

Delegated Report		Analysis sheet	Expiry Date:	10/09/2014
		N/A	Consultation Expiry Date:	25/08/2014
Officer			Application Number(s)	
Niall Sheehan			2014/4681/P	
Application Address			Drawing Numbers	
Cowshed Ltd., 115 - 117 Regents Park Road London NW1 8UR			See Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Installation of two vents on rear elevation at ground floor level (Retrospective)				
Recommendation(s):		Grant conditional permission		
Application Type:		Planning Application		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	14	No. of responses	01	No. of objections	12
Summary of consultation responses:	<p>Objections from neighbouring occupiers at 16 The Chesterfields, King Henry's Road</p> <p>Design The Chesterfields is an historic building, it is a school for poor boys dating back to 1800's and the vents are out of keeping with the appearance of the building. These are not vents, they look like industrial extractor units. <i>Officer Response: See paragraph 2.1 of Officer's Report</i></p> <p>Noise and Vibration Please do not be misled by the term 'vent' used in the application: wherever the air conditioning unit is within Cow Shed, its noise is pushed through the 'vents'. The extractors have already been found to cause noise pollution – a fact we know from Cow Shed installing the 'vents' without planning permission. They operate into an enclosed space and have been operated at levels causing substantial aggravation and diminution in the quality of life to residential neighbours in the Chesterfields, contrary to Development Policies Policy DP26 and DP28. These anti-social effects continue and, if anything increase, at weekends. <i>Officer Response: See paragraph 3.1 to 3.5 of Officer's Report</i></p> <p>Odours Smells and fumes from the beauty salon and café emanate out to within a very short distance of a residential neighbouring windows, balcony, residential gardens and are detrimental to the health of residents The vents go directly into a space which is enclosed by buildings five stories high on three sides with only a short distance between these high walls. There is no way residents can avoid the fumes of whatever is pushed through the vents. The smells rise up and are particularly bad. This is contrary to Development Policies Policy DP26. These anti-social effects continue and, if anything increase, at weekends.</p>					

The noise and odours created by the development has negative effects to health of surrounding occupiers

Officer Response: See paragraph 3.1 to 3.5 of Officer's Report

Breach of conditions

When permission was granted by Camden Planning office for the change of use from A1 to café/beauty salon it was done so on the basis that several things were adhered to including; keeping the windows at the rear of the building sealed shut – Cowshed constantly flout this condition of the change of use resulting in a detrimental loss of amenity to neighbouring occupiers.

Condition 6 of their planning (ref 2006/0277/P) which stated "

The windows in the rear elevation at ground floor level shall be obscurely glazed and non openable and shall be retained permanently like so for the duration of the use hereby approved"

Officer Response: See paragraph 3.1 to 3.5 of Officer's Report

Inappropriate use

Cowshed are now preparing and serving food on an industrial scale – they are operating a café first and a beauty salon second which is against the previous assurances they gave to the residents of the Chesterfields.

Historically and contrary to the statement of the applicant this type of machinery described has never previously been installed or operated on the site prior to this.

Officer Response: See paragraph 4.1 of Officer's Report

Response from Penthouse A, The Chesterfields, 1B King Henry's Road.

I have no objection to the installation of the unobtrusive vents at the rear of the property. The Cowshed has been a great enhancement to the street and have conducted themselves in a most professional manner

Acknowledged

<p>CAAC/Local groups comments:</p>	<p>Primrose Hill Town CAAC:</p> <p>Objection.</p> <p>Amenity We are concerned to know what the vents are for: are they for extracting cooking smells, or for extracting the solvents used in nail-varnishing and associated activities? In both cases it is deeply troubling that the exhaust vent discharges close to the openable windows of habitable rooms to neighbouring flats. This is harmful to residential amenity of these flats, while the discharge is into a very constrained rear area which provides natural ventilation to a large number of residential units.</p> <p>We note that while one of the vents is shown as existing, we have authoritative testimony that there were no vents in this location before the current tenancy.</p> <p>We note that if there is primary cooking of the kind which might justify a ventilation system, the unit requires a change of use. Such a ventilation system would need to discharge above the roof level. <i>Officer Response: See paragraph 3.1 – 4.4 of Officer’s Report</i></p>
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Site Description

