

SADLER CONSULTING  
A Consultancy Division of SDL

## **ENFORCEMENT APPEAL SUPPORTING STATEMENT**

In Accordance with  
S78 of the TOWN & COUNTRY PLANNING ACT 1990 (As Amended)  
S174(2) of the TOWN & COUNTRY PLANNING ACT 1990 (As Amended)  
S171A (As Amended by The PLANNING & COMPENSATION ACT 1991)

**In respect of Enforcement Notice Ref: EN23/0810  
Issued by London Borough of Camden  
Pursuant to Refusal of Planning Application 2024/2456**

For:

PROPOSED DEVELOPMENT  
Retrospective application for retention of Mechanical Plant, Storage Containers and Louvre  
Screen (and extension of louvre screen).

At:

‘The Parakeet Bar and Restaurant’  
256 Kentish Town Road,  
Camden  
London NW5 2AA

Date Enforcement Issued 12<sup>th</sup> November 2024  
Date Notice Takes Effect 25<sup>th</sup> December 2024

**This is a Ground (a) (f) and (g) Appeal on behalf of:**

**The Columbo Group Ltd**

## **LIST OF APPENDICES**

### **Planning Application Drawings Ref 2024/2456/P (To be used for Enforcement Appeal Ground a)**

Drg No 2024-COL-001 Original Elevations

Drg No 2024-COL-002 Plans Original and Existing

Drg No 2024-COL-003 Elevations (Existing retained)

Drg No 2024-COL-004 Plans and Elevations Proposed

Planning Supporting Statement in respect of 2024/2456/P

Decision Notice re 2024/2456/P

Officer Report re 2024/2456/P

Enforcement Notice EN23/0810

Site Photographs to include:

Views of the building from various angles/locations

Views of the mechanical plant

Views of adjacent plant installations (Camden Library and Wolsey Close)

## **1.0 INTRODUCTION**

- 1.1 This appeal is made pursuant to Refusal of Planning Application Ref: 2024/2456/P in respect of 'Retrospective permission to retain mechanical plant, storage containers and louvre screen and extension of louvre screening'; and subsequent issue of Enforcement Notice Ref: EN23/0810 seeking removal of the unauthorised development.
- 1.2 The building in conjunction with other similar premises and destination venues in Central London is owned and operated by The Columbo Group Ltd. The restaurant was opened in 2022, retaining the historic public house element and is in current use.
- 1.3 The Enforcement Appeal seeks to challenge the Local Planning Authority on Ground (a), that planning permission should be granted; Ground (f) that steps for compliance are excessive; and Ground (g) that insufficient time has been allowed for compliance.
- 1.4 The Appeal under Ground (a) that planning permission ought to be granted, seeks retrospective planning permission (regularisation) for the installation of mechanical air handling plant and surround screening in general accordance with planning application Ref: 2024/2456/P Refused. The mechanical plant is located on the rear flat roof of the Parakeet public house/restaurant and is fundamental to the efficient operation of the premises, providing air extraction and conditioning for catering kitchen, food preparation and public areas all as a pre-requisite to satisfy Health and Safety requirements. It is maintained that development can be mitigated and conditioned where appropriate.
- 1.5 The Appeal under Ground (f) that the steps for compliance are too excessive – maintains that development is acceptable in principle and that an acceptable solution can be achieved by addressing the design and amount of the screening by rather than by removal of the mechanical plant, the implications of which would be far reaching from the perspective of site viability, loss of employment and economic sustainability.
- 1.6 The appeal under Ground (g) – that the period specified in the notice falls short of what should reasonably be allowed – seeks a more reasonable and pragmatic time frame in order for an alternative scheme to be determined and implemented should the Appeal under Ground (a) be dismissed.
- 1.7 Upon receipt of an Enforcement Enquiry, the appellant proposed that this be dealt with initially as a Pre-Application proposal in order to receive constructive feedback from the Council as to their requirements in accordance with Para 41 of the NPPF. This request was denied, and the Council advised that they would only accept a Retrospective application seeking Full Planning permission. There was consequently a tacit presumption that the development was acceptable in principle, there being no evidence of public disquiet or indication that the development was harmful.

