

<b>Delegated Report</b>	<b>Analysis sheet</b>	<b>Expiry Date:</b>	<b>21/05/2014</b>
	N/A / attached	<b>Consultation Expiry Date:</b>	<b>22/04/2014</b>
<b>Officer</b>		<b>Application Number(s)</b>	
Obote Hope		2013/8269/P	
<b>Application Address</b>		<b>Drawing Numbers</b>	
243 Kentish Town Road London NW5 2JT		Refer to draft decision notice	
<b>Proposal(s)</b>			
Erection of smoking shelter in rear garden (retrospective).			
<b>Recommendation(s):</b>	Refuse 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>10</b>	No. of responses	<b>02</b>	No. of objections	<b>02</b>
			No. electronic	<b>02</b>		
<b>Summary of consultation responses:</b>	<p><b>Owner/occupier of 5 Crown Place Objected to the retrospective consent are as follows:</b></p> <ul style="list-style-type: none"> <li>• Firstly, this is not a "smoking shelter" but a full blown Shisha Garden advertised on the shop frontage for 'Hummy Yummy'. Open until 11pm, this is inappropriate for a residential area and will result in noise and odour impact.</li> <li>• The 4 flats on the Crown Place have air vents which connect to en-suite</li> <li>• bathrooms and into the two main bedrooms at the rear of the properties, meaning that any noise/odour will be experienced throughout the whole all properties, not just the driveway</li> <li>• The shisha garden is on a raised platform, which will overlook the driveway of Crown Place and rear garden of 5 Crown Place, the adjacent flat at the rear of 245 Kentish Town Road and Alpha Court on Raglan St</li> <li>• Residents have not been consulted regarding the construction of the Shisha garden at all</li> </ul> <p><b>Owner/occupier of 5 Alpha Court Objected to the retrospective consent are as follows:</b></p> <ul style="list-style-type: none"> <li>• We did suffer noise during the erection of this 'smoking shelter', both at night and during the week ends.</li> <li>• In Alpha Court Block 1, overlooking the structure, we are very concerned about the noise impact</li> <li>• Also, in particular for the upper flats, both the noise and the visual impact will be more significant.</li> <li>• It should be noted that the flats have one or two bedrooms, depending on their layout, facing the structure. Consequently sleep would be disturbed by noise, particularly in summer when bedroom windows will likely be open.</li> <li>• Even modest noise would constitute a nuisance as this area is a sound trap.</li> </ul>					
<b>CAAC comments:</b>	N/A No CAACs are required to be consulted					

## Site Description

The site is occupied by a four storey mid-terraced building located to the west side of Kentish Town Road.

The building is located within the Kentish Town Centre with the ground floor forming part of the core shop frontages in this centre. The building is not within any conservation area and is not listed.

## Relevant History

**G11/7/2/6391** - To erect an extension at the rear of the existing shop premise – Granted - **09/08/1962**

**G11/7/2/1502** - To erect an extension to the shop premises at No. 243, Kentish Town Road, St. Pancras, at ground floor level, with an external staircase to the first floor and to convert the first and second floors into a self-contained maisonette – Granted - **26/02/1964**

**8500820** - Change of use of the ground floor from retail shop to hot food take-away – Refused - **29/10/1985**

## Enforcement History

**EN13/1207**- Unauthorised smoking shelter structure covering the whole of the rear garden

**EN14/0312**- Possible change of use A1 to A3 - Close case – no contravention- 03/06/2014

**EN14/0311**- Flue at rear looks to be new - Close case – no contravention

## Relevant policies

### NPPF 2012

LDF Core Strategy and Development Policies

CS5 – Managing the impact of growth and development

CS14 – Promoting high quality places and conserving our heritage

DP24 – Securing high quality design

DP26 – Managing the impact of development on occupiers and neighbours

Camden Planning Guidance 2013 (CPG's 1 and 6)

CPG1-Design

CPG6- Amenities

## Assessment

### 1.0 Background

The application follows an enforcement investigation for the erection of a single storey smoking structure / rear extension, (for which the application is seeking retrospective consent). The enforcement investigation also highlighted that the current use was changed without planning consent as the last known planning use was retail (Class A1). The property is currently trading as a restaurant within (Class A3). As well as the extension and the use the investigation that was carried out also included the erection of a flue to the rear.

### 1.0 Proposal

1.1 The application is for a retrospective consent for single store rear extension to the rear of the property.

1.2 The main considerations when assessing this application are:

- The design and impact on host building and the wider area
- Impact on the amenity of the neighbouring properties

### 2.0 Design & appearance

2.1 Policy DP24 seek to ensure all development is of the highest quality design and considers the character,

setting, context and form of neighbouring buildings.

