

Application ref: 2024/4434/P
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Date: 30 December 2024

Development Management
Regeneration and Planning
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Mr Mumin Yildiz
82 Tynemouth Drive
London
EN1 4LT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
153 Fortress Road
London
NW5 2HR

Proposal:
Installation of an ESP (Electrostatic Precipitator) ventilation extract system to rear ground floor of restaurant.

Drawing Nos:
Noise assessment report ref: FR230724NW52HR-4 Dated 11/10/2024, PM/3237/01, PM/3237/02, SE/153FR/01 dated Oct 2024, SE/153FR/02

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 must be begun not later than the end of 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 The development hereby permitted shall be carried out in accordance with the following approved plans:

Noise assessment report ref: FR230724NW52HR-4 Dated 11/10/2024, PM/3237/01, PM/3237/02, SE/153FR/01 dated Oct 2024, SE/153FR/02

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

- 3 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.

- 4 The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA, 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 and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 5 Prior to use, machinery, plant or equipment at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by vibration in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 6 The installation, operation, and maintenance of the odour abatement equipment and extract system, including the height of the extract duct and vertical discharge outlet shall be in accordance with the 'EMAQ+Control of Odour and Noise from Commercial Kitchen Exhaust Systems. Approved details shall be implemented prior to the commencement of the use and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by cooking odour in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

Informative(s):

1 Reasons for granting permission.

The site is a three-storey plus attic building on the west side of Fortress Road, a designated neighbourhood centre. The ground floor café has recently sought to expand its provision as a restaurant. There is a small yard to the rear with a closet wing, storage shed, and outdoor area with seating for customers. The upper floors are residential, subdivided into three flats. The site is not designated as a heritage asset but is situated in the Kentish Town Neighbourhood Plan Area.

The proposal seeks permission for a ventilation extraction duct and grille exiting at rear ground floor level to serve the existing café and restaurant. Due to the site context, densely surrounded by residential accommodation at upper floor levels and the presence of a tall blank wall to the rear of the site, scope for extraction ducting to extend upwards are limited due to the proximity to residential windows. A refusal was issued in October 2024 for a duct that extended the full height of the rear elevation. To address this, the applicant is now seeking permission for a ventilation extraction duct that would be contained within the envelope of a building, thus limiting impacts on nearby residential occupiers. The impact on the external appearance of the building is limited to an outlet grille on the rear elevation, resulting in a limited impact on the fabric of the building. Due to the location and design, the proposals are considered to preserve the character and appearance of the host building.

Notwithstanding the acceptability of the extraction grille, during a site visit Officers observed a timber structure with a polycarbonate roof canopy covering the yard between the rear extensions and rear shed store, erected without planning permission. The proposed extract duct will exit where this structure is attached to the rear elevation and may limit the dispersal of odour, therefore, this matter has been passed to planning enforcement.

The Council will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity. The nearest residential properties which could potentially be affected by noise or odour emissions from the installation are in the flats above the site. A neighbouring business has raised concerns about the potential impact in terms of operating hours, noise, and odour. The applicant has submitted a noise assessment which concludes the duct would not result in noise level standards being exceeded to the nearest residential windows, provided recommended mitigation measures are installed and maintained. The primary noise source identified was road traffic noise from Fortress Road and secondary noise sources from the existing ductwork at the neighbouring site, number 151 Fortress Road.

The council's Environmental Health Officer has assessed the submitted noise report and is satisfied it meets the council guidelines. The predicted noise limits would be acceptable subject to conditions attached to this decision. Given the minor nature of the external alterations, there would be no negative impact on the amenity of neighbours in terms of noise, odour, or outlook, if equipment is designed as specified in the submitted assessment reports. The proposals are

not considered to harm neighbouring residential amenity in terms of loss of privacy, daylight, or outlook.

- 2 Based on the information available this permission will not require the approval of a Biodiversity Gain Plan before development is begun because it is below the de minimis threshold, meaning it does not impact an onsite priority habitat and impacts less than 25sqm of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of linear habitat.

Two objections have been received from the neighbouring business prior to making this decision. The comments relate primarily to the competition between businesses, impact on town centre uses, licensing and leasehold issues, and have been addressed in the associated consultation summary. The issues raised are not relevant material consideration in terms of the planning assessment for the ventilation grille. The council also considered the area's planning history and relevant appeal decisions when coming to this decision.

As such, the proposal is in general accordance with policies A1, A4 and D1 of the Camden Local Plan 2017 and policy D3 of the Kentish Town Neighbourhood Plan 2016. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2024.

3 ENFORCEMENT ACTION TO BE TAKEN

An enforcement case will be opened to allege a breach of planning control in relation to the existing unauthorised timber structure and canopy at the rear of the site. The Director of Supporting Communities may instruct the Borough Solicitor to issue an Enforcement Notice alleging a breach of planning control.

- 4 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).
- 5 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 6 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 7 Biodiversity Net Gain (BNG) Informative (1/2):

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 ("1990 Act") is that planning permission granted in England is subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The local planning authority (LPA) that would approve any Biodiversity Gain Plan (BGP) (if required) is London Borough of Camden.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are summarised below, but you should check the legislation yourself and ensure you meet the statutory requirements.

Based on the information provided, this will not require the approval of a BGP before development is begun because it is below the de minimis threshold.

++ Summary of transitional arrangements and exemptions for biodiversity gain condition

The following are provided for information and may not apply to this permission:

1. The planning application was made before 12 February 2024.
2. The planning permission is retrospective.
3. The planning permission was granted under section 73 of the Town and Country Planning Act 1990 and the original (parent) planning permission was made or granted before 12 February 2024.
4. The permission is exempt because of one or more of the reasons below:
 - It is not "major development" and the application was made or granted before 2 April 2024, or planning permission is granted under section 73 and the original (parent) permission was made or granted before 2 April 2024.
 - It is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).
 - The application is a Householder Application.
 - It is for development of a "Biodiversity Gain Site".

- It is Self and Custom Build Development (for no more than 9 dwellings on a site no larger than 0.5 hectares and consists exclusively of dwellings which are Self-Build or Custom Housebuilding).
- It forms part of, or is ancillary to, the high-speed railway transport network (High Speed 2).

8 Biodiversity Net Gain (BNG) Informative (2/2):

+ Irreplaceable habitat:

If the onsite habitat includes Irreplaceable Habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements. In addition to information about minimising adverse impacts on the habitat, the BGP must include information on compensation for any impact on the biodiversity of the irreplaceable habitat. The LPA can only approve a BGP if satisfied that the impact on the irreplaceable habitat is minimised and appropriate arrangements have been made for compensating for any impact which do not include the use of biodiversity credits.

++ The effect of section 73(2D) of the Town and Country Planning Act 1990

If planning permission is granted under section 73, and a BGP was approved in relation to the previous planning permission ("the earlier BGP"), the earlier BGP may be regarded as approved for the purpose of discharging the biodiversity gain condition on this permission. It will be regarded as approved if the conditions attached (and so the permission granted) do not affect both the post-development value of the onsite habitat and any arrangements made to compensate irreplaceable habitat as specified in the earlier BGP.

++ Phased development

In the case of phased development, the BGP will be required to be submitted to and approved by the LPA before development can begin (the overall plan), and before each phase of development can begin (phase plans). The modifications in respect of the biodiversity gain condition in phased development are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with the National Planning Policy Framework. The council publishes its adopted policies online, along with detailed Camden Planning Guidance. It also provides advice on the website for submitting applications and offers a pre-application advice service.

You can find advice about your rights of appeal at:

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

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

Yours faithfully

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

Daniel Pope
Chief Planning Officer