The application site includes two ground and basement floor retail units forming part of the 'Chesterfields' building located at the corner of Regents Park Road and King Henry's Road in the Primrose Hill Conservation Area. The Chesterfields is a four floor building, currently in mixed use comprising two retail units and one Class A2 unit (estate agent) on ground floor and residential flats on upper floors.

The site is within the designated Regents Park Road Neighbourhood centre retail parade. The adjoining unit to the west is under A1 use (Bibendum Wine Merchants) and the adjoining unit to the east is in A2 use (estate agent).

Relevant History

Application site:

2006/0277/P – Planning permission was granted on 12/04/2006 for the change of use of ground and basement floors of no.115 Regent's Park Road and part basement of 117 Regent's Park Road from retail use (Class A1) to cafe use (Class A3). This permission was subject to the following conditions concerning hours of operation and cooking.

2008/3867/P – Planning permission was granted on the 30/09/2008 for the retention of two air conditioning units at roof level

2011/6116/P – Planning permission was granted on 28/02/2012 for the installation of roller shutter to shopfront (Class A1).

2011/0242/P – Planning permission was granted on 22/03/2011 for the alterations to shop front to create new entrance to shop (Class A1).

2013/5657/A – Advertisement consent application was received on 05/09/2013 for the new two externally illuminated fascia signs and externally illuminated hanging sign. No decision has been made yet.

2013/5610/P: PP Granted for "Change of use of the basement and ground floor from retail (A1) to mixed beauty salon, retail and café use (Sui Generis) and alterations to shopfront including new awning". Decision Date: 31/10/2013.

Key Conditions:

The proposed use hereby approved shall not include any primary cooking process, which for the purposes of this condition shall be taken to mean the application of heat to raw or fresh food in order to cook the food.

No.113 Regent's Park Road:

2003/1593/P: Creation of recess in pitched roof behind front parapet for installation of air conditioning units; alterations including installation of roller shutters in front of new and replaced windows. Decision Date: 14/10/2003.

9400518: Application for certificate of lawfulness granted for "Use as retail on ground floor and offices on first floor". Decision Date: 17/06/1994

No.119 Regent's Park Road:

None Relevant

Relevant policies

NPPF2012

The London Plan 2011

Local Development Framework – Core Strategy and Development Policies 2011

Core Strategy:

CS5 (Managing the impact of growth and development)

CS14 (Promoting high quality places and conserving our heritage)

Development Policies:

DP22 (Promoting sustainable design and construction)

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

CPG6- Amenity

Primrose Hill Conservation Area Statement 2001

Assessment

1.0 Proposal:

1.1 Installation of two vents on rear elevation at ground floor level in retrospect to provide ventilation to rear area of ground floor.

1.2 Details:

1.3 Both vents are installed to the rear elevation either side slightly higher than the existing ground floor kitchen window. Both vents assume an equal height on the rear façade and both measure 0.35m in height x 0.35m in width. Both are made from stainless steel and appear as a shiny grey colour

2.0 Design.

2.1 As both the vents are small in dimension and aligned flush with the rear façade they appear reasonably discrete when assessed against the remainder of the rear façade. Given their shiny stainless steel appearance, a condition has been attached to the consent requiring for the flues to be painted in a colour to match that of the brickwork. By doing this the flues would appear more subtle in design terms better integrating with the appearance of the rear façade.

3.0 Amenity:

3.1 First of all it should be noted that the vents are to provide ventilation and fresh air to the kitchen area and rear of the ground floor. With regard to noise impacts generated from the vents Environmental Services have both visited the site and analysed the Noise Impact Assessment Report undertaken and consider the noise effects resulting from the vents to be acceptable.

