

Application ref: 2022/5006/P
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Date: 21 February 2023

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RR Planning Limited
82A Otley Road
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LS6 4BA

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Variation or Removal of Condition(s) Granted

Address:
122-126 Kilburn High Road
London
NW6 4HY

Proposal:

Removal of condition 4 of planning permission 2016/6163/P dated 17 January 2017 (for the 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).

Drawing Nos: letter from rr planning dated 15.1.22; location plan

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 shall be carried out in accordance with the following approved plans: letter from rr planning dated 15.1.22; location plan

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

Informative(s):

- 1 Reasons for granting permission.

Planning permission was granted on 17 January 2017 ref: 2016/6163/P for the 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.

This proposal seeks to delete condition 4 of this permission due to the restrictive nature of the condition which only allows for the application site to be used as a health centre / dental surgery. The condition was imposed at the time to prohibit any permitted development right to change the use of the premises to any other use within the former Class D1 of the Use Classes Order which included uses such as places of worship, church halls, law courts and non-residential education and training centres.

However, the Use Classes Order has been amended significantly since then to the extent that Condition 4 does not satisfy all of the six tests necessary for the use of conditions in planning permissions. Condition 4 is no longer relevant to the planning permission, nor is it necessary or reasonable. Class D1 no longer exists as a use class in its own right and has now been subsumed into a new Class E which includes a variety of town centre uses including retail shops, takeaways, banks, businesses and health centres.

The lawful use of the application site now falls within Class E of the Use Classes Order. However, condition 4 of planning permission 2016/6163/P is worded such that it prevents any use other than health centre or dental surgery use from the premises. The consequence is that even retail shops are not permitted to lawfully operate from the premises without obtaining planning permission, even though the property originally had a retail unit prior to the change of use.

The deletion of condition 4 of planning permission 2016/6163/P is considered reasonable and appropriate in the circumstances. The creation of an unrestricted Class E unit in this High Street location is in line with Council policy to encourage economic development within town centres.

No external works are proposed as part of this application.

It is considered that the deletion of condition 4 would have no material effect in terms of impact on character and appearance of the host building and surrounding streetscene or on neighbouring amenity.

No objections were received and the planning history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies E1, E2, A1, TC1, TC2 and TC4 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2021.

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:

<https://www.gov.uk/appeal-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new [submission form](#) (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is positioned above the printed name and title.

Daniel Pope
Chief Planning Officer