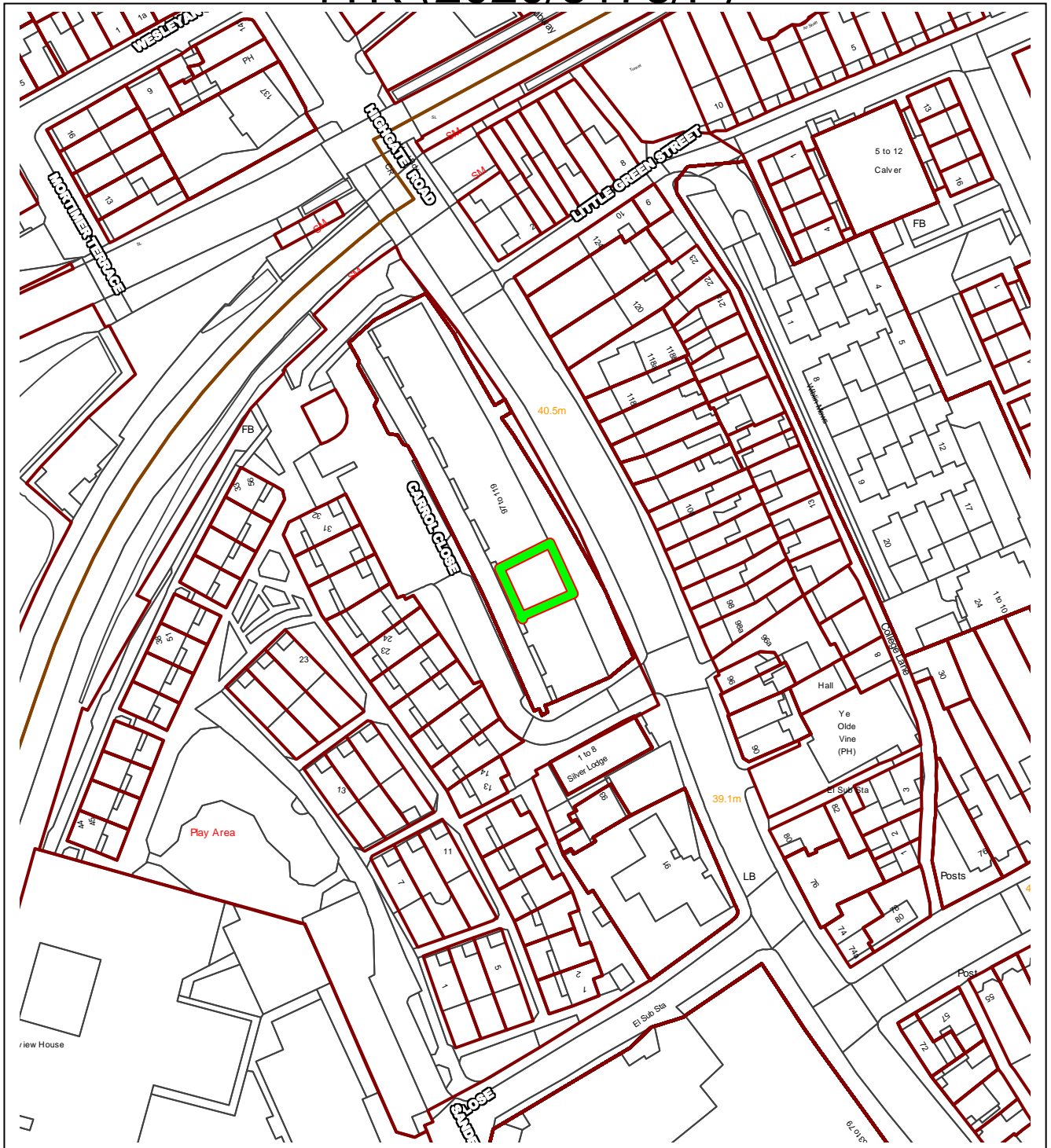


# 103-105 Highgate Road, London, NW5 1TR (2020/5178/P)



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## Site photos

103-105 Highgate Road, London



Photo 1 (above) Aerial view with the site outlined in red (ground floor restaurant use)



