

Location **24 Charcot Road London NW9 5WU**

Reference: **17/7421/FUL** Received: 23rd November 2017
Accepted: 24th November 2017

Ward: Colindale Expiry 19th January 2018

Applicant: Mr ILHAN GOKALP

Proposal: Change of use from A1 and A3 use to A1/A3 and A5 use. Installation
of extraction flue

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site location plan drwg no. 22.11 OS A
Block Plan drwg no. 22.11 BP A
Design & Access Statement
The Commercial Kitchen Filtration Experts Extraction Fan Specification
Existing ground floor plan drwg no. 01..11 001 A
Existing front and north elevations drwg no. 01..11 002 A
Existing section A-A drwg no. 01..11 003 A
Proposed ground floor plan drwg no. 01.11 004 B
Proposed front and north elevation drwg no. 01.11 005 B
Proposed section A-A drwg no. 01.11 006 B

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The ground floor A1/A3/A5 unit known as 24 Charcot Road shall not be open to customers before 7am or after 11pm on weekdays and Saturdays or before 8am or after 10pm on Sundays.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2011.

- 4 The level of noise emitted from the ventilation and extraction plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2011.

- 5 Before the development commences details of the refuse storage and collection arrangement, including the storage and disposal of all oils, fats, liquids and food wastes arising out of the cooking premises shall be submitted to and agreed by the Local Planning Authority.

Reason

In the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 6 Before the permitted development is occupied a full Delivery and Servicing Plan (DSP) shall be submitted to and agreed by the Local Planning Authority. This shall include details of the deliveries and servicing to the property, where vehicles will park in making deliveries and the hours/days which this will take place.

Reason: In the interest of highway safety in accordance London Borough of Barnet's Local Plan Policy CS9 of the Core Strategy (Adopted September 2012) and Policy DM17 of Development Management Policies (Adopted September 2012).

- 7 a) No development shall take place until details of mitigation measures to show how the development will be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration has been submitted to and approved in writing by the Local Planning Authority.

This sound insulation shall ensure that the levels of noise generated from the A5 use; as measured within habitable rooms of the development shall be no higher

than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am.

The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or first occupation of the development and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of the residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD, and 7.15 of the London Plan 2015.

- 8 The proposed development shall be carried out in accordance with the approved layout plan only. Any changes to the layout including the enlargement or reduction of the floorspace and function allocated to each of the specified A1, A3 or A5 uses will only be permitted in writing to the Local Planning Authority only.

Reason: To safeguard the vitality and viability of the existing retail function in the locality and to safeguard the residential amenities of residents in the area in accordance with Policies DM04 and DM12 of the Development Management Policies DPD (adopted September 2012) and Policy CS13 of the Local Plan Core Strategy (adopted September 2012).

Informative(s):

- 1 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

Officer's Assessment

1. Site Description

The application site falls within the approved redevelopment of the former Colindale Hospital site planning ref H/00342/09. The former Colindale Hospital site is located on the north side of Colindale Avenue. The hospital site is bounded to the north-east by the tracks of the Northern Line (Edgware branch) and to the north-west by Montrose Park. To the south-west is the National Blood Service and the Health Protection Agency. A row of terraced houses are located along Colindale Avenue which back onto the site. Colindale Tube station and Station House are both located adjacent to the south-east corner of the site. The application site forms a ground floor A1 (retail unit) and A3 (café) with residential use on above floors located to the north-eastern side of Charcot Road within the ward of Colindale. It is not locally/statutorily listed nor is it located within a conservation area.

2. Site History

Ref: H/00342/09

Development: Redevelopment of the former Colindale Hospital to include the erection of 714 residential units including the change of use and conversion of the listed former Administration building to residential, a new primary care trust facility (Use Class D1) of 1,132sqm, commercial units (Use Class A1/A2//A3/B1) and site management office (Use Class D1/B1), together with access roads, car parking and cycle parking, new public and private open space, children's play space and landscaping. Application includes the submission of an Environmental Statement.

Decision: Approved following legal agreement

Date: 20.11.2009

Approved Colindale Hospital Development:

Planning permission was granted in November 2009 (ref H/00342/09) for the redevelopment of the Colindale Hospital site comprising the following:

Construction of 714 residential units comprising 697 flats and 17 houses. This includes the provision of 193 affordable homes which equates to 30% affordable housing by habitable rooms;

Restoration of the listed Administration Building and its conversion to residential flats;

Construction of a new Primary Care Trust facility of 1,132sq m;

A 45sqm commercial unit (Use Class A1/A3);

A site management office and Safer Neighbourhood Centre (Use Class B1/D1);

Provision of a single Energy Centre and district Combined Heat and Power network to serve the whole development;

New junction and altered access into the site from Colindale Avenue together with new Spine Road through the site to serve the development and existing neighbours including the NHS Blood and Transplant facility;

New public and private open space, children's play space and communal courtyards and hard and soft landscaping;

A subsequent application was approved in September 2010 to replace the floorspace within Block A that was previously identified for a PCT health centre with new commercial uses on the ground floor and 12 residential flats on the first and second floors.