- 2.2 A site visit was undertaken and it was understood that the rear garden would be used for sitting out in at the back of the coffee shop/sandwich bar/restaurant. There is concern that there has been a change of use to more of an A3 type use without planning permission. However, evidence has been provided that although no formal consent has been approved, the current use has been ongoing for more than 10 years and is therefore immune from enforcement action. Therefore, this part of the enforcement investigation has been closed.
- 2.3 The rear garden covers approximately 32sqm and the smoking shelter is effectively a roof over the whole garden space. The rear of the property has a ground floor rear extension with a small store structure projecting a further 2.5m into the garden area and measuring 2m wide. The roof has got beams within it and is strong enough to have at least three lighting strips attached to its underside.
- 2.4 The structure is made of timber and roof felt, with posts located in every corner and several others in key locations on the corners of the rear extension and store structure which it wraps around. The fence below the roof measures at least 2-2.5m in height and the height of the structure is approximately 4m-4.5m high and when viewed from distance from behind or from the upper floors of the neighbouring residential properties and sits well above the level of the existing rear ground floor extension.
- 2.5 The Council consider that the as built structure is a poorly designed and is an incongruous addition which is out of scale and character with the host building and thereby causing harm to the look of the property, the terrace in which it is located and the wider area contrary to Policy DP24 of Camden's LDF.
- 2.5 Policy CS14 aims to ensure the highest design standards from developments. Policy DP24 states that the Council will require all developments, including alterations and extensions to be of the highest standard of design and respect character, setting, form and scale of the neighbouring properties and character and proportions of the existing building.
- 2.6 The supporting text in paragraph 3.22 of CPG1 states that the Council will consider the impact of proposals on the historic significance of the building, including its features, such as:
- original and historic materials and architectural features;
  - original layout of rooms;
  - structural integrity; and,
  - character and appearance.
- 2.7 The extension was erected to provide an open sided protection from the weather and the bulk, depth and positioning of the extension has the potential for the intensification of its use to the detriment of the character of the rear area. This area is relatively quiet in nature and predominantly residential in its surroundings, a significant contrast from the front of the premises on Kentish Town Road that is of a busy and vibrant nature.
- 2.8 It is considered that the proposed rear extension would not be subordinate to the host building due to its size and scale and as such, would not be considered as subservient addition to the property. The rear extension would be an inappropriate addition that would result in loss of substantial amount of garden space which fails to preserve or enhance the open character of the area. The proposed extension would fail to be subservient to the building being extended, in terms of its location, form, scale proportions, contrary to planning policy DP24 and CS5 of the LDF.

### **3.0 Amenity**

- 3.1 The amenity concerns raised by local residents cover noise and disturbance by the use of the garden area and its use as a suspected shisha smoking garden. There were concerns that the extension would be used for shisha pipe smoking, and in any case, the roofing of an external open space allowing a much greater degree of protection from inclement weather, would significantly increase the intensity of use of the rear garden area, and would fail to provide an equivalent level of noise mitigation (through its flimsy and porous construction) towards the surrounding residential properties. Therefore, the extension would be

contrary to planning policy DP26 and CS5 of the LDF.

3.2 Though described as a smoking shelter, due to the degree of enclosure, it is considered to be unlikely that the structure would be able to be lawfully used in that capacity. As the structure is unacceptable in principle due to its construction and contribution towards an unmitigated increase in intensity of use, this issue is secondary to the straightforward inadequacy of the proposed development when considered against planning policy.

**Recommendation 1: Refuse Planning Permission**

**Recommendation 2:**

That the Head of Legal Services issue an Enforcement Notice under section 172 of the Town & Country Planning Act 1990 as amended, requiring the removal of the unauthorised structure from the rear garden area, and officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under section 178 in order to secure cessation of the breach of planning control.

**The notice shall allege the following breaches of planning control:**

The unauthorised erection of an unauthorised smoking shelter structure covering the whole of the rear garden.

**WHAT ARE YOU REQUIRED TO DO:**

Remove the subject structure from the rear garden in its entirety

**PERIOD OF COMPLIANCE:**

Two months

**REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:**

Reasons for Issuing the Notice:

1. It appears to the Council that the above breach of planning control has occurred within the last 4 years.
2. The subject extension, by reason of its height, bulk, mass, position and external materials / finish, would result in an over-dominant and inharmonious addition, detrimental to the character and appearance of the host building and local area, contrary to policy CS14 (Promoting high quality places) of the London Borough of Camden Local Development Framework Core Strategy; and to policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.
3. The subject extension would introduce a structure liable to result in a significant increase in intensity of use of the rear garden area, and would fail to provide an equivalent level of noise mitigation. The development would therefore lead to an unacceptable harm to the amenity of surrounding residents, and is contrary to Policies CS5 (Managing the impact of growth and development), DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework.

