

Address:	187 Kentish Town Road London Camden NW1 8PD		3
Application Number(s):	2024/0601/P	Officer: Kristina Smith	
Ward:	Kentish Town South		
Date Received:	14/02/2024		
Proposal:	Change of ground floor use from Cinema (Sui Generis) to Flexible Use for Cinema (Sui Generis) / Class F.1 / Class F.2 / Class E		
Background Papers, Supporting Documents and Drawing Numbers: Existing Drawings: KTR-VBL-XX-XX-DR-A-00.000 Rev P1; KTR-VBL-XX-XX-DR-A-01.100 Rev P01 Proposed Drawings: KTR-VBL-XX-XX-DR-A-03.100 Rev P01 Documents: Cover letter dated 28 June 2024; Planning statement (dated June 2024, prepared by Savills (UK) Limited); Marketing report (prepared by Savills, dated 14 June 2024); Email correspondence from Savills Planning dated 04/09/24; Letter from Savills re: marketing evidence dated 16/08/24			
RECOMMENDATION SUMMARY:			
Grant conditional planning permission subject to a Section 106 Legal agreement			
Applicant:	Agent:		
Vabel 18 Haverstock Hill London NW3 2BL	Savills 33 Margaret Street London W1G 0JD		

ANALYSIS INFORMATION

Land use floorspaces				
Use Class	Description	Existing GIA (sqm)	Proposed GIA (sqm)	Difference GIA (sqm)
Sui Generis	Cinema	234	0 / +234	0 / -234

Class E (excl. (g))	Commercial, business and servicing	0	0 / +234	0 / +234
Class F.1	Non-residential institution	0	0 / +234	0 / +234
Class F.2	Community use	0	0 / +234	0 / +234
Total	All uses	234	234	0

Parking details			
Car Type	Existing spaces	Proposed spaces	Difference
Car - General	0	0	0
Car - Disabled accessible	0	0	0
Cycle Type	Existing spaces	Proposed spaces	Difference
Cycle – commercial long stay	0	0	0
Cycle – short stay (all uses)	4	4	0

EXECUTIVE SUMMARY

- i) The application relates to a ground floor commercial unit within a recently completed residential development (planning permission ref. 2013/8301/P, varied by 2018/5059/P). The unit has planning permission for a cinema use; however, the cinema use has not commenced due to challenges with securing a cinema operator. Subsequently, the unit has remained vacant since the building was completed in December 2022.
- ii) The proposal seeks to change the use of the unit to a flexible use, still incorporating a cinema use, but also Class E, Class F1 and Class F2 in the hope of securing an occupier and bringing the unit into use.
- iii) There is strong opposition from residents and local groups to expanding the use class to include Class E. The local community has long sought a cinema use (or failing that a community orientated use) and believe that planning permission for the wider development was granted by Planning Committee (following an officer recommendation to refuse) on the basis that a cinema was provided.
- iv) A comprehensive marketing report has been provided that details the marketing activity that has taken place since 2018 when the applicant acquired the site. The report evidences the challenges the applicant has encountered with securing a viable offer due to a range of factors linked to the small size of the screen as well as lasting effects from the Covid pandemic. The few offers received for the space were on a full fit-out basis which the applicant does not consider to be commercially viable.

- v) Further conversations have taken place with non-cinema organisations and enterprises that have a community focus though no formal offer has yet been secured. Several potential occupiers have expressed the requirement for a Class E use to reflect their use which usually include a commercial element.
- vi) The proposed change of use complies with the development plan as a whole and is recommended for approval.

OFFICER REPORT

Reason for Referral to Committee:

The Director of Regeneration and Planning has referred the application for consideration after briefing members (Clause 3 (vii)). The panel considered it should be heard by committee due to provide local stakeholders with the opportunity to have their views heard.

1. SITE AND BACKGROUND

Designations

1.1 The following are the most relevant designations or constraints:

Designation	Details
Town Centre (TC)	Kentish Town
Conservation Area	N/A
PTAL (Public transport accessibility)	6b
Neighbourhood Forum	Kentish Town

Table 1 - Site designations and constraints

Description

1.2 The site is located at the junction of Kentish Town Road and Prince of Wales Road. It contains a recently redeveloped five-storey building which involved façade retention with two additional storeys above.