Photo 2 (above): Front elevation of Rossella restaurant from Highgate Road

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	<b>05/01/2021</b>
<b>(Members Briefing)</b>		N/A / attached	<b>Consultation Expiry Date:</b>	<b>09/01/2021</b>
<b>Officer</b>			<b>Application Number(s)</b>	
Elaine Quigley			2020/5178/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
103 – 105 Highgate Road London NW5 1TR			See Draft Decision Notice	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Variation of condition 3 (approved plans), variation of condition 4 (hours of operation) to allow opening hours of restaurant to be amended namely from Mondays to Fridays 08:00 to 23:00, and Saturdays and Sundays 10:00 to 23:00, to Monday to Friday 08:00 to 00:00 and Saturday 09:00 to 00:00 and Sunday 09:00 to 23:00 and variation of condition 8 (ventilation and filtration details) to amend the ventilation and filtration equipment required by planning permission 2020/0594/P dated 09/10/2020 (RETROSPECTIVE)				
<b>Recommendation(s):</b>		Grant conditional planning permission.		
<b>Application Type:</b>		Variation or Removal of Condition(s)		

<b>Conditions or Reasons for Refusal:</b>	<b>Refer to Draft Decision Notice</b>					
<b>Informatives:</b>						
<b>Consultations</b>						
<b>Adjoining Occupiers:</b>	No. notified	<b>00</b>	No. of responses	<b>05</b>	No. of objections	<b>05</b>
<b>Summary of consultation responses:</b>	<p>A site notice was displayed from 16/12/2020 to 09/01/2021.</p> <p><b><u>Original proposal</u></b>          The original proposal was to extend the opening hours until 01:00am (Monday to Saturday) and 00:00 on a Sunday.</p> <p>5 letters of objection were received from local residents at Flat 32, 119 Highgate Road, Flat 40, 119 Highgate Road, 98 Highgate Road, 100 Highgate Road and 104 Highgate Road raising the following concerns:</p> <ul style="list-style-type: none"> <li>• <b>Noise</b> <ul style="list-style-type: none"> <li>- Properties above the restaurant include windows that serve bedrooms with no double glazing and concerned about noise from patrons coming and going</li> <li>- Not able to open bedroom windows if people are coming out of the restaurant during the early hours</li> <li>- Extended hours will disturb sleep of people living directly above</li> <li>- Extended hours will result in loss of amenity due to potential noise from patrons which would not be controlled.</li> <li>- Could set a precedent for The Vine to propose a similar objective and create creeping noise escalation</li> <li>- Extended hours would cause more aggravation in the form of noise with large groups of people in the street not to mention behaviour that generally accompanies drinking into the early hours</li> </ul> </li> </ul> <p><b><i>Officer's response: See paragraphs 3.2 to 3.6 of the amenity section below</i></b></p> <p><u>Revisions</u>          The proposal has been amended to reduce the hours of opening to 00:00 Monday to Saturday and 23:00 on Sundays and Bank Holidays. No further comments have been received from local residents following the reduction in the hours of operation.</p>					
<b>Local groups comments:</b>	None received.					

## Site Description

The site is part of a four storey building located on the west side of Highgate Road close to the junction with Carrol Close to the south. It is occupied by a ground floor restaurant that occupies nos. 103-105 Highgate Road (known as Rossella) which forms part of a parade of 9 commercial units that lies within the Highgate Road Neighbourhood Centre. Above the commercial units are 3 floors of residential flats where Camden Council is the freeholder.

The building is not listed and the site is not within a conservation area however it is directly opposite properties that lie within the Dartmouth Park conservation area. The site lies within the Dartmouth Park Neighbourhood Plan Area.

## Relevant History

### Application site

Planning permission was **granted** (ref 2019/0589/P) on 26/06/2019 for removal of condition 1 (personal permission) of planning permission dated 12/09/1990 (ref 9003317) for change of use of ground floor from retail to use as a pasta bar (Use Class A3) namely to continue operating as a restaurant use.

Planning permission was **refused and warning of enforcement action to be taken** (ref 2019/5899/P) on 09/10/2020 for alterations of the existing shopfront including the installation of new automated teller machine (retrospective).

Advertisement consent was **refused with warning of enforcement action to be taken** (ref 2019/6285/A) on 09/10/2020 for display of 2 internally illuminated and 1 non-illuminated ATM signs to the shop front of the retail unit (retrospective).

