Article 3 (1) of the Use Classes Order (1987) further confirms that:

“Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land.”

As such, the proposed use of the building as a restaurant will not amount to ‘development’ under Section 55 of the Town and Country Planning Act 1990 and will not require planning permission.

The proposed plant system has been developed by the plant engineers (Chapman Ventilation) and careful consideration has been given to the demands of the internal operation, nature of the cooking and the location of the site.

The majority of the system is located and routed internally within the building. The external elements are located at the rear of the building on the south elevation where the condensers are proposed to be located as well as the extract riser and ducting which is proposed to terminate at roof level.

As demonstrated by Figure 2, the proposed duct will run up the rear (south) elevation of the building and terminate above the roof level to allow for maximum dispersal. The proposed location will ensure that the duct is not visible from Kilburn High Road and that there is very limited visibility from Quex Road. Furthermore, the duct will sit on an area of blank brickwork and would therefore not obscure any architectural features of merit and is also set away from any windows. Indeed, it is highlighted that the windows nearest the duct on the southern elevation of the building serve a communal corridor and are not habitable residential windows.

Two catering condensers are to be located within an acoustic enclosure to the flat roof area, as demonstrated by Figure 3.

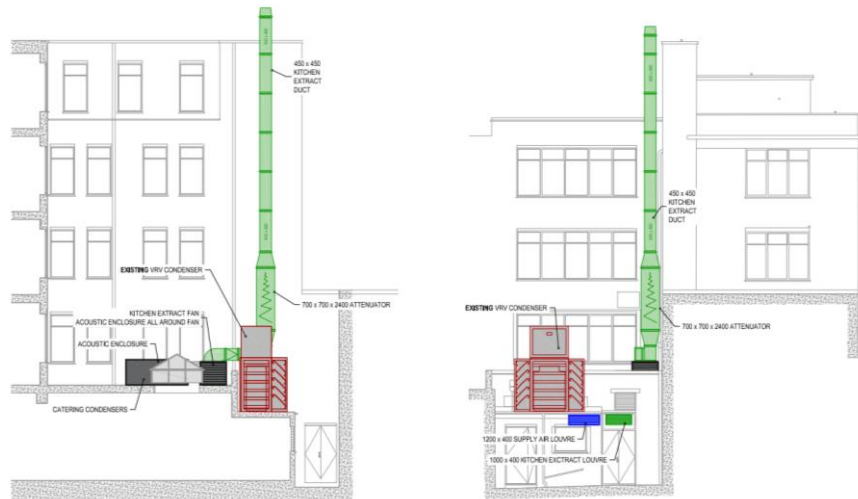


Figure 2. Proposed North (rear) Elevation

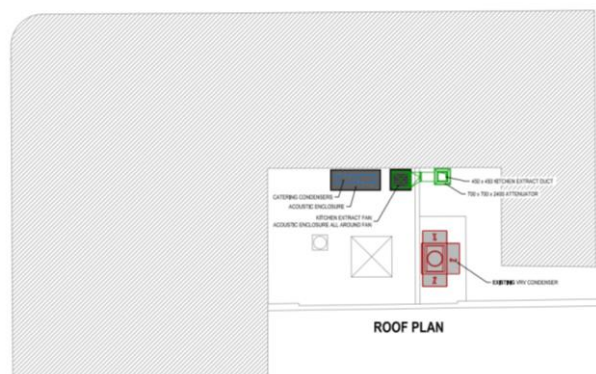


Figure 3. Proposed South (front) Elevation

Full details of the proposed plant installation, including its noise and odour performance, are also demonstrated in the submitted documentation:

- Noise Impact Assessment prepared by ACA Acoustics; and
- Risk Assessment of Odour prepared by Chapman Ventilation.

The hours of operation that are sought on the unit are proposed from 7:00am – 11:00pm with the plant running until midnight, as set out in the Noise Impact Assessment. Equipment specification details are also submitted.

Relevant Planning Policy

The Development Plan for the site includes the London Plan (2021) and the Camden Local Plan (2017). The National Planning Policy Framework (NPPF) (2021) and National Planning Practice Guidance (Online, 2021) and Camden Planning Guidance are also material considerations.