1.3 The upper floors are in residential use and the ground floor level, to which this application relates, has permission for a cinema but has been vacant since completion of the development in December 2022.

- 1.4 The ground floor unit measures approx. 234 sqm and is in a shell condition with potential to be used for a cinema, including an excavated column-free pit.
- 1.5 The site is located in the Town Centre of Kentish Town and is also covered by the Kentish Town Neighbourhood Plan. The site is not within a conservation area.
- 1.6 The site has a Public Transport Accessibility Level (PTAL) rating of 6b (the best) in reflection of its proximity to various stations include Kentish Town West to the west, Kentish Town to the north and Camden Road to the south-east, as well as multiple bus stops served by various routes.

Background

- 1.7 The applicant acquired the site in May 2018 and subsequently implemented planning permission ref 2018/5059/P (a variation to ref. 2013/8301/P, see planning history). The homes at upper floors are now occupied and the ground floor space has been constructed in a way that could accommodate a cinema i.e. a use-specific shell condition, to include a column-free excavated pit.
- 1.8 The cinema has been marketed, nearly continuously, since the applicant acquired the site in 2018. Over the course of the marketing period, no viable offer has been forthcoming which has led the applicant to pursue a planning application to expand the planning use class. The marketing exercise carried out is discussed in detail in the land use assessment section.
- 1.9 The officer recommendation to the Planning Committee for planning application ref. 2013/8301/P was to refuse planning permission on design grounds, specifically the inappropriate bulk, form, scale and detailed design of the roof extension and its impact on the host building, the setting of neighbouring buildings and surrounding conservation areas; however, the recommendation was overturned by Members and planning permission was granted. Consultation responses have referred to the additional storey being supported as a result of the cinema being provided at ground floor level. Whilst this is an oversimplification, Members will have considered the proposal in the round and in reaching their decision, may have regarded the cinema, though a commercial use, as a public benefit that offset any identified harm.
- 1.10 The relevant minutes of the Committee meeting read as follows,

'A Member stated that he fully recognised the importance of the building to the local community and that he wanted to see a cinema provided on the site. He was not concerned about the height of the building as he felt this was still lower than other nearby buildings and that it was suitable for a corner

location. A number of other Members also expressed their support for the scheme and their support for providing a local cinema on the site.

Members expressed some concern regarding the viability of a purely cinema use and queried whether there could be more flexibility to use the space for other cultural and artistic uses. A representative of the company which would be operating the proposed cinema stated that they would be prepared to look at other uses and that it was possible to design the space with a retractable screen so that it was more suitable for live performances. However, it was noted that the local community wanted to see the site primarily used as a cinema. The Assistant Director of Regeneration and Planning confirmed that if Members were minded to approve the scheme, then a Section 106 legal agreement could be used to restrict the use primarily to a cinema, but also to provide some flexibility for other artistic and cultural uses. The Members also agreed that the ground floor space should be available for the local community on a flexible basis and that this should also be secured within the Section 106 legal agreement.'

- 1.11 Accordingly, the Section 106 required the submission and approval of a cinema plan including access arrangements and possible measures to encourage cultural and educational outreach programmes prior to the occupation of the development. The Cinema Plan was discharged by the Council on 2nd March 2023 and is discussed in more detail in paragraph 7.7.
- 1.12 It is noted that a second application (ref 2013/8302/P) for a similar development at the site was heard at the same Planning Committee as application ref. 2013/8301/P. Instead of a cinema at ground floor level, the application proposed flexible retail/ financial & professional services/ restaurant (Class A1/A2/A3) and only a single storey roof extension rather than a two-storey roof extension. Members voted in favour of the recommendation to approve planning permission and planning permission was subsequently granted, though not implemented. The uses proposed as part of that application (A1 - retail/ A2 – financial and professional services /A3 - restaurants) are similar to those proposed as part of the Class E use.

2. THE PROPOSAL

- 2.1 Planning permission is sought to change the ground floor cinema unit to a flexible commercial use, incorporating Cinema (Sui Generis), Class F1, Class F2 and Class E. The applicant has agreed to exclude Class E (g)(i) (offices) from the proposal acknowledging that office uses typically detract from the character and function of Town Centres. This will be secured by planning condition (Condition 3).
- 2.2 The proposals relate to the land use only and no external works are proposed.