- 1.8 Application Ref: 2024/1079 seeking retrospective planning permission was duly submitted but Withdrawn by the Council after 8 weeks due to lack of Acoustic Report (Avoidable if Pre-App route had been engaged). At this stage the Council requested an Acoustic Report.
- 1.9 Application Ref: 2024/2456/P together with an Acoustic Report was then submitted. The determination period was extended to 14 weeks without the agreement of the appellant after which period it was Refused. During this period no request was made for additional supporting evidence – notwithstanding that a Reason for Refusal related to the non-submission of an Odour Assessment.
- 1.10 The primary reason for Refusal related to the impact of development on the character of the built environment. Secondary Reasons for Refusal, for which the Council in their Report conceded could be addressed via condition/s, related to lack of an Acoustic Report (An Acoustic Report was actually submitted and found to be acceptable) and lack of an Odour Assessment (An Odour Assessment was not at any stage requested - there being no Policy requirement for an Odour Assessment). An Air Quality Assessment was similarly not requested as in accordance with London Plan Policy S1 'Improving Air Quality', Minor development does not fall within the threshold for AQA (Policy only requires AQA relative to Major development).
- 1.11 During the determination process the appellant requested progress reports and feedback from the Council in order to any initiate amendments deemed necessary to secure grant of permission. No information was forthcoming notwithstanding the application running for an additional 6 weeks beyond the statutory 8 week time limit (14 weeks total). Consequently, due to a lack of willingness on the part of the Council to advise or engage in meaningful negotiation, the appellant declined from agreeing to the Council's request for an extension of time.
- 1.12 A Decision Notice in respect of 2024/2456/P was notified by email on 17/11/2024 and included a 'warning' that enforcement had been recommended.
- 1.13 Subsequent to receipt of the Decision Notice but prior to issue of the Enforcement Notice, the appellant wrote to the Council to request that sufficient time be granted to enable a fresh planning application to be lodged that would seek to overcome the Reasons for Refusal. Notwithstanding such further request by the appellant to enter into Pre-Application negotiations, the Council declined to do so and have sought an early date by which the Notice takes effect, obviating the potential for further negotiation and necessitating this Appeal, contrary to Para 38 NPPF Guidance.
- 1.17 The Council has set out their Reasons for Refusal relating to the perceived impact upon and local character and relative to technical issues. This Statement addresses each Reason in turn and seek to demonstrate that the character and appearance of the built environment has not been unacceptably compromised, that perceived harmful impacts can be mitigated and that technical issues relating to noise and

odour can be addressed through imposition of planning condition and that Retrospective Permission should be Granted in accordance with Ground (g).

- 1.18 Should grant of planning permission under Ground (a) be deemed inappropriate, this Statement requests deliberation under Grounds (f) and (g), in order to seek compromise and enable submission of an alternative scheme that would seek to address any remaining concerns identified by the Appeal Inspector.

## 2.0 **SITE & SURROUNDINGS**

- 2.1 Number 256 Kentish Town Road comprises a corner end of terrace public house of mid 19thC provenance that has had minimal changes other than historic enlargement at the rear. It fronts onto the east side of Kentish Town Road with return elevation onto Islip Road to its south. It is of brick construction with partially rendered stucco facades and a modicum of decoration. The principal (and original) part of the building fronting Kentish Town Road rises 3 storeys below a butterfly roof. This part of the building houses ground floor public bar areas, first floor function and food prep areas and top floor manager's accommodation. A later single storey addition to the rear incorporates restaurant and catering kitchen facilities and features a (high storey) flat roof flanked by low parapet walling, with the rear being more utilitarian in character than the principal street elevations. This rear part of the building adjoins the service yard to the adjoining retail building to the north, which in turn abuts Camden library building. A primary School lies directly to the rear on the opposite side of Frideswide Place, a truncated service lane serving the rear of property fronting Kentish Town Road. There is no ground floor service area or access to the rear of the appeal property and the building occupies the entire site curtilage.
- 2.2 The building is not subject to statutory designation, although it is included in the Local List as a non-designated heritage asset. It does not lie within a Conservation Area, although a Conservation Area lies to the south-east bordering Islip Road.
- 2.3 Local List Description:  
Address: 256 Kentish Town Road, The Oxford PH  
Significance: Architectural, Townscape and Social Significance  
Asset Type: Building or Group of Buildings Ward: Kentish Town  
Mid 19th century public house on corner site. Grey brick with stucco decoration and timber joinery. Although the immediate neighbours have been redeveloped it still reflects the scale and form of this building by virtue of its similar roofline and building line. It relates very closely to the high-quality terraces to the south (234-248 & 204- 208/218-228 Kentish Town Road) and contributes much to the quality and consistency of the townscape, and provides a strong marker to this particular corner, which is an entrance to the Bartholomew Estate Conservation Area'.
- 2.4 In accordance with Local Plan designation the premises lies within a designated Shopping Centre. It also lies on a principal bus route in an accessible location in close proximity to Kentish Town Rail Station (although at the time of writing this has been closed for 18 months).

