

Delegated Report		Analysis sheet		Expiry Date:		19/03/2021	
		N/A		Consultation Expiry Date:		21/02/2021	
Officer				Application Number			
Sarah White				2020/4928/P			
Application Address				Drawing Numbers			
43 Theobald's Road London WC1X 8SP				See decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Alterations to existing flue extract on rear elevation and installation of plant on rear extension roof, removal of awning to shopfront, all in relation to existing take-away use (Class use Sui-generis). (Retrospective)							
Recommendation(s):		Refuse Planning Permission and Warning of Enforcement Action to be taken					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining occupiers and/or local residents/groups				No. of responses		2	
				No. of objections		2	
Summary of consultation responses:		<p>A Site Notice was displayed from 27/01/2021 until 20/02/2021 and a Press Notice was published from 28/01/2022 until 21/02/2021.</p> <p>Two objections were received, one from a neighbouring occupier and one from a Councillor. These objections are summarised below.</p> <p>The objection from the neighbouring occupier was as follows:</p> <ul style="list-style-type: none"> • The owner did not apply for planning permission before undertaking the works. • Impact of the roof level plant on the character and appearance of the neighbouring Grade II Listed Building – Conway Hall. • Noise impacts on adjoining neighbours. • Illegal parking of mopeds on the street in front of the site • Dumping of rubbish in front of the site <p>Councillor Fulbrook also objected to the application noting strong support of the objection above. Specifically, the impacts of the development on the amenity of the neighbourhood.</p>					

Officers response:

- The application is being treated as a retrospective application
- Design and heritage impacts are assessed in section 3 of this report
- Neighbouring amenity impacts are assessed in section 4 of this report

Site Description

The application site is located on the southern side of Theobald's Road at No.43 and comprises a four-storey (plus basement) mid-terrace property. The application relates to the commercial unit on the ground floor and basement levels only, which is currently in use as a takeaway restaurant. The upper floors are in residential use

The site is located within the Bloomsbury Conservation Area and the property is identified as making a positive contribution to the conservation area. The property is not listed, however Conway Hall located to the southwest of the site is Grade II Listed.

The site was previously in use as a fish and chips takeaway shop and was taken over by the current occupier Papa John's in October 2020 and is in continued use as a takeaway shop.

Relevant History

2020/4206/A – Display of 1x externally illuminated fascia sign and 1x externally illuminated projecting sign. **Granted 28/02/2022.**

Relevant Policies

National Planning Policy Framework (NPPF) 2023

London Plan 2021

Camden local Plan 2017

D1 Design

D2 Heritage

D3 Shopfronts

A1 Managing the impact of development

A4 Noise and vibration

Camden Planning Guidance

CPG Amenity (2021)

CPG Design (2021)

Bloomsbury Conservation Area Character Appraisal and Management Strategy (2011)

Draft Camden Local Plan

The council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account 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).

Assessment

1. The proposal

- 1.1. Retrospective planning permission is sought for the alterations to existing flue extract on the rear elevation and installation of plant on rear extension roof and removal of awning to

shopfront in relation to the continued use of the property as a takeaway restaurant.

2. Assessment

- 2.1. The principal considerations material to the determination of this application are as follows:
- Design and Heritage
 - The impacts caused upon the residential amenities of any neighbouring occupier (Residential Amenity)

3. Design and Heritage

- 3.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy D1 outlines that development should respect local context and character and comprise details and materials that are of high quality and complement the local character.
- 3.2. Policy D2 states that in order to maintain the character of Camden's conservation areas, the Council will not permit development that fails to preserve or enhance the character and appearance of that conservation area.

Flue extract and roof-top plant

- 3.3. The Design CPG outlines that roof-top plant should be concealed and should not be visible from the street or public vantage points. Installations must be in keeping with the design and materials of the host property and adjoining buildings.
- 3.4. Paragraph 5.4 of the Bloomsbury Conservation Area Character Appraisal and Management Strategy (2011) (CAA) identifies that a key issue within the conservation area is the addition of prominent roof level plant that detracts from both the building and character and appearance of the area.
- 3.5. The proposal includes the installation of an extract flue out through the existing rooflight to connect with the existing flue which runs up the rear elevation of the building. A fresh air intake is also proposed through the rooflight along with a condenser unit beside the rooflight. The plant is located on top of a first-floor rear extension.
- 3.6. It is noted that the most prominent part of the flue which runs up the rear elevation of the building is existing, therefore the extension of this flue through the existing roof lights would have minimal impact in terms of increasing the visual prominence of the flue. Whilst screening or concealment of the condenser unit would generally be preferred, given the location of the plant to the rear of the building and in the middle of the terrace, it would not be visible from the public realm.
- 3.7. As such, the extension to the existing flue and additional roof-top plant would not result in unacceptable harm to the character and appearance of the Bloomsbury Conservation Area.
- 3.8. There is a grade II listed building to the rear of the site which comprises the L-shaped Conway Hall building. The building is significant due to its special architectural interest, particularly the front elevation to Red Lion Square, leading to its designation as a heritage asset. The proposed development located to the rear of this building and the plant sits well below the roof line of the building, thus is not considered to compromise the setting of the listed building or detract from the appreciation of its special interest in any way.