The nearest noise sensitive window is identified to be the residential units to the North.

The acoustic report states that noise measurement was carried out on Wednesday the 11th of June 2014 between the hours of 20:00 and 21:00. The period was considered favorable as it was dry and still and was considered to represent the worst case (quietest) operation time of the equipment. The measurement location was identified 2m above and adjacent to the vent close to an adjacent window opening.

The report states that the lowest background noise level in respect of two a/c units measured was 30dB LA90 during daytime (08:00 – 23:00 Opening Hours) with the vents being approximately 2.0m from the nearest noise receptor. The plant would operate a level of 5db below the lowest background measure. This would require a level of 32db when assessed at the

nearest residential receptor for which 30dB falls below.

The Council's Environmental Health officer is satisfied that with the acoustic report the vents will be in compliance with the Council's required standards subject to conditions to ensure this. Conditions attached will also ensure that should the vents be noisier than anticipated the local planning authority will have sufficient powers to take the necessary enforcement action if required.

3.3 With regard to the odours emanating from the vents and the nearby window, both issues although connected in their effects must be dealt with separately. The reason for this is the vents were installed without consent and are being applied for retrospectively and therefore their impacts needs to be ascertained and assessed by Environmental Health., whilst on the other hand the window has been ever present in the building and planning history must be assessed in order to see whether it should be non-openable.

3.4 With regard to excessive odours emanating from the kitchen and café area, condition 7 of 2013/5610/P reads "The proposed use hereby approved shall not include any primary cooking process, which for the purposes of this condition shall be taken to mean the application of heat to raw or fresh food in order to cook the food." A site inspection has occurred to both the interior and exterior of the building. Environmental Services have visited the facility and confirmed that no cooked food is being served; hence any odours emanating from teas/coffees sandwiches, readymade confectionary etc. would not be over and above the situation at any residential property for instance. For the avoidance of doubt a microwave exists in the kitchen which applies heat to already cooked food.

3.5 Should odours be generated above what are considered to be normal levels, residents are advised to contact the council's Environmental Services department who may investigate the property and assess the working functions of vents etc., independent of this planning application.

4.0 Other Matters

4.1 In response to points made regarding issues over the actual use of the building as predominantly a cafe instead of its stated use as a beauty salon with a café element, it should be noted consent was granted last year which granted a combined/mixed use for both beauty salon and a café for which it is being used as. A site inspection has taken place to confirm this. Furthermore there are no specifications over the ratio of uses in the relevant grant of planning permission 2013/5610/P.

4.2 In response to points made in objections received regarding the breach of condition 6 of planning application 2006/0277/P in respect of the opening of the window to the kitchen, planning application 2013/5610/P granted on the 31/01/2013 overrides this condition. Planning application 2013/5610/P does not include any similar such condition. Notwithstanding the aforementioned and taking into account that noise and odours have not been identified as nuisances by Environmental Health following two separate visits(midweek and weekend; considering the overall level of objection relating to the window being opened, an informative has been placed on the consent, requesting that the window be kept shut and only opened for rapid ventilation(air circulation) only when necessary. This informative is in the interests of effective long term mitigation and good neighbour relations. The applicants have been made aware of the necessity of this informative and have made an undertaking in writing to adhere to the wording of the informative.