- 2.5 The mechanical plant installation (subject to this appeal) has been installed upon the single storey flat roof together with a pair of timber storage containers (A smaller plastic container unit, identified as being surplus to requirements, has been removed since service of the Appeal Notice). The plant installation comprises primarily galvanised coated zinc metal encased mechanical plant, with extract ducting feeding into a single high-rise metal flue attached to the first-floor rear elevation, together with low-rise air conditioning and refrigeration plant and 'through-wall' extractors. A small independent flue, further to the rear provides extraction for a barbecue grill as part of the kitchen catering equipment. A louvred timber screen has been erected above the southern flank parapet wall, and eastern rear parapet wall, in order to better screen the development from public view (The proposal drawings show this existing screen to be extended).
- 2.6 Similar mechanical plant installations on other buildings can be seen from within adjoining public spaces, specifically within Frideswide Place to the rear of the Council owned and operated library building some 4m directly to the north of the appeal site (see Photo); and in Wolsey Mews to the rear of 238-248 Kentish Town Road, a Group of Locally Listed Buildings fronting Kentish Town Road, and adjoining the Conservation Area. In each of these instances the mechanical plant is prominent and unscreened.

### 3.0 RELEVANT PLANNING HISTORY

- 3.1 There is no planning history available prior to 2024.
- 3.2 Planning Application Ref: 2024/1079/Invalid was submitted pursuant to receipt of an Enforcement Enquiry. This application sought 'Retrospective permission to retain mechanical plant, storage containers and louvre screen and extension of louvre screening' - Withdrawn by the Council 22/05/2024 on the grounds that a Noise Assessment was required. No previous request had been made for a Noise Report and no request was made for submission of an Odour Assessment).
- 3.3 Planning Application Ref: 2024/2456/P (Expiry Date 02/09/2024 – Decision Notice issued 17/10/2024 (14 weeks) - REFUSED for the following reasons:
- 1. The proposed extract flue, timber screening on the Islip Street elevation and storage buildings on the roof by reason of their, design, location, height and visibility would be detrimental to the character and appearance of the locally listed building, streetscene and surrounding area. The proposal is therefore contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and Policy D3 of the Kentish Town Neighbourhood Plan 2016.*
  - 2. In the absence of an air quality assessment and within an identified location of 'poor quality' it has not been satisfactorily demonstrated that the proposed works would not cause an adverse impact on air quality in the area contrary to policy A1 of the Camden Local Plan 2017.*

3. *The development has the potential to result in unacceptable levels of harm to neighbouring residents' living conditions through noise pollution, vibrations and harmful levels of odour contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Council's Local Plan adopted in 2017.*

3.4 It is noted that no third-party representations or objections to the planning application were received from neighbours, the general public or from statutory consultees.

3.5 An Enforcement Notice Ref: EN/23/0810 was issued In respect of the Enforcement 12<sup>th</sup> November 2024 with Effect from 25<sup>th</sup> December 2025.

3.6 In respect of Ref: EN23/0810 the above 'Reasons' (1, 2 & 3) given for Refusal of the Planning Application are listed 2, 3 and 4 respectively and include the additional Reason that:

1. *'It appears to the Council that the above breach of planning control has occurred within 10 years'.*

#### **4.0 PLANNING POLICY**

4.1 The Local Plan for Camden comprises The London Plan 2021 and Camden Local Plan 2017. These are to be read in conjunction with the recently published update of the National Planning Policy Framework (December 2024).

4.2 NPPF 12<sup>th</sup> December 2024 (Supersedes NPPF 2021)

4.3 NPPF Para 8 'Achieving sustainable development' states that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using

natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

4.4 NPPF Para 41 States - Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer.

4.5 NPPF Para 45 States - Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions and should be reviewed at least every 2 years. Local planning authorities should only request supporting information that is relevant, necessary, and material to the application in question.

