

<b>Delegated Report (Members Briefing)</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>02/11/2011</b>
		N/A		<b>Consultation Expiry Date:</b>	13/10/2011
<b>Officer</b>			<b>Application Number(s)</b>		
Jennifer Walsh			2011/3922/P 2011/3924/L		
<b>Application Address</b>			<b>Drawing Numbers</b>		
186 Drury Lane London WC2B 5QD			Please refer to 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</b>					
Replacement of existing extract flue to south flank facing wall at rear of the property in connection with cafe/restaurant use (Class A3).					
<b>Recommendations:</b>		<b>Grant Planning Permission</b> <b>Grant Listed Building Consent</b>			
<b>Application Type:</b>		<b>Full Planning Permission</b> <b>Listed Building Consent</b>			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	33	No. of responses	05	No. of objections	04
			No. Electronic	00		
Summary of consultation responses:	<b>A site notice was displayed from 16/09/2011-07/10/2011</b> <b>A press notice was advertised from 22/09/2011-13/10/2011</b>					
	<b>3 Stukeley Street supports the application</b>  <b>Flat 4 Goldsmith Court objects to the proposal on the following grounds:</b> <ul style="list-style-type: none"><li>- The existing extract flue was erected without permission;</li><li>- The extract flue is noisy and affects the quality of life;</li><li>- The tenants of 186 Drury Lane continue to carry out noisy building work to their property outside the regulated hours;</li></ul> <b>Flat 5, Goldsmith Court objects to the proposal on the following grounds:</b> <ul style="list-style-type: none"><li>- The Council had, in effect, condoned this disingenuous application as it had verified it a being valid despite the fact that the flue serving the kitchens located on the ground floor of the premises had expressly been refused planning and listed building permissions following an appeal;</li><li>- It appears from the supporting documentation submitted by the applicant that the planning department considers this ductwork would be acceptable. It is reminded when the latest application is reported to the Committee that the Conservation and design officer's recommended approval for the application that the committee rejected last year, a decision was upheld at appeal;</li><li>- The fact that the unauthorised flue is still in place is at odds with the clear instruction by Members that should be removed;</li><li>- Every indication is that officers have given indication to the applicant that a slightly variation would be acceptable and have not taken any steps to have the offending flue removed;</li><li>- The flue by its size and location is wholly at odds with the historic character of the fine Grade II listed building;</li><li>- Officers appear to be claiming that as the location of the flue cannot be seen from the street it is acceptable, ignoring the fact that the existing unauthorised flue is not visible from the street and the Inspector stated quite clearly that the flue is a harmful addition to the rear of the building despite not being in the public domain.</li><li>- The fact that is to be painted 'light black' will not make the flue disappear, indeed to make the flue in time even more unsightly.</li><li>- The idea that making the flue narrower in one direction but longer in another will significantly improve the situation is risible;</li><li>- It should be noted that the current flue gives out (depending on the wind direction) a considerable bad odour which gets trapped in the area to the rear of Goldsmith Court and 186 Drury Lane and the smells penetrate into their flat;</li><li>- The duct vibrates and is a very annoying 'white noise';</li><li>- This application should be rejected and to quote the Inspectors report (paragraph 14). The current flue erected without the benefit of planning permission is a harmful addition and should have been removed by now and the proposed new flue should not be permitted for the same reason;</li><li>- The Councils actions concerning the authorized flue can only lead to the conclusion that the Council is more concerned finding ways to grant retrospective permission rather than applying planning policies and carrying out committee decisions upheld at appeal;</li></ul> <b>8 Goldsmith Court object to the application as follows:</b> <ul style="list-style-type: none"><li>- They first reported this illegal action on 2/07/2009. Now 2 years or more later he is asking for the extract flue to be given planning permission;</li><li>- The fan is roaring 24/7 and they are unable to open their windows;</li></ul> <b>12 Goldsmith Court objects to the application on the following grounds:</b> <ul style="list-style-type: none"><li>- This has been going on for over 3 years;</li><li>- The existing flue was erected, without permission and on private lane, this should have been removed immediately;</li></ul>					

<p><b>CAAC/Local groups comments:</b></p>	<p><b>Covent Garden CAAC have no comment on the application.</b></p> <p><b>Covent Garden Community Association objects to the application on the following grounds:</b></p> <ul style="list-style-type: none"> <li>- Although these applications are described as 'replacement' of the existing extract flue, the applicant has never received authorisation to install an extract flue of any kind. Indeed the applicant has been unsuccessful in receiving planning permission from Camden's DCC (14<sup>th</sup> September 2010) and the Inspector (7<sup>th</sup> March 2011). In addition Camden has notified the application that he was in breach of planning control and would be subject to enforcement action. Still, the flue has not been removed.</li> <li>- Although this latest application is not as disingenuous, the CGCA believes that the reasons previous applications for permission for the extract flue have been denied apply to this latest application, and they firmly object, as we have done continuously since the applicant installed the unauthorised extract flue without applying for planning permission in 2009;</li> <li>- The extract flue continues to have a significant effect on the amenities of residents and neighbours in the immediate vicinity of the flue;</li> <li>- The flue also continues to have an effect on the character of the listed building and its features of architectural and historic interest;</li> <li>- Although the flue can not be seen from the public realm does not make the application acceptable;</li> <li>- The inspector gave the applicant three months to remove the flue, however the applicant did not comply and the flue remains in use today, almost seven months later.</li> </ul>
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## Site Description