Planning permission was **granted** (ref 2020/0594/P) on 09/10/2020 for change of use of ground floor retail unit (A1 use) at no. 105 to restaurant (Class A3) as an extension to the existing restaurant at no. 103 to provide a single restaurant use, together with installation of new shopfront and internal roller shutter at unit 105 and alterations to rear ground floor façade including new fire escape doors, bricking up door openings and installation of intake louvre and discharge grill at first floor level.

Advert consent was **granted** (ref 2020/5116/A) on 05/11/2020 for installation of a single awning above both shopfronts and one internally illuminated projecting sign.

### Other Food and Drink uses within the vicinity

#### 53-57 Highgate Road (Highgate Studios)

Planning permission was **granted** (ref PE9900510) on 01/11/1999 for variation of additional condition 01 on planning permission PE9800396R1 for the refurbishment and alterations of the external commercial premises, including the provision of an A3 use, to allow customers to remain on the premises until 2300 hours on Sundays and 2330 hours of Monday to Saturday.

#### 86 Highgate Road (Ye Olde Vine Public House)

Planning permission was **granted** on 04/02/2011 (ref 2011/0061/P) for erection of rear ground floor infill extension, to replace existing temporary marquee, with new roof lights and a roof lantern to accommodate dining area and erection of a first floor level rear extension to existing staircase of the public house (Class A4).

The pub's opening hours are 12pm to 11pm (Monday to Saturday) and 12pm to 10pm (Sunday).

## Relevant policies

National Planning Policy Framework (NPPF) (2021)

The London Plan (2021)

**Camden Local Plan (2017)**

A1 Managing the impact of development  
A4 Noise and vibration

## **Dartmouth Park Neighbourhood Plan (2020)**

CE1 Supporting Neighbourhood Centres

## **Camden Planning Guidance (CPG) (2021)**

Amenity

### **Assessment**

#### **1.0 BACKGROUND**

1.1 Planning permission was granted (ref 2020/0594/P) on 09/10/2020 for change of use of ground floor retail unit (A1 use) at no. 105 to restaurant (Class A3) as an extension to the existing restaurant at no. 103 to provide a single restaurant use, together with installation of new shopfront and internal roller shutter at unit 105 and alterations to rear ground floor façade including new fire escape doors, bricking up door openings and installation of intake louvre and discharge grill at first floor level. A condition (condition 4) was attached to the planning permission limiting the opening hours to reflect the opening hours of the restaurant before it was extended into the adjacent retail unit as part of this planning permission, to the following times:

- Monday to Friday 08:00 to 23:00
- Saturdays and Sundays 10:00 to 23:00

#### **Licensing Background**

1.2 The application needs to be viewed within the context of the licensing legislation 2003. Rossella restaurant has a premises licence to play recorded music until 23:00 hours (Monday to Sunday), offer late night refreshment until 00:30 hours (Monday to Saturday) and sell alcohol until 00:00 (Monday to Saturday) and 23:00 (Sunday). The premises license (ref PREM-LIC\102597) was **granted** on 29/09/2020 with the following opening hours:

- Monday to Friday 08:00 to 01:00
- Saturday 09:00 to 01:00
- Sunday 09:00 to 00:00

1.3 The licence is subject to the following conditions:

- The premises licence holder shall ensure that noise nuisance is kept to a minimum, both inside and in the immediate vicinity of the premises
- All sales of alcohol for consumption off the premises shall be in sealed containers
- Alcohol consumed inside the premises shall only be consumed by patrons seated at tables
- There shall be no vertical drinking
- There shall be no sales of alcohol for consumption off the premises after 22:30.
- All regulated entertainment shall cease 30 minutes prior to the terminal hour of the premises as stated in the application

#### **ENFORCEMENT**

1.4 An enforcement complaint was received from a local resident of 119 Highgate Road in June 2022 regarding late night noise from a television and people talking with concerns that someone may be sleeping onsite. The noise complaint was not in association with the restaurant use.

#### **2.0 PROPOSAL**

2.1 Permission is sought for variation to condition 3 to amend the approved plans to reflect the changes proposed to condition 8, variation to condition 4 for the extension to the opening hours of the ground floor restaurant and variation of condition 8 to amend the technical specification of the extraction filters as part of the ventilation and filtration system. No external changes are being proposed as part of this s73 application.