4.6 NPPF Para 60 States that - Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

4.7 The London Plan 2021

Policy S1 Improving Air Quality States – 2)c) ‘Major development must be submitted with an Air Quality Assessment’.

Appellants Note: This is minor development and is consequently below the threshold for AQA.

4.8 Camden Local Plan 2017

Policy C4 Public Houses

Policy D1 Design

Policy D2 Heritage

Policy A1 Managing the impact of development

Policy A3 Biodiversity

Policy A4 Noise and Vibration

Policy CC1 Climate Change Mitigation

Policy CC2 Adapting to Climate Change

Policy TC2 Camden’s Centres and other Shopping Areas

Policy TC4 Town Centre Uses

Kentish Town Neighbourhood Plan 2016

Policy D3: Design Principles

Policy D4: Non-designated heritage asset

Policy CC1: Pre-application Consultation

4.9 The list above reflects the Local Plan Policies quoted by LB Camden in their Officer’s Report. It includes Policy CC1 (Pre-Application Consultation) which guidance the Council has not followed.



- 4.10 Additional Local Plan Policies (Not listed in the Council’s Planning Report or otherwise referenced)

Policy HC7 Protecting Public Houses  
Policy CC4 Air Quality

- 4.11 The Local Plan also includes a range of Supplementary Documents relative to Air Quality; Amenity; Community Uses, Leisure and Pubs; Design; Employment Sites and Business Premises.

## 5.0 **PRINCIPAL ISSUES**

- 5.1 The Planning Enforcement Notice cites 4 Reasons for Refusal.

- 5.2 Reason 1 – That planning permission is required (as the development does not benefit from the 10 year rule).

- 5.3 Reason 2 – Relates to: The visual impact of the Development on the character of the building and its surroundings. (This equates to Reason for Refusal 1 of the Planning Decision).

- 5.4 Reason 3 – Relates to Technical Issues relating to perceived impact as might arise from odour emissions. (This relates to Reason for Refusal 2 of the Planning Decision).

- 5.5 Reason 4 – Relates to Technical Issues relating to potential impact of noise and odours associated with the mechanical plant. (This relates to Reason for Refusal 3 of the Planning Decision).

## 6.0 **PLANNING ASSESSMENT**

### 6.1 **Requirement for Planning permission & Ground a) Analysis**

- 6.2 Development has taken place within the last 10 years. This addresses Reason 1 of the Enforcement Notice and on such basis it is agreed that as a matter of fact, planning permission is required. This is therefore uncontested. It should however be noted that development subject to this appeal replaced a previous (albeit smaller) plant installation, understood to have benefited under the 10 year (GPDO) concession. This is not mentioned in the Council’s Report.

### 6.3 **Impact on the Character of the Built Environment**

- 6.4 This issue features as Reason for Refusal 1) in respect of 2024/2456/P and Reason 2 in respect of the Enforcement Notice EN23/0810.

- 6.5 The installation of mechanical air handling plant is a generally accepted necessity for catering establishments. The location at the rear of a building, overall bulk and appearance of the plant subject to this appeal is also commonplace. In this instance,

as the building occupies a corner site, the rear elevation is exposed, more than would be ideal, along its flank, rendering views of the plant installation possible from within the public domain. The non-statutory heritage, (local listing) designation, also means that a higher standard of design is required when ensuring that the visual integrity of the building and its immediate surroundings are not unacceptably prejudiced by such form of development.