The application site comprises a five storey plus basement terraced building located on the east side of Drury Lane at the northern end and close to its junction with High Holborn. The unit is one in a parade of six units. Drury Lane is a one way road. The application site comprises a commercial unit on the ground floor level, hairdressers at first floor level and residential above.

The application site is located in the Covent Garden area, which forms part of the West End. The area is characterised by an intricate mix of uses, which are generally small in scale, and set within a unique historic and architectural environment. Uses include residential development, retail, offices, food and drink uses and hotels, and are often mixed vertically within buildings.

## Relevant History

**2011/3956/P:** Submission of details pursuant to condition 3 (details of the location, design and method of waste storage and removal) of planning permission 2009/5376/P granted on appeal on 07/03/2011 for the retention of existing use as a cafe/restaurant (Class A3) at ground and basement levels. – **granted** 26/09/2011

**2009/5376/P and 2009/5392/L** Retention of existing use as a cafe/restaurant (Class A3) at ground and basement levels and retention of existing extract flue to south flank facing wall at rear of the property refused and warn of enforcement action 14/9/2010 **Appeal part allowed for the change of use but not the extract flue– 7 March 2011**

**EN10/0294** installed unsuitable ventilation system – date record created 26/03/2010

**EN09/0500** Ventilation unit being added without planning permission – date record created 14/07/2009

**2008/5856/A and 2008/5983/L** Display of non-illuminated projecting sign at 1st floor level between windows- **granted** 02/02/2009

**EN08/1030** Ground floor basement used as A3 and cooking without consent – date record created 10/12/2008

**2008/4219/P** Change of use from office use (Class B1) to hairdressing salon (Class A1) at first floor level – **granted** 21/10/2008

**EN04/0558** Unauthorised A3 use of the ground floor – date record created 29/06/2004

**PS9904334** Change of use of the ground floor and basement from the lawful use for Class A1, to a mixed use with Class A1 on the ground floor and Class A3 in the basement, (with provision for approximately 15 customers at four tables in the basement), together with internal alterations to form a new link to the basement at the front of the shop – **granted** 14/10/1999. This permission had conditions attached stating that no primary cooking should take place on site and that the dual A1/A3 use is for a temporary period only until 20/1/2001.

**PS9804235** Retention of the change of use of the front part of the ground floor (comprising shop area, kitchen area and storage area) from retail use (Class A1) to use for the sale of food and drink for the consumption on the premises (Class A3), together with the erection of a duct at the rear – **refused** 14/08/1998 This decision was appealed, however the appeal was withdrawn.

**EN9801060** Without Planning Permission: The use of the front three rooms of the ground floor (comprising the shop, the kitchen to the rear and the food storage area behind) for the sale of food or drink for the consumption off the premises, being a use falling within class A3 of the Town and Country (Use Classes) Order 198 – A Formal Enforcement Notice was served and took effect 19/10/1998. This enforcement notice was appealed, however the appeal was withdrawn

**HB3018/R1** The conversion of the roof to provide extra residential floorspace – **granted** 01/03/1985

**P14/31X/A/35389** The change of use of the basement and ground floors from retail shop to a wine and coffee bar – **refused** 01/02/1983

**33753/R1:** Erection of a rear extension at first floor level and the conversion of the building to provide shop and ancillary storage on ground and first floors, offices on the first and a two bedroom maisonette at second and third floor levels. Planning permission **granted** 26/07/1982.

**32817:** The first floor front rooms of 186 Drury Lane as offices, was, on 11th August 1981 established within the meaning of Section 94 (1 of the Town and Country Planning Act, 1971. Planning permission **granted** 19/10/1981.

## Relevant policies

### Camden Local Development Framework 2010

CS1 - Distribution of growth  
CS5 - Managing the impact of growth and development  
CS14 - Promoting high quality places and conserving our heritage  
CS15 - Protecting and improving our parks and open spaces & encouraging biodiversity  
CS16 - Improving Camden's health and well-being  
CS17 - Making Camden a safer place  
DP12 - Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses  
DP24 - Securing high quality design  
DP25 - Conserving Camdens heritage  
DP26 - Managing the impact of development on occupiers and neighbours  
DP28 - Noise and vibration  
DP29 - Improving access

### Camden Planning Guidance 2010

### Covent Garden Conservation Area Statement

## Assessment

### 1.0 Proposal and Planning History

1.1 This application seeks planning permission and listed building consent for the erection of a new flue to be installed in replace of the existing extract flue on the rear side elevation of the grade II listed building.