Shopfront

- 3.9. Policy D3 states that the Council will expect a high standard of design in new and altered

shopfronts, canopies and other features. When determining proposals for shopfront development the Council will consider the existing character, architectural and historic merit and design of the building and its shopfront.

- 3.10. The awning on the shopfront has been removed. Awnings are not a common characteristic of this area or a historic feature of the application building, and therefore the removal does not detract from the appearance of the shopfront.
- 3.11. Overall, the removal of the awning is not objectionable and therefore the proposal is not considered to result in unacceptable impacts to the character and appearance of the host property or conservation area.
- 3.12. It is noted that whilst not included on the plans, the stall riser on the shopfront has been removed and replaced with glazing. These works do not form part of the current application and therefore have not been assessed. The Applicant is advised that planning permission is required for this change to the shopfront and the Council's Enforcement Team has been made aware of these works and may take enforcement action.

4. Amenity

- 4.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of residents. This includes factors such as noise and disturbance, odour, and transport impacts.
- 4.2. The primary impact from the current development would be noise impacts on surrounding residents resulting from the rear roof-top plant. Policy A4 states that development should have regard to Camden's Noise and Vibration Thresholds and planning permission will not be granted for development likely to generate unacceptable noise and vibration impacts.
- 4.3. Appendix 3 of the Local Plan sets out the noise thresholds for development and Table C sets out the noise levels applicable to proposed industrial and commercial developments (including plant and machinery). It states that plant should achieve a minimum 'rating level' of 10dB below background levels, both during the day and at night.
- 4.4. A Noise Impact Assessment (prepared by Sharps Redmore, dated 22/01/2021) was submitted in support of the application and this has been reviewed by Council's Environmental Health Officer. The report shows that with the proposed mitigation, the plant noise would be below background levels, however, it would only meet the Local Plan requirements of 10dB below background levels at one of the testing locations. As such, additional mitigation would be required to bring the noise levels down further so that they achieve 10dB below background levels at all testing locations.
- 4.5. The Applicant was advised of this requirement for further noise mitigation, however no further mitigation was proposed. As such, the development would fail to safeguard the amenities of adjoining residential occupiers, contrary to policies A1 and A4 of the Local Plan 2017. This is a reason for refusal.
- 4.6. Odour impacts on adjoining occupiers must also be considered given the use of the site as a takeaway restaurant. A ventilation report was submitted with the application which has been reviewed by Council's Environmental Health Officer who confirmed that the odour management and abatement proposed was acceptable.
- 4.7. It is noted that the objections mentioned that there were issues with moped parking and dumping of rubbish out the front of the site. This application only relates to alterations to the shopfront and installation of plant and does not assess the use of the site as a takeaway restaurant, which has been established lawfully. Therefore, the changes to the shopfront and installation of plant would not result in any further impacts on parking or rubbish

storage/collection.

5. Recommendation:

- 5.1. **Recommendation 1:** Refuse planning permission for the following reasons:
- 5.2. **Recommendation 2:** That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended **seeking removal of the unauthorised flue extension to the existing flue, a fresh air intake within the existing rooflight, and a condenser unit located on the flat roof of the rear extension adjacent to the existing rooflight**, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Alterations to existing flue extractor located on the rear elevation of the building, and installation of plant including a fresh air intake within the existing rooflight, and an air conditioning unit located on the flat roof of the rear extension.

WHAT ARE YOU REQUIRED TO DO:

1. Totally remove the extended part of the flue coming through the existing rooflight and that is attached to the existing flue located on the rear elevation;
2. Totally remove the fresh air intake within the existing rooflight; and
3. Totally remove the air condenser unit located on the flat roof of the rear extension as shown on the proposed elevations drawing ref: 1911-11 Rev A.

PERIOD OF COMPLIANCE: One Month

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

The proposed development, by virtue of insufficient noise mitigation associated with the roof-top plant, would fail to achieve a minimum 'rating level' of 10dB below background levels at all testing locations, and thus would fail to safeguard the amenities of adjoining residential occupiers by virtue of potential noise nuisance, and is thereby contrary to Policies A1 (Managing the impact of development) and A4 (noise and vibration) of the Camden Local Plan 2017.