- 6.6 This does not mean that a mechanical plant installation is unacceptable having regard to character, but rather that the installation requires sympathetic treatment to render its visual impact acceptable. The most common means of addressing this issue is to provide screening. This can take many forms, but solutions can often be achieved by erection of, for example, a 'plant-room'; an enclosure (usually purpose-designed, louvred surround panels suspended from framework, which can be either open or closed-in above); or as in this instance by provision of surround screening.
- 6.7 Obviously, whether such screening is effective will depend on its design and extent. In this instance, it is proposed that the existing screening is extended to fully wrap around the flat roof area above the original low parapet walls rendering the plant all but invisible to street level views (See Drawing No 2024-COL-004). Screening has the added advantage of contributing to noise attenuation by providing an additional layer of acoustic baffling.
- 6.8 Policies D1 Design and D2 Heritage seek to achieve a high standard of design while preserving the historic context of the built environment. Plant installations upon historic buildings (and many more recent buildings) will inevitably result in a degree of compromise as mechanical plant would not have been a consideration for the original architect or builder. As this is not a statutory listed building, more leeway can perhaps be exercised, and it is maintained that the Appeal proposal would alleviate present concerns, resulting in a form of development that would integrate successfully with the building, while not unacceptably harming the appearance of the neighbourhood, which in respect of Frideswide Place is decidedly utilitarian and of little merit. As such it is considered that the relevant Local Plan Policies would be satisfied.
- 6.9 It is accepted that the plant installation, in its 'raw state' has a material impact upon the character and appearance of the locally listed building, streetscene and surrounding area. All development results in impact and the resolution of such impact resides in the extent to which detrimental aspects of development can be mitigated. By its nature, mechanical plant is often at odds with its surroundings.
- 6.10 Consideration needs to be given to the economic benefit to be gained by enabling and supporting such uses as reflected in Local Plan Policy HC7 Protecting Public Houses further supported by NPPF Para 8a which identifies economic benefits as one of the three core principles of sustainable development. Conflict with Policies D3 and D4 of the Kentish Town Neighbourhood Plan is also cited notwithstanding that the Kentish Town Neighbourhood Forum (statutory consultee) were consulted in respect of the planning application and did not raise objection.

- 6.11 Planning application Ref: 2024/2456/P sought to mitigate impact by screening the development from public view. This was to be achieved by extending the timber screening, to the south (flank) and east (rear) and to introduce screening for 'completeness', where there is currently none to the north (flank) elevation, although this elevation is of less import as the boundary is shared with an adjoining rear service yard. By so doing, the visual impact of the plant installation can be satisfactorily addressed, particularly in comparison to similar neighbouring installations.
- 6.12 A principal concern identified in the Council's Report was the resulting impact upon the character of the Islip Elevation. Concern was also expressed relating to longer range views of the rear (east elevation) opening views of the timber storage units. The north elevation is cited as being in 'a location of low public visibility, which does not contribute much to the character of the building and is therefore acceptable'.
- 6.13 The existing screen when extended as proposed (See Drawing No: 24-COL-004) would effectively conceal much of the perceived visual impact of the plant and storage containers, particularly on the eastern rear elevation. The applicant proposes that the timber screening and timber storage units be painted so as to closely match the building stucco RAL 6017 (May Green) (Note: In the context of 2024/2456/P the timber screen and storage units were to remain untreated), while application of RAL 1000 (Buff) colour coatings to the plant would negate the glare of exposed bare metal partially visible via the louvre arrangement. Introducing louvres (the existing arrangement should be more accurately described as 'hit and miss' grilles), would further restrict visibility of the plant and the appellant would be amenable to imposition of a condition to secure this together with the proposed colour specifications. The screening would then be perceived as a 'lightweight' extension, preferable to raising the brick parapet wall height in order to achieve the same result.
- 6.14 In similar vein, the high-rise extraction flue, would be colour coated RAL1000 (Buff) so as to integrate more effectively with the London Stock buff coloured brick elevations and address the prominence of the flue chimney identified as another central concern. This proposal was included in Ref: 2024/2456/P.
- 6.15 Consideration was given into relocation of the plant and chimney. However, this was deemed impractical as there is no internal space available and re-routing externally would have added to the quantum of exposed ductwork, exacerbating visual impact. Policy A1 states that External extraction equipment and ducting should be sited sensitively, particularly on listed buildings and within conservation areas. However, neither scenario applies as although the building is locally listed it is not a (statutorily) listed building and does not lie in a conservation area.
- 6.16 All visually exposed metalwork would be painted (buff colour) to sympathetically match the London Stock bricks which feature in the elevations of the building and be less conspicuous than the existing galvanised metal finishings. Given that the standardised treatment to exposed ducting predominant in many such installations throughout the Borough is matt black colouring, it is considered that a buff colour application would not be so incongruous and would assimilate more readily into the

built fabric. Colour coating is seen as the most expedient way of mitigating impact, given that there is limited opportunity for removal or re-location of the plant. As set out in 2024/2456/P the colour specification would be RAL1000 (Buff).