#### Approved hours of opening

2.2 The 2020 planning permission limited the opening hours to reflect the opening hours of the

restaurant before it was extended into the adjacent retail unit as part of the 2020 planning permission to the following times:

- Monday to Friday 08:00 to 23:00,
- Saturdays and Sundays 10:00 to 23:00

#### Proposed hours of opening

2.3 The original proposal suggested the following times which is in line with the approved hours of opening agreed by Licensing Committee in September 2020:

- Monday to Friday 08:00 to 01:00,
- Saturday 09:00 to 01:00,
- Sunday 09:00 to 00:00

#### Revised hours of opening

2.4 Following the consultation process the applicant agreed to revise the opening hours to the following:

- Monday to Friday 08:00 to 00:00,
- Saturday 09:00 to 00:00,
- Sunday 09:00 to 23:00.

2.5 A condition (condition 8) was attached to the 2020 permission detailing the equipment filtration system to be used to ensure that the ventilation and filtration equipment suppressed and dispersed fumes and smells created from cooking activities on the premises. The approved filtration system included UV-O 1000 odour control units produced by Chiller Box used to eliminate odours. The applicant is seeking to revise the technical specification to install controlled ozone units produced by Controlled Ozone.

### **3.0 ASSESSMENT**

3.1 The main considerations material to the determination of this application are summarised as follows:

- Amenity – noise
- Amenity - smells

#### **Amenity (Noise)**

3.2 Policy A1 of the Camden Local Plan aims to protect residential amenity. The nearest residents' units are above and behind the existing restaurant. The impact of increased opening hours would be considered in relation to these and other nearby residential properties. The premises entrance is onto Highgate Road. It is considered that when closing, the majority of customers would proceed onto Highgate Road to either walk home or access public transport and / or taxis. Concerns have been raised by local residents regarding noise associated with the management of the restaurant particularly from patrons coming and going to and from the restaurant into the early hours and the negative impact this might have on the amenity of local residents living in close proximity to it. Following the statutory consultation period, the applicant agreed to reduce the proposed hours of opening by 1 hour in the evening from 01:00 to 00:00 Monday to Saturday and from 00:00 to 23:00 on Sundays. The proposed times would be similar to other licenced food and drink venues within the local area including the restaurant at Highgate Studios. Although these opening hours are not in accordance with the restaurant's premises licence, the applicant has advised that they do not open beyond 00:00. The site is within a neighbourhood centre which is a location characterised by commercial uses. The opening times together with the other conditions secured as part of the original permission, including no audible music to neighbouring occupiers, would be considered reasonable within this commercial parade of shops to ensure the restaurant would not create additional noise and disturbance into the late evening.

3.3 It should be noted that there have been no records of noise complaints or ASB-related incidents to the Council's Environmental Health Noise and Pollution Team since 2018.

3.4 The Council's Enforcement Team received an enforcement complaint from a local resident of 119 Highgate Road in June 2022 regarding late night noise from a television and people talking with

concerns that someone may be sleeping onsite. This alleged noise complaint was not related to the restaurant use.

3.5 Taking this into consideration, it would not be possible to demonstrate that the increased opening hours would give rise to loss of residential amenity or increased anti-social behaviour. The addition of 1 hour to the opening times in the evening and its impact on amenity in terms of noise is considered acceptable.

3.6 A local residential has raised concerns about the extended hours and the fact that this could set a precedent for The Vine at 86 Highgate Road to propose a similar objective and create creeping noise escalation. Ye Olde Vine is a pub which opens until 11pm. If an application were submitted to extend its opening hours this would be assessed on its own merits.

#### **Amenity (Smells)**

3.7 The proposed ventilation and filtration system within the kitchen extract fans would be amended from UV-0 Range 2020 Air Flow to controlled ozone units produced by Ecovery Innovations to neutralise cooking odours. The Council's Environmental Health officer has reviewed the details and is satisfied with the information provided. Given that the application is retrospective the wording of condition 8 would be revised to seek to ensure that the equipment is maintained in full working order in accordance with the approved plans.