4.3 In response to a point made in an objection received regarding the depreciation in property values as a result of the development, it should be noted that property values are not

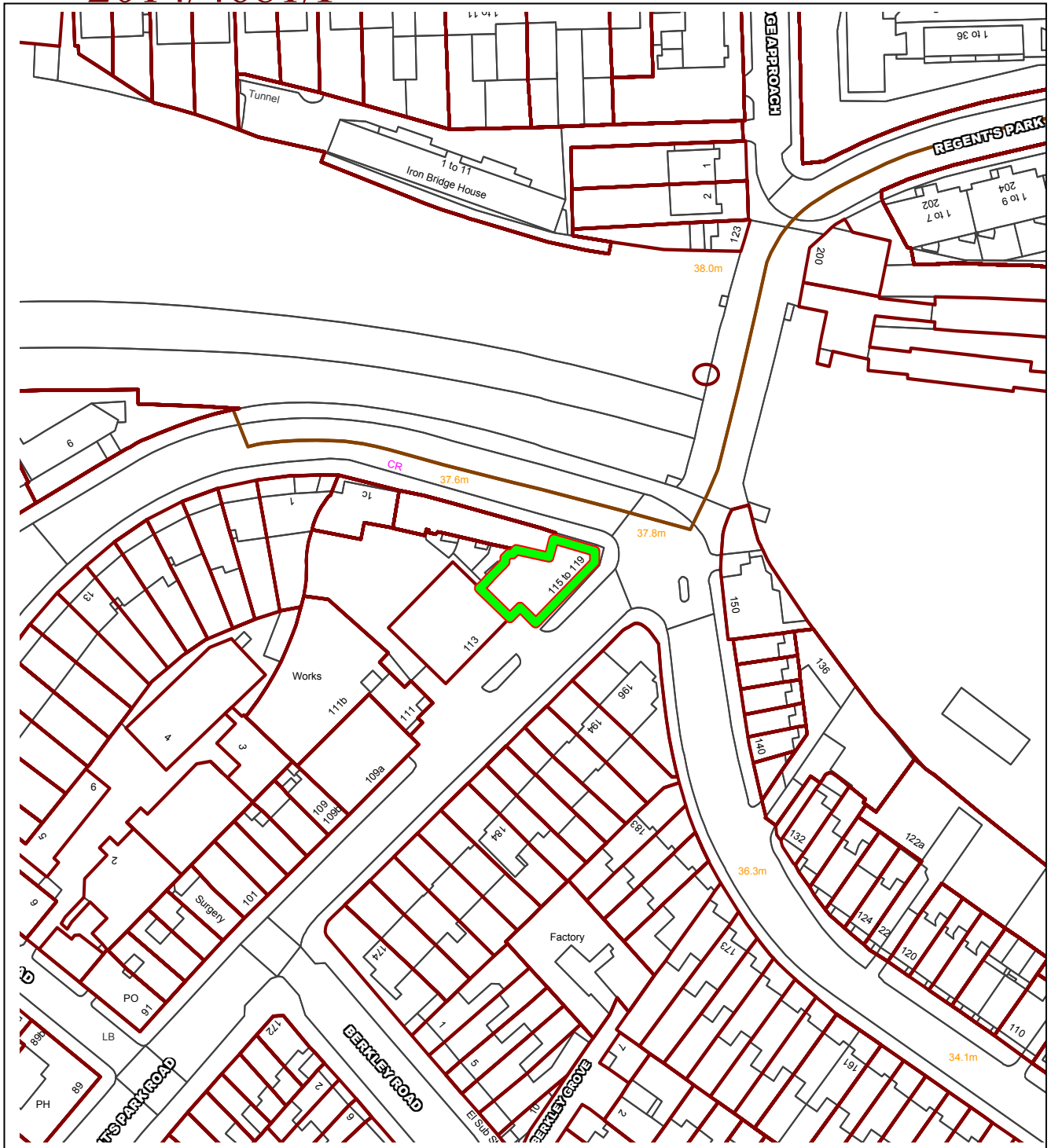
planning matter and therefore not material considerations in the decision making process.

4.4 In response to a point made regarding future potential breaches in terms of noise, odour and general disturbance, Environmental Services Legislation is always available to affected parties. Furthermore as detailed above should further breaches of planning applications occur, the Council's Enforcement department may be able to conduct an investigation? However at present, officers have confirmed that no statutory nuisance occurs and the vents comply with relevant standards on noise and odours.