- 6.17 In respect of the timber surround screen surround, it is proposed that both existing and proposed additional screening, be painted green RAL6017 (May Green) to match the existing painted surface render of the building. This is considered to be more sympathetic than the existing brown stained timber.
- 6.18 Although the timber containers would be substantially concealed due to the screening any remaining concerns in such regard can be addressed by similar RAL6017 paint application. With the exception of the higher rise chimney flue, all roof level development would be screened from public view and only visible from private views from within higher rise residential flatted property. From a Development Management perspective this approach is generally considered acceptable.
- 6.19 In the interests of fairness, consideration needs to be given to similar forms of development that have not been subject to enforcement. The Camden Council owned and run Library building fronting Kentish Town Road and backing onto Frideswide Place Incorporates a similar air handling plant at first floor level. This is located within 4 m of the development at The Parakeet - (See Appendix/photos) and is exposed to public views from within Islip Street and Frideswide Place. Under such circumstances it is contradictory for the Council to take issue with the Parakeet development when paying scant regard to similar development on their own property.
- 6.20 Exposed mechanical plant can also be seen within Wolsey Mews at the rear of 238-248 Kentish Town Road, a Group of Locally Listed buildings fronting Kentish Town Road, and bordering Bartholomew Road Conservation Area. Wolsey Mews joins Islip Street directly opposite the Parakeet Public House – (See Appendix/Photos).
- 6.21 Accordingly, it is submitted that the development as proposed and subject to Conditions, would not unacceptably prejudice the character or integrity of the Locally listed Building (The Parakeet), nor the established character of the immediate streetscene or wider built environment and as such comply with the provisions of the Local Plan specifically Policies D1 Design, D2 Heritage, D3 and D4.
- 6.22 **Odour and Air Quality Control**
- 6.23 The Council maintains that *'In the absence of an Air Quality Assessment it has not been satisfactorily demonstrated that the development does not have an adverse impact on air quality in the area contrary to Policy A1 of the Local Plan 2017'*.
- 6.24 The Local Plan does not have a Policy linked to or requiring Odour Assessment. While there is a Local Plan Policy in respect of Air Quality (CC4) this is not quoted within the context of the Reasons for Refusal (Either the Enforcement Notice or the Planning Decision) or referred to in the Officer Report. In any event Policy CC4 does not specify or refer to Odour Assessment or specify Air Quality Assessment (AQA). London Plan

Policy S1 'Improving Air Quality', only requires an AQA relative to Major development. As the Appeal proposal relates to Minor development an AQA is not necessary.

- 6.25 Policy A1 (Managing the impact of Development) states that in respect of: Odours, fumes and dust, the Council - will require all development likely to generate nuisance odours, to install appropriate extraction equipment and other mitigation measures. These should be incorporated within the building where possible.
- 6.26 In accordance with the Policy A1, the extraction equipment has been fitted with filtration in order to mitigate odour arising from cooking smells. This is subject to regular maintenance by Uni-Clean Environmental Ltd and is overseen by the Environmental Health Department of The Council.
- 6.27 The Officers Report Ref: 2024/2456/P (See Appendices) states 3.1.14 'No information has been submitted assessing implications and controls for odour although further information would be secured via condition in the event of an approval'. Para 3.1.15 continues that 'In the absence of a recommendation of an approval, these issues normally secured via condition are unresolved and will be listed as a reason for refusal'. This establishes that Odour issues can be conditioned.
- 6.28 Notwithstanding the above, the applicant has commissioned an Odour Assessment in anticipation of anticipated planning condition. Given the limited time available set out in the Enforcement Notice (notwithstanding reasonable request to the Council for time to co-ordinate and submit such work), it has not been possible to submit an Odour Assessment with this appeal. However, should the Inspector be of a mind to allow this Appeal, the appellant would be willing to support a condition to such effect and has proceeded to have an Odour Assessment completed prior to Appeal determination. Note: Reference is made in the Officer Report to the presence of a separate small flue serving an internal barbeque. In accordance with the terms and conditions of separate legislation, specifically the Clean Air Act 1993 (As Amended), this apparatus is classed as a (Defra) Approved Appliance utilising 'authorised fuel' incorporating filtration and utilising electrostatic precipitators (ESP) It is subject to regular maintenance contract overseen by the Councils Health Departments and is deemed compliant. As such this is not a planning matter.