1.2 Planning permission and listed building consent were refused in 2010 for the retention of an A3 (café) use in the ground floor and the associated extract flue on the rear elevation (refs: 2009/5376/P and 2009/5392/L). These applications were appealed and whilst the Inspector granted permission for the retention of the use, he dismissed the flue on the grounds of the harm to the listed building. The inspector's comments were as follows:

1.3 *"With regard to the effect on the listed building, I have had special regard to the desirability of preserving the building and its setting and its features of special architectural and historic interest. Having inspected the building, I share the Council's concerns, as set out in their appeals statement and agree that the exposed metal duct is wholly at odds with the historical character of this fine Grade II listed building. I disagree with the view set out in the committee report. Inappropriate additions to listed buildings cannot be justified on the basis of, amongst other things, being 'discreet' and being 'not visible from the public realm'. The flue is a harmful addition at the rear of the appeal building.*

*The rest of the rear of the building has been sensitively handled and with appropriate fenestration and detailing. I acknowledge that the flue is tucked away in a 'discreet' corner but its materials and stark appearance detract markedly from the overall character of the listed building as well as from its other architectural and historic features. I also acknowledge the technical and design issues and difficulties in providing appropriate and necessary extract systems in historic buildings. However, I do not consider that listed building consent should be granted for the flue as installed."*

1.4 In allowing the use of the café it is necessary that the premises are appropriately ventilated. As the upper floors are in different uses it is not possible to run the flue internally, irrespective of the potential damage to historic features of the interior. Therefore, the main issues of this application are the perceived visual impact on the host Listed Building and the neighbouring amenity.

### 2.0 Design and Appearance

2.1 The inspector notes that the flue is tucked away in a discrete corner and the proposed location has the least impact. Clearly the front elevation would not be an acceptable location. The main objection appears to be its "materials and stark appearance".

2.2 In terms of the appearance, the impact of the flue is reduced under the proposals by reducing its width to approximately two thirds of the existing. The fan unit is now also removed so that it no longer projects above roof level, instead it would be run horizontally on the flat roof of the main building so as not to alter the silhouette. This is a non original roof structure surrounded by a parapet wall. The only views of this would be from the upper floors of neighbouring windows but it would only be in the context of railings and the water tank. A small section of brickwork would need to be removed but the upper level appears as if it has been rebuilt (which would be consistent with the modern flat roof) so it is not considered that any historic fabric would be lost.

2.3 With regard to the materials it is agreed that the reflective appearance of the flue draws attention to its appearance. Within the application form it was stated that the flue was to be painted black or in a colour to match that of the existing brickwork. It is considered that through painting the flue in bricks to match that of the existing situation would reduce the visual impact and dominance of the proposal in this location. Concern has been raised as to the impact which the proposed flue has on the listed building and the neighbouring property. Due to the proposals now being 'disguised' as a chimney through the use of the paint work, and as the proposed flue is to be smaller than the existing flue, the dominance

of the addition is sought to be significantly reduced when viewed from the neighbouring buildings. The surrounding area is characterised by roof tops and chimneys and therefore the proposed flue is considered to be better integrated into the existing streetscene.

2.4 It is noted that the flue could be removed in the future with minimal works of reinstatement required to reverse the impact.

### **3.0 Amenity of the adjoining residents**

3.1 Whilst it is accepted that the replacement flue would be visible from the rear of properties of Goldsmith Court, due to the proposed paint work and as it is set back away from the neighbouring bathroom windows by 0.6m, it is not considered that the proposals would harm the amenity of the neighbour residents in terms of outlook, daylight and sunlight in line with planning policy.

### **4.0 Noise Issues**

4.1 An acoustic report has been submitted in support of the application. This report has further been revised to provide further information as required by the Environmental Health Officer. The report and attachments theoretically demonstrate that Camden's planning noise standard will be met. The report suggests a noise level of 39 dB(A) at 1m from the façade at the nearest receptors. A condition is recommended to be added to ensure that only the condenser plant with acoustic kit and silencers sited in the report 3351.NIA.02 dated 10 June 2011 shall be installed at the premises as stated in the report.

4.2 The standard noise conditions are advised to be added to the permission to ensure that the background noise level is not compromised in any way.

5.0 On balance, it is accepted that as the Inspector did not object to the principle of the flue in connection with the consented A3 unit, and therefore it is considered that given the proposed replacement flue would be painted to copy that of the existing brick work and would terminate in the middle of the roof, the flue would be, in this instance acceptable.

5.1 The current flue does not benefit for planning permission or listed building consent and therefore given this context, it is considered reasonable and necessary to warn the applicant that failure to implement this planning permission, in accordance with the approved plans, within 3 months from the date of this decision notice is likely to result in further enforcement action being taken.

**Recommendation: Grant Planning Permission and Listed Building Consent and warn of enforcement action.**

## **DISCLAIMER**

**Decision route to be decided by nominated members on Monday 31<sup>st</sup> October 2011.**

**For further information see**

<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>