

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	<b>11/07/2013</b>
<b>(Members Briefing)</b>		N/A	<b>Consultation Expiry Date:</b>	<b>27/06/2013</b>
<b>Officer</b>			<b>Application Number(s)</b>	
Angela Ryan			2013/2254/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
13 Neal's Yard London WC2H 9DP			Refer to 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>				
Retrospective permission for the installation of a new twin walled extraction duct on the rear elevation within the existing lightwell in connection with existing restaurant use (Class A3)				
<b>Recommendation:</b>		Grant planning permission		
<b>Application Type:</b>		Full Planning Permission		

<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>22</b>	No. of responses	<b>1</b>	No. of objections	<b>0</b>
			No. Electronic	<b>1</b>		
<b>Summary of consultation responses:</b>	<p>A site notice was displayed on 29/05/2013, expiring on 19/06/2013; and a public notice published in the local press on 06/06/2013, expiring on 27/06/2013. One letter commenting on the application was submitted from the occupier of no. 14 Neal's Yard. A summary of the comments are as follows:</p> <ul style="list-style-type: none"> <li>- The flue has already been installed and seems to work well;</li> <li>- The general noise level is above the allowed limit, namely 50dB. Concerns that whilst an informal agreement has been made with the shops and landlords in the area to ensure that machines are turned off at 11pm to allow for a good night's sleep this does not always happen and it seems that the overall noise level is rising every year. (<b>Officer's response:</b> See paragraph 3.3 in this report);</li> <li>- At present there is a high pitched noise coming from somewhere on a roof in the direction of Monmouth Street/Shafesbury Avenue which has been ongoing 24/7 for a few weeks. However, it is difficult to determine the exact location due to many buildings who's façade bounces off the noise. Enquired whether a noise survey has been undertaken and if not has requested that a noise survey of the area is undertaken. (<b>Officer's response:</b> This issue is best dealt with under separate legislation)</li> </ul>					
<b>CAAC/Local groups comments:</b>	<p><b>Covent Garden Community Association:</b> Raised objections on the grounds that:</p> <ul style="list-style-type: none"> <li>-The extract duct has had a serious impact on the amenity of nearby residents as well as other local businesses. Since it has been installed, residents have been overwhelmed by thick black, odorous smoke and soot being emitted from the flue affecting their property as well as their health. The fire brigade has even been called because residents feared that the restaurant was on fire. (<b>Officer's response:</b> see paragraph 3.1 in this report)</li> <li>- The lightwell is overrun with such vents which has had a significantly negative impact on residents' amenity (<b>Officer's response:</b> See paragraph 3.2 and 3.3 of this report)</li> <li>- Noise emanating from the skylight, although this remains closed; it is also a cause for concern, since it goes on until around 11.30pm. This is very much an issue as two bedrooms are directly affected, and enquired whether the skylight could be soundproofed (<b>Officer's Response:</b> Planning permission has previously been granted for the skylight and it is does not form part of the consideration for this current application. The issue of noise nuisance is best dealt with under separate legislation)</li> </ul>					

## Site Description

The site comprises a three storey building located to the north/east corner of Neal's Yard. The ground floor is currently being a pizza restaurant, whilst the first and second floors appeared to be residential use. The immediate area is characterised by mixed commercial/residential uses.

The site is not listed but lies within the Seven Dials Conservation Area. It is not identified as being a building that makes a positive contribution to the character and appearance of the conservation area.

## Relevant History

**28/06/1994**- Permission **granted** for the change of use of ground floor from Class A1 (shop) to Class A3 (ice cream parlour/cafe) including the installation of a new shopfront and formation of a rooflight to rear of premises (Ref: 9400320)

**22/03/2003**- Permission **granted** for the use of the first floor for alternative uses of either retail (use class A1), office (use class B1), or residential (use class C3) and the use of part of the second floor for alternative uses of either residential (use class C3) or office (use class B1). (Ref: 2003/2144/P)

## Relevant policies

### **LDF Core Strategy and Development Policies 2010**

#### Core strategy:

**CS1** (Distribution of growth)

**CS5** (Managing the impact of growth and development)

**CS14** ( Promoting high quality design and conserving our heritage)

#### Development policies:

**DP24** (Securing high quality design)

**DP25** (Conserving Camden's heritage)

**DP26** (Managing the impact of development on occupiers and neighbours)

**DP28** (Noise and vibration)

### **Camden Planning Guidance 2011:**

**CPG1- Design: Chapters 1, 2, 3, & 4**

**CPG6- Amenity: Chapter 1 & 5**

**Seven Dials Estate Conservation Area Statement 1998**

**London Plan 2011**

**National Planning Policy Framework 2012**

## Assessment

### **1. Proposal:**

1.1 The applicant proposes the retention of a twin walled duct flue extractor which has been installed in the rear lightwell behind the application site. The flue has been erected without the benefit of planning permission and comprises a new kitchen extractor fan, together with associated ductwork and ancillary equipment.