Flexible permission

- 2.3 A flexible permission allows an Applicant to apply for planning permission for more than one use which can be interchangeable over a 10-year period without the need for further planning permission. These provisions are embodied within Schedule 2, Part 3, Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (“the GDPO”) which allows the local planning authority to grant permission for multiple uses, subject to specific criteria.
- 2.4 It reads, “Development consisting of a change of use of a building or other land from a use permitted by planning permission granted on an application, to another use which that permission would have specifically authorised when it was granted”. The criteria that would disallow the flexibility are as follows: (a) the application for planning permission referred to was made before 5th December 1988; (b) it would be carried out more than 10 years after the grant of planning permission; (c) the development would consist of a change of use of a building to use as betting office or pay day loan shop; or (d) it would result in the breach of any condition, limitation or specification contained in that planning permission in relation to the use in question.
- 2.5 There are no restrictions on which uses can be applied for so this could be the current use and a new further use(s) or alternatively multiple, new separate uses as is the case with the current application. At the end of the 10-year period, whichever use is functioning at the time becomes the permanent lawful use of the property.

3. RELEVANT HISTORY

The site

2013/8301/P - Redevelopment of existing building (Class A3), retaining the existing façade, to provide a 5 storey building (2 storey roof addition) with cinema (Class D2) and ancillary café and bar use at ground floor and 11 market (2x studio, 1x1, 7x2 & 1x3 bed) and 1 intermediate (1x1 bed) residential units (Class C3) at 1st to 4th floor level, together with various associated alterations including landscaping, external terraces, alterations to external elevations and rooftop plant. **Granted subject to S106 agreement on 27/03/2015**

2013/8302/P – Redevelopment of existing building (Class A3), retaining the existing façade, to provide a 4 storey building (1 storey roof addition) with flexible retail/financial and professional services/restaurant (Class A1/A2/A3) use at ground floor and 9 (2x1, 6x2 & 1x3 bed) residential units (Class C3) at 1st to 3rd floor level, together with various associated alterations including landscaping, external terraces, alterations to external elevations and rooftop plant. **Granted subject to S106 agreement on 27/03/2015** *n.b Permission not implemented*

2018/5059/P - Variation of Conditions 8 (cycle spaces), 12 (lifetime homes) and 15 (approved plans) to planning permission 2013/8301/P (Redevelopment to provide 5 storey building (2 storey roof addition) with cinema (Class D2) and 11 market (2 x studio; 1x1; 7x2 & 1x3 bed) and 1 intermediate (1x1 bed) residential units (Class C3), to amend layout to reconfigure cinema at ground floor and residential unit mix above (11 market – 10x2 bed & 1x3 bed) and 1 intermediate (1x1 bed)), increase in height to ridge, alteration to fenestration on south elevation and cycle space provision.
Section 73 application granted on 05/09/2019 subject to a deed of variation

4. CONSULTATION

Statutory consultees

4.1 Kentish Town Neighbourhood Development Forum object on the following grounds:

- KTNF supported the original application because there would be a cinema space included
- The space has remained empty because the owner says they haven't been able to let it, despite approaches from a number of operators. The problem appears to be the high rent for a small space and would require complete fit out by an operator. The tenure is also unspecified. Developer has been unwilling to negotiate.
- If Class E was removed from the proposal, KTNF would give application serious consideration in the interests of bringing space into use.
- KTNF asks the Council to refuse the current application.

Officer response:

- *A marketing exercise has been undertaken and submitted with the planning application to demonstrate that no viable offers have been received to date.*
- *The applicant is seeking to expand the use class to secure a tenant and bring the unit into use. An empty unit has no value to the community.*
- *Various potential operators that include a community / cultural component require the flexibility of a Class E use class to operate.*
- *There is no clear indication from the minutes of the Committee meeting that planning permission was granted on the basis of a cinema being provided.*
- *Please refer to the 'Land use' section of the report for full discussion.*

Councillors

4.2 Cllr Callaghan, Cllr Apak and Cllr Cotton object on the following grounds:

- Local community have been promised a cinema or community use of the site. The Council should hold developers to account.

