

Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:		28/04/2010	
		N/A / attached		Consultation Expiry Date:		30/03/2010	
Officer				Application Number(s)			
Elizabeth Beaumont				2010/0988/P			
Application Address				Drawing Numbers			
190 Shaftesbury Avenue London WC2H 8JL				Please refer to decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Replacement of extract fan (retrospective) and duct and new air-conditioning plant with associated acoustic enclosures on flat roof of the single storey rear extension in connection with restaurant use (Class A3).							
Recommendation(s):		Grant planning permission					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	17	No. of responses	01	No. of objections	01
				No. Electronic	00		
Summary of consultation responses:		Flat 2 – 192 Shaftesbury Avenue – objects for the following reasons; <ul style="list-style-type: none"> - A piece of industrial plant has already been erected on the room it is the size of a large van. It is right next to my kitchen window and throughout the day until 11pm or 12pm there is constant noise. - It pushes out heat so I cannot open my window. - It is inappropriate, and is a noise and heat nuisance. (Please refer to 3-3.4)					
CAAC comments:		Covent Garden CAAC - None received.					
Site Description							
The site is located on the east side of Shaftesbury Avenue adjacent to the junction with Monmouth Street and Neal Street. The site comprises a mid-terraced three storey building with an unoccupied café/takeaway on the ground and basement floor with flats above. The building is enclosed to the rear and includes a yard located to the rear of No. 85 Neal Yard. The site is located in the Seven Dials (Convent Garden) Conservation Area but is not listed.							
There are a number of existing plant units installed on the flat roof of neighbouring buildings which do not appear to have the benefit of planning permission.							

Relevant History

01/05/2009 – **p.p. (2009/0966/P) granted** for the 'change of use of basement and ground floor from restaurant/café (Class A3) to mixed retail, restaurant & cafe and hot food takeaway (Sui Generis)'.

22/07/2009 – **Advertisement consent granted (2009/2166/A)** for the 'display of a halo illuminated fascia sign and 1x internally illuminated projecting sign and 1x non-illuminated projecting sign to the mixed use retail, cafe and take away premises (sui generis)'.

22/07/2009 – **p.p. (2009/2468/P) for (2009/2168/P) granted** for 'installation of new shopfront to the mixed use retail, cafe and take away use premises (sui generis)'.

02/10/2009 – **planning application (2009/3565/P)** withdrawn for the replacement of existing extract fan, rear elevation ducting, and air conditioning plant on roof of single storey rear extension in connection with restaurant use (Class A3).

02/02/2010 - **p.p. refused (2009/5435/P)** for the replacement of existing extract fan and rear elevation ducting, plus the erection of new plant on roof of single storey rear extension in connection with restaurant use (Class A3).

Relevant policies

Replacement Unitary Development Plan (2006)

SD6 (Amenity for occupiers and neighbours)

SD7 (B) (Noise/vibration pollution)

SD8 (A) (Disturbance from plant and machinery)

B1 (General design principles)

B3 (Alterations and extensions)

B7 (Conservation areas)

Camden planning guidance 2006

Covent Garden (Seven Dials) Conservation Area Statement

LDF Core Strategy and Development Policies

CS1 (Distribution of growth), CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage), DP24 (securing high quality design), DP25 (Conserving Camden's heritage), (DP26 (Managing the impact of development on occupiers and neighbours), DP28 (Noise and vibration).

As the draft LDF Core Strategy and Development Policies documents have now been published, they are material planning considerations. However, as a matter of law, limited weight should be attached to them at this stage.

Assessment

1. Proposal

1.1 Planning permission is sought for the following;

- Replacement of an existing Chinese lantern extract duct and flue and plant on the flat roof and rear elevation of the building with a new extract duct, condenser units and an acoustic enclosure.
- The application is partly retrospective as the replacement flue has already been installed on site.
- The proposed replacement flue extends across the flat roof of the ground floor addition and projects up the rear elevation of the existing building and terminates at roof level.
- A condenser unit is proposed enclosed in the yard at ground floor level.
- Two condenser units are proposed in the centre of the roof of the ground floor rear extension enclosed within an acoustic screen. The screen would measure 2.5m deep, 1.5m (from higher roof) to 2.4m (from lower roof) high and 1m wide.