The Council is understood to be undertaking an update of its Local Plan; however, this is not considered to impact the proposals put forward in this application.

Camden Local Plan (2017)

Policy G1 'Delivery and location of growth' sets out 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.

Policy E1 'Economic Development' sets out 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. They will achieve this by: (*inter alia*)

- supporting businesses of all sizes, in particular start-ups, small and medium-sized enterprises
- recognising the importance of other employment generating uses, including retail, education, health, markets, leisure and tourism.

Policy A1 'Managing the impact of development' sets out that the Council will seek to protect the quality of life of occupiers and neighbours. The Council will consider:

- visual privacy, outlook;
- sunlight, daylight and overshadowing;
- artificial lighting levels;
- transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;
- impacts of the construction phase, including the use of Construction Management Plans;
- noise and vibration levels;
- odour, fumes and dust;
- microclimate;
- contaminated land; and
- impact upon water and wastewater infrastructure.

Policy A4 'Noise and vibration' sets out that 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.

Policy D1 'Design' sets out that the Council will seek to secure high quality design.

Policy TC2 'Camden's centres and other shopping areas' sets out that the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors.

Policy TC4 'Town centre uses' sets out 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.

Camden Planning Guidance

Consideration has been given to the following Camden Guidance documents:

- Access for All CPG - March 2019
- Air Quality - January 2021
- Amenity - January 2021
- Design - January 2021
- Energy efficiency and adaptation - January 2021
- Planning for health and wellbeing - January 2021

- Town centres and retail - January 2021

Planning Assessment

This section of the Statement demonstrates the acceptability of the application proposals in the context of the relevant planning policy outlined as above.

Impact on Residential Amenity

The key policy is Policy A1 'Managing the impact of development' sets out that the Council will seek to protect the quality of life of occupiers and neighbours.

The primary considerations include noise/vibration and odour impacts, which are addressed below. The other amenity aspects set out in Policy A1 will not be impacted by the proposals, including visual privacy, outlook, sunlight, daylight and overshadowing. The proposed duct and enclosure will not obscure access to daylight or sunlight, or harmfully impact on the outlook of neighbouring properties. Any views would be past the proposed duct or over the acoustic enclosure and not harmful. The equipment would not be prominent or visually dominant in these views. As demonstrated above, the windows in the southern elevation of the building and closest to the proposed installation serve a communal corridor and will not be harmed.

In terms of noise, Policy A4 'Noise and vibration' sets out that 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.

The application is therefore supported by a Plant Noise Impact Assessment (NIA) by Noise Solutions Ltd, which has been prepared in accordance with Policy A4 and Camden Planning Guidance: Amenity. An environmental sound survey has been undertaken to establish the prevailing background sound pressure levels at a location representative of the sound levels outside the nearest noise sensitive receptors to the site. Cumulative plant noise emission levels for the proposed plant have been predicted at the most affected noise sensitive receptors and assessed following London Borough of Camden's usual requirements.

The NIA assesses the impact of the two refrigeration units and the extract duct during its proposed operating hours. The NIA provides the following conclusion:

"The cumulative plant noise emission levels for the proposed plant have been predicted at the most affected noise sensitive receptor locations and determined to be in compliance with London Borough of Camden's usual requirements. Therefore, noise from the plant proposals should not be a reason for refusal of planning permission."

The specific acoustic mitigation to be incorporated includes:

- Atmospheric-side attenuators to all ventilation systems;
- Acoustic enclosures to refrigeration units providing an overall noise reduction of 15dBA;
- Acoustic enclosure to kitchen extract fan providing an overall noise reduction of 10dBA;
- Acoustic lagging to all sections of kitchen extract ductwork between the atmospheric-side attenuator and the penetration through the roof from inside.

In respect of Odour, specialist odour mitigation is proposed to tackle any odours at source and to ensure amenity of neighbours is protected. This has included an odour assessment, which recommends a high level of odour control. The proposed installation includes:

- Canopy baffle filters used as primary filters within canopy

- 2 no. single ESP with built in uv ozone generation
- G4 Pre filters
- F8 bag filters
- Carbon filtration

The equipment would be installed and maintained in line with manufacturer's recommendations, as set out within maintenance regime submitted.