- Social amenity is highly valued by residents in densely populated, inner-city areas such as this.
- A cinema is the only reason permission was granted.

Officer response:

- *A marketing exercise has been undertaken and submitted with the planning application to demonstrate that no viable offers have been received to date.*
- *The applicant is seeking to expand the use class to secure a tenant and bring the unit into use. An empty unit has no value to the community.*
- *Various potential operators that include a community / cultural component require the flexibility of a Class E use class to operate.*
- *There is no clear indication from the minutes of the Committee meeting that planning permission was granted on the basis of a cinema being provided.*
- *Please refer to the 'Land use' section of the report for full discussion*

Local groups

CAAC

4.3 The Bartholomew Estate and Kentish Town Conservation Area Advisory Committee (CAAC) objected to the proposal but due to an apparent technical glitch, the contents of the objection cannot be read in full. The CAAC have been contacted and asked to re-send their representation but have not yet responded.

4.4 Castlehaven Community Association object on the following grounds:

- The developer was allowed to build 5 storeys in return for a cinema which would benefit the neighbourhood.
- The current application for a Class E would mean the community would lose all involvement in the building, a huge loss to the local community who have waited patiently.
- We could support Class F which would allow community involvement and a chance we could get the cinema one day.

4.5 Durdans House TRA object on the following grounds:

- The only reason the building was granted planning permission and now exists was a promise of a cinema.
- Object to the betrayal and request it is refused.

4.6 Kelly Street Residents Association object on the following grounds:

- Planning Committee granted the five-storey application recognising the strength of feeling [for a cinema] of Kentish Town residents

- Developer has financially benefited but the quid pro quo was that the community should benefit from the ground floor.
- Developer refuses to negotiate their terms which include unrealistically high rent and freehold price, plus fit out cost

4.7 Kentish Town Road Action (KTRA) object on the following grounds:

- The developers only gained planning permission to develop additional storeys above building because of the legal commitment to provide a cinema within the building.
- If community had known developer would renege on plans, we would never have agreed to development
- Developer maintains tried hard to find a cinema operator, but its offer is on a short lease and high commercial rate basis which is obviously unattractive
- No marketing boards displayed
- KTRA strongly against Class E use but failing a cinema, would accept change to F1/F2

4.8 Inkerman Area Residents Association object on the following grounds:

- The only community benefit of the planning permission to an otherwise unpopular planning application was the promise of a cinema
- The owner's terms include a relatively short lease and a high commercial rent
- Despite a number of approaches by cinemas, it has remained empty.
- The grant of a Class E would signal the complete loss of a community asset and a lucrative space for the owner
- If a cinema proves unachievable then let to another use that could genuinely benefit community, covered by F1/F2 use class.

Officer response to all above representations:

- *A marketing exercise has been undertaken and submitted with the planning application to demonstrate that no viable offers have been received to date.*
- *The applicant is seeking to expand the use class to secure a tenant and bring the unit into use. An empty unit has no value to the community.*
- *Various potential operators that include a community / cultural component require the flexibility of a Class E use class to operate.*
- *There is no clear indication from the minutes of the Committee meeting that planning permission was granted on the basis of a cinema being provided.*
- *Please refer to the 'Land use' section of the report for full discussion.*

Adjoining occupiers

- 4.9 Two sites notice were displayed (one on Kentish Town Road and the other on Prince of Wales Road) from 03/07/2024 until 27/07/2024.
- 4.10 No press advert was displayed given the site is located outside of a conservation area.
- 4.11 Objections were received from at least eight local households, and comments from at least a further seven. The objections received by the Council are on the Council's website. The key issues raised are.
- Accept a cinema may not be its best use (especially given arrival of Curzon at Camden Lock) but feel strongly that the space should still be dedicated to a community / public facing use and so Class E should be removed from the proposal.
 - Cinema operators not interested as the rent is too high given potential capacity and number of screens.
 - Space has got great potential for an arts/culture space which we need now more than ever.
 - Planning permission was granted on the basis of a cinema, the developer should not be able to get out of this commitment.
 - Class E is concerning as a very broad use class that encompasses a wide range of commercial and industrial applications and would almost certainly mean the loss of a community asset.
 - The commercial interests of the developer should not override the commitment to provide a community service.