1.2 A site inspection ascertained that there was one other flue located within the existing lightwell which served an A3 restaurant uses located on Neal Street. It should be noted that views were fairly limited given the site constraints and as such there may be more flues located within the lightwell which were not visible at the time of the site inspection.

1.3 The key issues to consider are:

- Impact on the character and appearance of the host building and conservation area; and
- Impact on amenity

### **2. Impact on the character and appearance of the host building and the conservation area:**

2.1 The flue has been constructed out of stainless steel and is located to the rear of the application site within an existing rear light well. In terms of its height, the flue terminates 1m above the roof ridge of the building which is considered to be appropriate in this instance. The flue cannot be seen from street level within Neal's Yard, Neal St or Monmouth Street; although it could possibly be visible from the existing rear windows of the properties located within Neal's Yard and along Neal Street, and from some of the upper floor windows of some premises along Monmouth Street. Given that the flue is not readily visible from the wider public realm and is located on a minor façade it is considered that no undue harm is caused to the character and appearance of the host building or the conservation area and as such no design issues are raised.

### **3. Amenity:**

3.1 An objection was raised in respect of the flue emitting thick, odorous black smoke and soot, and having an adverse impact on the nearby residential premises and residents health. A site visit ascertained that when the flue was fired up in the mornings that this was indeed the case. The Council subsequently requested that the situation is rectified as soon as possible; otherwise it may have resulted in the existing business being closed down. The Council was initially going to serve the owners with an abatement notice, which proved to be difficult after thoroughly reviewing the legislation and Ringelmanns Shade Chart; as it was determined that due to the colour of the smoke (shade 3); it fell under the Clean Air Act 1993. As such a written warning was sent to the owner advising them of a possible prosecution if they failed to sort the problem out. The applicant has since installed a "water scrubber" component to the duct system, which intermittently sprays jets of water inside the flue in order to dampen it down to reduce the emission of smoke and soot. A further site inspection was undertaken and it was ascertained that immediately following the lighting of the oven, there was an initial blast of soot that lasted a few seconds. The technical adviser claimed that this was due to the flue needing to be serviced (and had already booked it in for a service). Although there was still dark smoke being emitted from the flue up until 15 minutes after it was first lit, the smoke was much less dense and lighter in colour than it had previously been. The smoke also appeared to be dispersing in the direction that it is intended to, as opposed to scattering with no particular pattern. Therefore it was concluded that with the addition of the water scrubbing system, the risk of the proposal causing a statutory nuisance was significantly reduced.

3.2 Whilst there may be other flues within the vicinity of the application site and within the lightwell, it

should be noted that at the time of the site inspections smoke, smells, fumes and noise nuisance were not witnessed emitting from any other source within the vicinity of the application site.

3.3 A noise survey was submitted in support of the application. An initial noise survey was carried out to ascertain the lowest background noise levels at the site and a further survey undertaken following the installation of the kitchen extractor fan. The nearest sensitive location was that of the window located on the upper floors of the application site. The lowest background noise level to the rear façade during operating hours was measured at 50dBA in the facility of the closest noise sensitive premises, whilst the overall noise level for the equipment installed was measured at 36dBA. In terms of the equipment installed current policy requires the noise levels to be at least 10dBA below the lowest background noise level. As the overall noise level (when the fan was running at speed) is 14dBA lower than the lowest background noise it is considered that the noise from the equipment is unlikely to register any complaints. The issue of existing noise generated within the vicinity of the site is best dealt with under separate legislation.

3.4 In light of the above findings, Camden's Environmental Health officers are satisfied that the proposed extract duct does not to adversely impact upon existing residential amenity to an unacceptable level and therefore is in accordance with policies DP26 and DP28 of the LDF.

**4. Recommendation:** Grant planning permission.

#### **DISCLAIMER**

**Decision route to be decided by nominated members on Monday 5th August 2013. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.**