3. Proposal

Change of use from A1 and A3 use to A1/A3 and A5 use. Installation of extraction flue on the north-west flank wall; 0.45m x 0.45m ESP extractor duct metal grille sited on the north-west façade of the building to provide an air exit of the ESP system

4. Public Consultation

Consultation letters were sent to 286 neighbouring properties.

148 responses were received in objection to the development

60 responses were received in support of the development

Concerns include:

- Noise, disturbance, litter, pest and anti-social behaviour as a result of increased comings and goings of customers
- Unsuitable type of business in its quiet residential context, would impact the value of properties
- The A1 use (butchers) would conflict with the beliefs and practices of attendees to a nearby Jain temple.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5
- Relevant Development Management Policies: DM01, DM02

Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether the proposed use would be acceptable.
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents;

5.3 Assessment of proposals

Whether the proposed use would be acceptable.

The application site forms part of a mixed-use major redevelopment site on the former Colindale hospital site within the Colindale Area Action Plan (ref H/00342/09) area. It is not part of a local town centre nor is it on a primary or secondary frontage but is in fact a neighbourhood centre (as shown by policy 7.4 of the Action Plan. The application site is approx. 181m² and benefits from A1 (shop) / A3 (café) Use. Planning permission is sought to complement the existing A1 (shop) / A3 (café) with A5 (Hot food takeaway) and integrate an extraction flue on the north-west flank wall adjacent to Hither wood Court. In essence the proposed development would be a A1/A3/A5 sui generis mixed use unit.

The A1 (shop) area of the unit would measure approx. 56.9m² and include retail display units and sell a range of consumable goods, whilst the A3 (café/restaurant) would measure approx. 77.8m² and kitchen area, approx. 29.5m². The development would not result in the loss of A1 (retail) use, which is an intrinsic part of the approved redevelopment scheme ref H/00342/09, but rather support the existing A3 function by providing adequate takeaway facilities for the customers. In order to maintain the pre-existing A1 use, it is recommended that the proposed development should be supported by a planning condition requiring the layout to be as approved.

The Colindale Area Action plan designates the area around the station as a neighbourhood centre, while Colindale Avenue is designated as a corridor of change. Policy DM12 requires the protection of A1 uses within local centres. However, given the retention of A1 within the scheme, the sustainable location and the fact that the premises is within the A use class.

There are a limited number of A3 and A5 units on Charcot Road. The development site is predominantly characterised by high-rise self-contained block of flats. Following a site visit, 2no. A3/A5 units in very close proximity to the application site have been identified as no.2 Charcot Road (Suya Restaurant) open till 11am and no.5 Charcot Road (Spaccanapoli Pizzeria Restaurant) open till 10.30am.

Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;

The development would maintain an active shopfront of benefit to the vitality and viability of the of the development site. A 0.45m x 0.45m ESP extractor duct metal grille would be sited on the north-west façade of the building to provide an air exit of the ESP system, would not be visible from the public realm and on that basis, the proposed outlet would have a discreet and non material impact on the character and appearance of the area.

Whether harm would be caused to the living conditions of neighbouring residents

Boswell Court is a 6no. storey block of flats below which the unit in question is sited and set back approx. 6m from Hitherwood Court. Hitherwood Court is a 9no. storey block of flats set away approx. 8m from the application site. To ensure the development does not prejudice the amenities of adjoining occupiers particularly in terms of noise, a condition has been attached to limit the opening hours to no later than 11pm on weekdays and 10pm on Sundays which is considered to be balanced and reasonable in the context of what is predominantly a residential area. In addition, a condition has been imposed to limit the noise levels in the context of the background noise level.

All the ventilation and extraction equipment would be situated within the building. However, the plant would have an extraction grille sited on the north-west façade of the building approx. 8m from the south-east flank elevation of Hitherwood Court.

In respect of the vertical noise transfer that might occur between the ground floor and the units on upper levels, it is considered that the existing building has been sufficiently protected through the approval and construction of the host building.