Officer response:

- *A marketing exercise has been undertaken and submitted with the planning application to demonstrate that no viable offers have been received to date.*
- *The applicant is seeking to expand the use class to secure a tenant and bring the unit into use. An empty unit has no value to the community.*
- *Various potential operators that include a community / cultural component require the flexibility of a Class E use class to operate.*
- *There is no clear indication from the minutes of the Committee meeting that planning permission was granted on the basis of a cinema being provided.*
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5. POLICY

National and regional policy and guidance

[National Planning Policy Framework 2023 \(NPPF\)](#)

[National Planning Practice Guidance \(NPPG\)](#)

[London Plan 2021 \(LP\)](#)
[London Plan Guidance](#)

Local policy and guidance

[Camden Local Plan \(2017\) \(CLP\)](#)

[Policy G1 Delivery and location of growth](#)

[Policy C2 Community facilities](#)

[Policy C3 Cultural and leisure facilities](#)

[Policy A1 Managing the impact of development](#)

[Policy TC1 Quantity and location of retail development](#)

[Policy TC2 Camden's centres and other shopping areas](#)

[Policy TC4 Town centre uses](#)

[Policy T1 Prioritising walking, cycling and public transport](#)

[Policy T2 Parking and car-free development](#)

Kentish Town Neighbourhood Plan (2016)

[Supplementary Planning Documents and Guidance](#)

Most relevant Camden Planning Guidance (CPGs):

[Amenity - January 2021](#)

[Community uses, leisure and pubs - January 2021](#)

[Town centres and retail - January 2021](#)

[Transport - January 2021](#)

[Draft Camden Local Plan](#)

The council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) for consultation (DCLP). The consultation closed on 13 March 2024. The DCLP is a material consideration in the determination of planning applications but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

6. ASSESSMENT

6.1 The principal considerations material to the determination of this application are considered in the following sections of this report:

7	Land use
8	Amenity
9	Transport

7. LAND USE

- 7.1 The application involves the change of use from a single cinema use (Sui Generis) to a flexible use comprising four possible options: a cinema (Sui Generis), Class F.1 (learning and non-residential institutions), Class F.2 (local community), and Class E (commercial, business and service).
- 7.2 The site is situated within the Town Centre of Kentish Town and is designated as secondary frontage. The general thrust of national, regional and local policies seeks to secure and safeguard the vitality and viability of town centres. At a regional level, London Plan Policy SD6 (Town centres and high streets) sets out that the vitality and viability of London's varied town centres should be promoted and enhanced by encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses that meets the needs of Londoners, including main town centre uses, night-time economy, civic, community, social and residential uses.
- 7.3 At a local level, policy TC2 of the Camden Local Plan states it will seek to protect and enhance the role and unique character of each of Camden's centres and provide for and maintain, a range of shops including independent shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice. TC4 meanwhile considers the effect of town centre uses and seeks to ensure development does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

Loss of cinema

- 7.4 Policy C3 of the Camden Local Plan seeks to protect cultural and leisure facilities and where there is a proposal involving the loss of such a facility, it must be demonstrated that there is no longer a demand. When assessing such applications, policy C3 provides the following criteria that the Council will take into account:
- a. whether the premises are able to support alternative cultural and leisure uses;
 - b. the size, layout and design of the existing facility;
 - c. proposals for re-provision elsewhere;
 - d. the impact of the proposal on the range of cultural and leisure facilities; and
 - e. the mix of uses in the area.
- 7.5 CPG Community uses, leisure facilities and pubs requires any proposal involving the loss of a cultural or leisure use to be accompanied by a

marketing exercise to consider the ability of the premises of site to accommodate alternative cultural or leisure use.