3.8 Condition 8 would now read:

*The ventilation and filtration equipment to suppress and disperse fumes and/or smells created from cooking activities on the premises, shall be installed and be in full working order in accordance with the approved plan CBLD-13774-03 rev B. All such measures shall thereafter be retained and maintained in accordance with the manufacturers' recommendations. In the event of no satisfactory ventilation plant and / or machinery being installed, no primary cooking shall take place on the premises.*

#### **4.0 RECOMMENDATION**

4.1 Grant variation to planning permission

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 19<sup>th</sup> June 2023, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.***



Application ref: 2020/5178/P  
Contact: Elaine Quigley  
Tel: 020 7974 5101  
Email: [Elaine.Quigley@camden.gov.uk](mailto:Elaine.Quigley@camden.gov.uk)  
Date: 12 June 2023

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)

[www.camden.gov.uk](http://www.camden.gov.uk)

DC architects  
13 Barrington Road  
London  
SW9 7EB

# DRAFT

Dear Sir/Madam

**DECISION**

Town and Country Planning Act 1990 (as amended)

## **Variation or Removal of Condition(s) Granted**

Address:

**103 -105 Highgate Road  
London  
NW5 1TR**

Proposal:

Variation of condition 3 (approved plans) variation of condition 4 (hours of operation) to allow opening hours of restaurant to be amended namely from Mondays to Fridays 08:00 to 23:00, and Saturdays and Sundays 10:00 to 23:00, to Monday to Friday 08:00 to 00:00 and Saturday 09:00 to 00:00 and Sunday 09:00 to 23:00 and variation of condition 8 (ventilation and filtration details) to amend the ventilation and filtration equipment required by planning permission 2020/0594/P dated 09/10/2020 (RETROSPECTIVE)

Drawing Nos: CBLD-13774-01 rev A; CBLD-13774-03 rev A; RS\_PL\_100; RS\_EX\_PL\_100; RS\_EX\_EL\_301; RS\_EX\_EL\_302; RS\_PL\_100; RS\_EL\_301; RS\_SE\_203; RS\_SE\_204; Mechanical ventilation calculations (DW172 Coefficient calculation); Plant noise assessment produced by Aran Acoustics dated 3rd September; Controlled Ozone Technical information produced by Ecovery Innovation.

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 is/was required to be begun by or before 09/10/2023.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017 and and policy DC3 of the Dartmouth Park Neighbourhood Plan.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans-  
Site location plan; CBLD-13774-01 rev A; CBLD-13774-03 rev A; RS\_PL\_100; RS\_EX\_PL\_100; RS\_EX\_EL\_301; RS\_EX\_EL\_302; RS\_PL\_100; RS\_EL\_301; RS\_SE\_203; RS\_SE\_204; Mechanical ventilation calculations (DW172 Coefficient calculation); Plant noise assessment produced by Aran Acoustics dated 3rd September; Controlled Ozone Technical information produced by Ecovery Innovation.

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

- 4 The use hereby permitted shall not be carried out outside the following times  
Monday to Friday 08:00 to 00:00, Saturday 09:00 to 00:00 and Sunday 09:00 to 23:00.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies D1, A1, A4 and TC2 of the London Borough of Camden Local Plan 2017.

- 5 No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 6 The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the typical existing background noise level by at least 10dBA, or by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 7 No sound emanating from the use shall be audible within any adjoining premises between 23:00 hrs and 08:00 hrs.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1, and A4 of the London Borough of Camden Local Plan 2017.

- 8 The ventilation and filtration equipment to suppress and disperse fumes and/or smells created from cooking activities on the premises, shall be in full working order in accordance with the approved plan CBLD-13774-03 rev A. All such measures shall thereafter be retained and maintained in accordance with the manufacturers' recommendations. In the event of no satisfactory ventilation plant and / or machinery being installed, no primary cooking shall take place on the premises.

Reason: To safeguard the amenities of the premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 9 The air intake louvre hereby approved at ground floor level on the rear elevation shall be painted black.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017 and policy DC3 of the Dartmouth Park Neighbourhood Plan.

Informative(s):

- 1 This approval under Section 73 of the 1990 Act effectively varying the relevant conditions of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).

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.](https://www.gov.uk/appeal-planning-decision)

Yours faithfully

Chief Planning Officer