The front access into Hitherwood Court is sited on the south-east flank elevation upon which the extraction flue would face. Balconies on floors above are sited on the south-east flank elevation of Hitherwood Court the north-west flank elevation of Boswell Court. To address impact in terms of odour and vibration particularly from the extraction flue, the Council's Environmental Health Officer has noted that the silencers, odour mitigation, anti-vibration mounts, routine maintenance and enhanced internal sound insulation are unlikely to give rise to a significant statutory nuisance, therefore a standard condition has been attached to secure that the level of noise emitted from the ventilation and extraction plan is limited below the background level. Given the above, the LPA cannot warrant refusal on grounds of residential amenity.

Whether the proposed development would have an acceptable impact on the highway

There are two parking spaces allocated to the application property at the rear of the property and loading bays are provided on the south of the property that would be used for deliveries. The site is located in close proximity to Colindale underground station and as such, is accessible and sustainably located.

Nevertheless, it is considered that the proposed development should be supported by a delivery and servicing management plan to ensure that the proposed development can be serviced in a manner which doesn't impact on or conflict with existing vehicle movements and parking in the immediate locality. This plan should also be provided with details relating to the hours of the deliveries.

Whether the proposed development would be adequately served by waste storage and collection facilities.

The scheme drawings show the location of built in waste storage facilities at the southern end of the building. This area is approximately 8sq.m which would be of sufficient size and easily accessible from the public highway by those charged with collecting waste from the premises. Nevertheless, provision for the storage of all waste products associated with the separate uses including the by products of the cooking process will be secured through a planning condition.

5.4 Response to Public Consultation

- o Noise, disturbance, litter, pest and anti-social behaviour as a result of increased comings and goings of customers:

Environmental Health has reviewed plans and offered consultation feedback in respect of the potential for noise, odour and disturbance as provided in the main body of the report.

- o This is a residential area and this use is unacceptable in such a location.

The planning permission for the redevelopment of this area proposed that the ground floor of many of these buildings would be used for commercial purposes in order to create a town centre around the Colindale underground station. The Colindale Action Plan also envisages the supply of commercial town centre uses in this location.

- o The proposed development would give rise to significant parking problems.

Two car parking spaces are proposed for the unit which is located in a sustainable location, close to Colindale underground station. Much of Charcot Road and immediate surroundings have no on street parking with other parking serving as designated residents' parking. It is considered that any resulting issues would constitute a parking enforcement issue.

- o There is no planning control over the no. of customers that access the commercial premises, however in the event of planning approval, will be subject to specific openings hours to control the impact on adjoining residential occupiers in respect of the potential for noise and disturbance.

In respect of litter, pest and anti-social behaviour, this is not a material planning consideration and therefore does not form part of the assessment.

- o Unsuitable type of business in its quiet residential context, would impact the value of properties

This is not a material planning consideration and therefore does not form part of the assessment.

- o The A1 use (butchers) would conflict with the beliefs and practices of a nearby Jain temple.

The Jain faith believes that all living things are sacred and that the killing of animals for food or any purpose runs counter to that faith system. The attendees of this place of worship take objection to the proximity of these premises (comprising a butcher and a restaurant) to their place of worship. The Jain temple is located approximately 350m away from the application site and within the same catchment area (and close to the temple than this site) are other premises that sell or serve meat based products.

In respect of considering the application in the context of the impact on people of different faith, the Council has had regard to the Human Rights Act and its obligations under the Act to protect the rights of people including Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is not considered that this premises in isolation would give rise to injury in the context of these protocols. It would be unreasonable to determine that this proposed development would be unacceptable on these grounds and would be incompatible with the applicants rights under the [Human Rights] Act and also in the context of the objectives of the NPPF.

6. Equality and Diversity Issues

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- "(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

For the purposes of this obligation the term "protected characteristic" includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Officers have in considering this application and preparing this report had regard to the requirements of this section and would comment as follows:

The applicant wishes to provide retail, on site hot food service and food service for takeaway on the premises. This site is located approximately 350m away from a Jain temple, whose adherents believe in the sanctity of all organic life and as such, follow a vegetarian existence. They have objected to a use which includes a butcher and the service of food including meat based products.

It is noted that closer to the Jain temple are a Sainsburys supermarket and other restaurants which already exist. The Council is unable to control the user of the premises and it would be unreasonable to prevent such uses occupying the site. It should be noted that the temple will not be interfered with and access to and use of the building will not be changed.

Nevertheless, given the large body of objection that has been received, it is considered that their views should be taken into account and reported, hence the reason why the application is being brought to a committee. However, the Colindale Area Action Plan which seeks to deliver a town centre would be significantly undermined if it became unable to provide for these uses in the context as a result of these objections.

7. Conclusion

The proposal is considered to accord with the requirements of the Development Management Plan and is therefore recommended for approval.