- 7.6 It is important to note from the outset that the cinema use has not yet commenced and therefore there is no cultural / leisure facility being lost, rather the potential of the use. Therefore, whilst the policy applies a useful framework for assessment, it should not be applied as rigidly as if the use were established and providing value. Furthermore, the proposal is for a flexible permission that includes a cinema use, so there is scope for the unit to be used as a cinema in the future without the need for further planning permission. Other uses included in the proposed range of uses are F1 (educational / non-residential institution) and F2 (local community use), which could also meet the requirements of the policy in terms of a cultural / leisure use being re-provided.
- 7.7 It is recognised that a cinema is a commercial use, rather than a community use, and any potential operator could charge market prices for tickets. In this case, a cinema plan was secured by Section 106 agreement which sought to secure community benefits from the use. The cinema plan has been submitted to the Council and was discharged on 2nd March 2023. It emphasised the commitment to provide the space for cultural and educational programmes, identified potential users of the space and stated that a communication and marketing strategy would be established to inform such groups of opportunities. It did not, however, make any reference to the affordability of the space.
- 7.8 In terms of how the loss of a cinema would impact the range of cultural and leisure facilities in the area, the cinema context has changed since planning permission was granted. A 5-screen Curzon Cinema opened at Hawley Wharf in November 2021 (0.4 miles away), and an Everyman in Belsize Park (1.2 miles away) was refurbished in September 2021. Less recently but since the application was determined, a 4-screen Everyman cinema has opened in King's Cross. There are therefore now more cinema options easily accessible by public transport from the Kentish Town area which has enhanced the range of cultural and leisure facilities available to local residents.
- 7.9 To support their case for a change of use, the applicant has submitted a detailed marketing report with the application. It sets out a marketing timeline since they acquired the site in May 2018. The site was marketed by the applicant themselves from May 2018 to March 2020 (22 months) prior to the Covid pandemic and then again from May 2021 to December 2022 (19 months) before appointing a professional marketing agent from Savills in January 2023 until present day (21 months at time of writing). In total, the site has been actively marketed for over 5 years during which time it has

been vacant and not contributing to the character, function and vitality of the town centre.

- 7.10 The marketing approach (by Savills) since January 2023 has consisted of the circulation of marketing particulars on Savills website and PIP (an external database of UK agents) and Loop Net/ Costar (third party retail property marketing websites) and promoted on LinkedIn. Direct and targeted approaches were made to 30 cinema operators, mainly smaller boutique operators but larger operators also.
- 7.11 Some consultation responses have referred to the advertised rent being too high or the unwillingness of the applicant to negotiate. The agent advises that the rent was listed as “on application” with discussions typically starting at between £75,000 - £85,000 per annum (approx. £30-34 per sq ft) with some starting as low as £50,000 (£22 per sq ft). There are few comparables given the low number of cinema transactions that have taken place in recent times but also because single screen transactions are particularly rare. The marketing agent advises that Everyman King’s Cross was let at £20 per sq ft but this was over 10 years ago, in a different market and for a cinema around 4 times the size. Historically, it is understood cinema rents in London have ranged from £20-£40 per sq ft. Transactions for similar sized commercial properties in the local area over the past 10 years have been provided which shows a rent per sq ft of between £17.24 - £41.79.
- 7.12 The marketing agent has advised that the rent has remained negotiable with potential operators with the more significant obstacle being the expenditure associated with the fit-out cost relative to the profitability of the single screen.
- 7.13 The response from the indirect marketing generated only 4 responses with 3 viewings and these were from local, non-established operators. With regards to the targeted marketing, an appendix has been provided including a summary of feedback from the 30 different cinema operators approached. Either no response was received or feedback referred to the single screen being too small to suit the business model or only interested on a fully funded fit-out basis.
- 7.14 Two offers were received, with the first not progressing due to viability concerns linked to the pandemic and the second, which was from an affordable community cinema, was on the basis of a fully funded fit out with no base rent but a profit share of 15% on ticket sales. This was not considered commercially viable.
- 7.15 The submission proposes several reasons why a viable offer has not come forward. Firstly, a single screen is capable of screening only one film at a time and due to the way film rights are purchased, an operator must commit to screening the content for a number of weeks at a time meaning a lack of varied content and flexibility to respond to customer demand. Smaller

cinemas are also less attractive to the larger operators as they are less profitable, yet it is mainly the larger operators who have access to the required capital to fund a fit out, secured against future revenue. Part b of policy C3 allows for the size of a facility to be taken into account when assessing applications.

7.16 It is also understood that the Covid pandemic has had an enduring negative impact on the cinema industry with box office revenues not having returned to pre-pandemic levels, which has had a knock-on effect on the willingness of operators to acquire new sites. When potential operators have been interested, they have requested fully funded fit-outs.