Overall, the proposals would preserve the amenity of immediate neighbours and the proposals are therefore in accordance with Camden Policy A1, A4 and D1, and Camden Planning Guidance for 'Amenity' and 'Design'. The application should be considered acceptable in this regard.

Impact on Design

Policy D1 sets out that the Council will seek to secure high quality design. The proposed plant is consistent with the commercial high street nature of the application building and has been discretely sited to the building's rear façade.

The refrigeration condensers will be located at the flat roof area, alongside the existing VRF system, and will not be visible from outside the application building.

The extract duct would be situated on the rear elevation of the building and will run up a blank area of brickwork, ensuring that no architectural features of merit will be affected. This is discretely located on the rear elevation and set in from the Quex Road and Quex Mews façade, ensuring that it will not be visible from Kilburn High Road and that there would be very limited visibility from Quex Road. This is demonstrated by the existing aerial view and Quex Road view at Figure 4. The proposed duct and enclosure would not be prominent or dominant features within the streetscene, and not harmful.



Figure 4. Existing Aerial and Street View

The Applicant is willing to paint the duct in a tone to match the existing brickwork to further ensure that it is visually discrete and better integrate with the host building.

The proposals would further secure the reoccupation of this vacant unit, which will enhance the vibrancy and vitality of the Town Centre, together with the creation of local job opportunities.

There would be no harmful impact on the character of the area as a result of this proposal, which is in accordance with Camden Policy D1 and the Camden Planning Guidance: Design.

Design and Access Statement

This Design and Access Statement is prepared in accordance with the guidance set out within the National Policy (2021) and is proportionate to the complexity and nature of the application which is very minor.

Land Use

The proposals seek the installation of new plant and extract equipment to meet the operational requirements of the new incoming tenant, Popeyes.

The proposals will assist in facilitating the occupation of the site by Popeyes as a restaurant under its lawful Class E use, under Class E(b) of Schedule 2, Part A of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("2020 Amendment") once the existing restrictive condition is removed.

Article 3 (1) of the Use Classes Order (1987) further confirms that:

"Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

As such, the proposed use of the building as a restaurant does not amount to 'development' under Section 55 of the Town and Country Planning Act 1990 and does not require planning permission.

Scale and Amount

The proposals relate principally to installation of new plant and ducting only.

The proposals are entirely in keeping with the scale of the building and in the context of the wider surrounding area. There will be no increase in the scale of the building or the quantum of development at the site.

Layout

Limited changes are proposed to the internal layout of the building.

Appearance

The proposed plant is limited to the rear of the building only and is in keeping with similar installations found across the town centre. The works will respect the character of the host building and will not be prominent or dominant features in the local townscape.

Whilst the duct will terminate above the main roof ridge (to ensure optimal odour performance), this will not be highly visible in street level views and will not negatively impact upon the character of the area or the town centre.

Additionally, the reoccupation of the vacant building by a new tenant will result in visual improvement to the streetscene and Town Centre.

Access

No changes are proposed in regard to access.

Conclusions

This Planning, Design and Access Statement letter has been prepared by Firstplan on behalf of Popeyes, for a planning application at Merlin House 122-126, Kilburn High Road, London, NW6 4HY for the following:

“Installation of extract riser and plant”

This letter has demonstrated the support for the new plant and ventilation at the site, which will facilitate the reoccupation of this vacant building which will positively contribute to the area and by delivering a number of clear planning benefits including local job creation and long-term economic growth.

Furthermore, it is considered that noise and odour can be sufficiently mitigated to ensure the plant will have no detrimental impacts on the amenity of adjoining occupiers or surrounding uses, whilst also facilitating the operation of Popeyes within the unit.

It has been demonstrated that the application proposals have been prepared in accordance with the Development Plan and National Policy, and there is no detrimental visual impact or impact on amenity, and we therefore respectfully request that planning permission is granted.

Yours faithfully,



CHRIS JONES
Director

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