1.2 Planning permission (2009/5435/P) was recently refused with warning of enforcement action for the retrospective application for the replacement of existing extract fan and rear elevation ducting, plus the erection of new plant on roof of single storey rear extension in connection with restaurant use (Class A3). It was considered that the two condenser units and associated acoustic enclosure, located adjacent to 192 Shaftesbury Avenue and on the flat roof of the ground floor rear extension of 190 Shaftesbury Avenue, by reason of the levels of noise from the units and the sense of enclosure arising from the bulk and position of the structure adjoining the kitchen window of no.192, have a detrimental impact on the residential amenity of neighbouring occupiers.

1.3 The acoustic enclosure which obscured the window at Flat 1 no. 192 has been removed; however the two units remain on the flat roof.

1.4 The current proposal varies from the refused scheme for the following reasons;

- Relocation of two of the condenser units and screen from adjacent to the windows on elevation of no. 192 to the centre of the roof.
- The flat roof is stepped in height in the centre of the roof. One unit will be located on each side of the drop and will be enclosed in an acoustic enclosure.
- The units will be located 3m away from any residential windows.

2. Design

- 2.1 The rear elevation of the property is tightly enclosed to the rear and is not visible from any public vantage points. There are a number of other flues serving other restaurants in the street. The flue would be slightly larger than the original flue however it is considered that as the proposal is a replacement of an existing flue the development would not have a detrimental impact on the character of the building or the character and appearance of the wider conservation area. The flue would add additional clutter to the flat roof however it is not considered to be to a detrimental extent in comparison to the existing situation.
- 2.2 The proposal involves the removal of a number of existing plants therefore it is considered that the proposed units enclosed within an acoustic screen in the centre of the flat roof would not have a detrimental impact on the building or the wider conservation area in comparison to existing.

3. Amenity

Loss of sunlight/daylight

- 3.1 The previous application (2009/5435/P) was refused following concerns with the proximity of the proposed units and screen to residential windows. The proposed plants have been relocated to the centre of the roof. The two proposed condenser units and enclosure screen would be positioned approximately 3m from windows on the first floor rear elevation of no. 192. There are three windows which serve a bathroom, kitchen and communal stairwell. It is noted that a water tank has been removed from the flat roof which was positioned adjacent to these windows. This has been relocated to the lower roof away from the windows. The proposed condenser enclosure would project 2.4m high from the flat roof of the building.
- 3.2 However, it is considered unlikely that given the height of the enclosure, the distance of the units from the window and the existing site conditions that the units would have a detrimental impact on the levels of light received by these windows. Furthermore the rooms would be classified as non-habitable rooms, therefore loss of daylight from these windows would not be considered to have a detrimental impact on the amenity of the occupiers. The flats are double aspect and have large windows on the front elevation of the building.

Outlook

- 3.3 The existing outlook from the windows is across the flat roof which is covered with plants towards the brick elevation of the neighbouring building. From existing photographs of the site submitted as part of the application it appears that there was an existing water tank of a similar height positioned approximately 1.5m to 2m from the windows on the rear elevation at first floor level. The resulting outlook from these windows following the proposal would be across the flat roof and along the top of the acoustic screen. It is therefore considered that the proposal would not have a detrimental impact on the outlook of the windows at first floor level in comparison to the existing situation. Furthermore the windows serve a small kitchen, bathroom and hallway and as such would be considered non-habitable rooms; therefore little protection could be afforded to the outlook from these windows.

Kitchen/ventilation extract duct system

- 3.4 Permission is also sought retrospectively for an extract ventilation system which replaced an existing duct in the same location. The duct terminates 1m above the eaves of the roofs in accordance with the Council's criterion. It is considered that the proposed extract duct would not have a detrimental impact on the amenity of neighbouring occupiers or residents.

4. Noise

- 4.1 An Acoustic Report was submitted as part of the application with theatrically demonstrate that Camden's Noise Conditions for 1m outside the nearest residential windows would be met. The Report states that an acoustic enclosure/barrier would be required in order to ensure that the plants meet the criteria. A condition would be recommended to ensure that the acoustic enclosure/barrier is installed prior to the installation and operation of the units.

4. Recommendation – Grant planning permission

Disclaimer

This is an internet copy for information purposes. If you require a copy of the signed original please contact the Culture and Environment Department on (020) 7974 5613