7.17 In response to the lack of viable offers from cinema offers and having regard to part (a) of policy C3, the applicant broadened the target audience in the hope of attracting other cultural and community uses. The agent carried out a further marketing exercise on this basis. In response, there have been four interested responses from potential operators including a social enterprise café, a strength training / boxing gymnasium, a non-profit organisation that supports young adults from underrepresented backgrounds in the creative industry; and a social meeting youth space startup. One of these submitted a long leasehold offer but did not have funding secured and so could not progress at the time and the others have not yet resulted in a formal offer. It is noted that nearly all of the organisations and enterprises have advised the applicant that they would require a Class E use to operate.

Proposed uses of Class E / Class F.1 / Class F.2

7.18 In addition to a Sui Generis cinema use, the application proposes a flexible permission to allow for use as Class E (commercial, business and service), Class F1 (learning and non-residential institutions) and Class F2 (local community uses).

7.19 Class E includes a broad range of potential uses broken down into sub-uses as follows:

- a.) Display or sale of goods (other than hot food)
- b.) Sale of food and drink to the visiting public where its consumption is primarily undertaken on the premises
- c.) Financial (i) and professional (ii) services, and any other service which is appropriate to provide in a commercial locality (iii)
- d.) Indoor sport, recreation or fitness to the visiting public
- e.) provision of medical or health services to the visiting public
- f.) Creche, day nursery or day centre principally to the visiting public
- g.) Office (i), research and development of processes / products (ii), industrial process appropriate to carry out in a residential area (iii)

- 7.20 It is noted that the sub-use of g.) is to be excluded via condition (Condition 3) from the suite of potential Class E uses on the grounds that these uses have less engagement with the local community and town centre and could detract from its character and function.
- 7.21 Class F1 is relatively broad and could include education uses, art gallery (non-commercial), a museum, library, public hall or faith facility. Class F2 relates to protected community uses and could in this context only take the form of a 'hall or meeting place for the principal use of the local community' as other uses that fall within the use class are precluded by the nature and location of the site.
- 7.22 There is a significant degree of crossover between the types of uses that can take place in a Class E and a Class F1 or Class F2 premises. For instance, Class E covers indoor sport, recreation or fitness uses and medical / health services; as well as a creche or day nursery use. These are uses that could also be conceived as community and/ or leisure uses and are indeed referred to as such in the Camden Local Plan.
- 7.23 Policy C2 (community facilities) relates to Class F2 seeks to secure a diverse range of community facilities to help enhance quality of life and social cohesion amongst other recognised benefits. In reflection of the fact they are not readily brought forward by the market, it recognises the use of Section 106 agreements to secure new and improved facilities to mitigate the impact of development, as well as CIL monies.
- 7.24 Policy C3 (cultural and leisure facilities) relates to use class F1 but also certain uses that can fall within Class E for instance sport and recreation uses.
- 7.25 There is no objection to the proposed range of uses that would be subject to the flexible permission. They are all suitable town centre uses that accord with policies TC1, TC2 and TC4 and would not compromise Kentish Town's vitality and viability.

8. IMPACT ON NEIGHBOURING AMENITY

- 8.1 CLP policies A1 and A4 and the Amenity CPG are all relevant with regards to the impact on the amenity of residential properties in the area, requiring careful consideration of the impacts of development on light, outlook, privacy and noise. The thrust of the policies is that the quality of life of current and occupiers should be protected and development which causes an unacceptable level of harm to amenity should be refused.
- 8.2 Owing to the nature of the development, there are only potential noise and disturbance issues to consider. All proposed uses are appropriate for the Town Centre location and the nearest residential occupiers are those in the

same building who were aware that the ground floor would have a commercial use. Were a restaurant use to come forward, this would be subject to licensing controls in terms of opening hours and pavement seating.

- 8.3 Were the use to require plant associated with extraction or active cooling, this would require further planning permission and noise and odour assessments as appropriate would need to be submitted to demonstrate harm to amenity could be avoided.