#### **6.29 Noise Pollution & Attenuation**

- 6.30 A Noise Assessment Ref: (measured at source for the development as existing), was submitted in the context of Application Ref: 2024/2456/P and is herein attached (See Appendices). Para 3.1.12 of the Officer Report states 'In terms of noise, a noise assessment has been submitted by the applicant for the installation of multiple items of plant on the rear first floor roof of The Parakeet, 256 Kentish Town Road, London NW5 2AA. Para 3.1.13 continues 'In consultation with the Council's environmental health officer, appropriate noise guidelines have been followed. In the event of an approval, the Council would place conditions on the application securing adequate noise levels'.

6.31 Accordingly, the Report was found to be acceptable by the Council's Environmental Health Officer subject to imposition of Condition. This satisfies BS8233, the NPPF and the relevant Policies contained in the Development Plan and establishes that Noise issues can be conditioned.

## 7.0 **CONCLUSION Ground a) Appeal**

7.1 The proposal seeking Full Retrospective Planning Permission for retention of Mechanical Plant, Storage Containers and Louvre Screen (and extension of louvre screen) is considered to satisfy the requirements of the Development Plan for Camden and the NPPF.

7.2 The Inspector is respectfully requested to grant planning permission subject to conditions that the Inspector may see fit to impose.

## 8.0 **Appeal under Ground f) (Excessive requirements of the Enforcement Notice)**

8.1 It is submitted that having regard to the content of the Appellant's wider Planning Statement set out above, the steps set out in the Enforcement Notice Ref: EN23/0810 for compliance exceed what is necessary to remedy any breach of planning control ie Removal of All of the Development when the offending elements are less than the totality of development.

8.2 It is held that that development comprising the installation of an externally sited mechanical plant installation together with surround screening is acceptable in principle and that should the Appeal under Ground a) fail, an acceptable solution can be achieved by addressing the design and amount of the screening rather than by removal of the mechanical plant in its entirety, which is what Camden Council (Enforcement) seeks. The implications of removal would be far reaching from the perspective of site viability, loss of employment and economic sustainability, when a more considered approach arrived at through informed consultation between the Appellant and Council Officers could arrive at a more pragmatic, realistic and common-sense negotiated solution that would address the Council's concerns. To date the Council have not engaged in this process, which it is understood they are obliged to do. It may be reasonably anticipated that modification to eg the screening, or substitution with alternative means of enclosure or redesign of the chimney element may achieve a satisfactory conclusion. This can be done while the plant is maintained in operational mode ensuring that the restaurant business can continue to operate.

8.3 The appellant consequently seeks the steps for compliance set out in the Enforcement Notice be quashed/changed/modified so as to require each party to enter into constructive Pre-Application dialogue. This can be time specific, but place onus on the Council to provide constructive response to one (or more) schemes to be submitted to them in advance of a formal planning application. I would anticipate

this process to take a minimum of three (and ideally 4) months, assuming that the Council undertake to turn around any such application in reasonable time without prevarication. This reasoning feeds into the Appeal Under Ground g).

- 8.4 As a measure of good intent the appellant will seek to proceed with pre-Application discussions with the Council in good time prior to conclusion of the Appeal process ie prior to issue of any Appeal decision and will endeavour to convey the outcomes to the Inspector at the earliest opportunity should this approach be deemed acceptable and in conformity with Inspectorate guidelines.

#### 9.0 **Appeal Under Ground g)**

- 9.1 It is submitted, having regard to the content of the Appellant's wider Planning Statement set out above, that the time frame of 3 months compliance period set out under s173(9) in the Enforcement Notice Ref: EN23/0810 falls short of what should reasonably be allowed.

- 9.2 Should the Appeal under Ground a) fail, time is needed to enter into Pre-Application Discussions with the Council as set out above (Ground f), subject to which a Planning Application will then need to be submitted and any resulting permission implemented. It is considered that the Pre-App and formal application process could be finalised within 6 months on the basis that both parties should now be familiar with the implications of development and will have empathy for what is required. The appellant would be in a position, to commence implementation within 14 days of a formal planning decision notice being issued. The implementation period could perhaps be incorporated into any extended compliance period the Inspector may see fit to impose.

#### 10.0 **CONCLUSION Ground f) and g) Appeal**

- 10.1 The Inspector is respectfully requested to change the wording of the Enforcement compliance conditions in accordance with the Grounds set out above in order to allow a reasonable period of time to bring about the early implementation of an acceptable form of development that will secure the future of the building and the restaurant business for the benefit of the Appellant, the Council, the local community and the heritage of this part of the Borough.

JS

19/12/24