9. TRANSPORT

- 9.1 Policies T1 and T2 of the CLP promote a move away from dependency on private motor vehicles, and a move to more sustainable modes of transport, supported by the right infrastructure and healthier environments.
- 9.2 Given the site's high PTAL score of 6b, it is expected that the majority of users would arrive on foot and via public transport regardless of the use.
- 9.3 The unit has been secured as car-free by the original permission on the site but as the clause is linked to the development, it would need to be secured by a new Section 106 agreement. This would prevent future employees from obtaining parking permits.
- 9.4 The policy compliant level of cycle parking provision depends on the potential use, varying between 1-2 long stay spaces and 2-12 short-stay spaces. No long stay cycle parking for the commercial unit was designed into the building and there is no scope to provide this retrospectively.
- 9.5 CPG Transport applies cycle parking provision to applications that change the way in which people access a site including in the numbers of people travelling to and from a development. For change of use applications, additional provision will only be secured where it leads to more intensive occupation. No short-stay cycle parking was secured by the original application and the proposed uses are not considered to create additional demand compared to the approved cinema use. Therefore, no contribution to short term cycle parking will be sought in this instance. It is noted there are two Camden M-stands adjacent to the building and various other Sheffield or M-stands further afield for use by visitors to the site.

10. CONCLUSION

- 10.1 The applicant has provided comprehensive and detailed marketing evidence to substantiate their claim that a cinema of this size is not currently commercially viable. The key issues appears to be the single screen which operators would only lease on a full fit-out basis. Firstly, as they are likely to be smaller operators with limited access to capital and secondly as the rental values are lower and risks higher given the limited screening capacity. The

applicant claims it is not commercially viable to cover fit-out costs and the Council has no grounds on which to dispute this.

- 10.2 Since the marketing exercise was broadened, interest in the space has come from several organisations with a community focus, though these organisations have expressed a need to have a planning use Class E to provide the flexibility to include a commercial or retail element. As such, it is not considered reasonable to exclude Class E fully from the proposal, though scope to use the premises under part (g) would be removed via condition in the interests of securing an active use that engages with the town centre.
- 10.3 Representations from local stakeholders claim that the additional building height was supported at Planning Committee based on the provision of a cinema use; however, it is not possible to substantiate this connection. The Committee meeting minutes suggest that several Members did not find the additional height to be harmful and therefore public benefits (which could have included a cinema) were not required to outweigh heritage harm. Even if the application were supported on the grounds that a cinema was include, the challenges in finding an operator remain, as evidenced by the submitted marketing report.
- 10.4 Officers therefore consider there to be no reasonable grounds upon which to refuse planning permission. Satisfactory evidence has been provided to demonstrate the marketing efforts undertaken. The proposal to expand the use class is expected to bring the ground floor into use, contributing to the activity and vitality of the Town Centre, as well as generating employment opportunities. Excluding office use from the potential uses will help ensure future occupiers provide an active use appropriate to its Town Centre location.

11. RECOMMENDATION

- 11.1 Grant conditional Planning Permission subject to a Section 106 legal agreement.
- 11.2 The legal agreement will include a single clause for car free development.

12. LEGAL COMMENTS

- 12.1 Members are referred to the note from the Legal Division at the start of the Agenda.

13. CONDITIONS

Standard conditions

1 Time limit

The development hereby permitted must be begun not later than 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 Approved drawings

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

KTR-VBL-XX-XX-DR-A-00.000 Rev P1; KTR-VBL-XX-XX-DR-A-01.100 Rev P01; KTR-VBL-XX-XX-DR-A-03.100 Rev P01

Cover letter dated 28 June 2024; Planning statement (dated June 2024, prepared by Savills (UK) Limited); Marketing report (prepared by Savills, dated 14 June 2024); Email correspondence from Savills Planning dated 04/09/24; Letter from Savills re: marketing evidence dated 16/08/24

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

3 Permitted development rights

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or the Town and Country Planning (General Permitted Development) Order 2020 (or any orders revoking and re-enacting those orders with or without modification), the site shall not be used as an office (Class E (g)(i))

Reason: To protect the function and character of the Town Centre in accordance with policies TC2 and TC4 of the Camden Local Plan 2017.

14. INFORMATIVES

1	Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
2	Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

Planning Committee

10th October 2024

2024/0601/P

187 Kentish Town Road
London
NW1 8PD