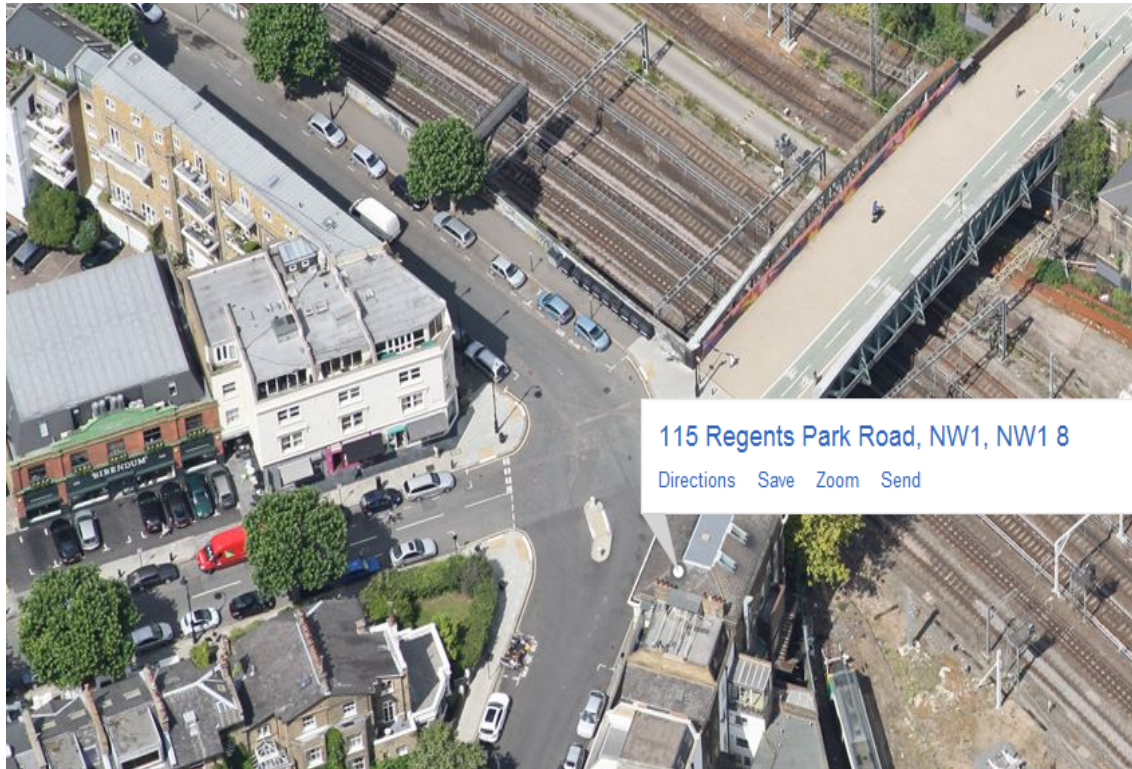
Recommendation: Grant conditional permission.

DISCLAIMER Decision route to be decided by nominated members on Monday 29th September 2014. For further information please click [here](#)

115 – 117 Regent's Park Road, 2014/4681/P



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Top: View from front: No.115-117 is the corner building to the top of the photograph
Bottom: View from rear, see balconies to neighbouring properties and confined space



Top: View of two vents to either side of ground floor rear window
Bottom: As above

Kate Matthews
Firstplan Ltd
25 Floral Street
London
WC2E 9DSApplication Ref: **2014/4681/P**
Please ask for: **Niall Sheehan**
Telephone: 020 7974 **3968**

26 September 2014

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:

**115 - 117 Regents Park Road
London
NW1 8UR****DECISION**

Proposal:

Installation of two vents on rear elevation at ground floor level (Retrospective)

Drawing Nos: Existing: 311_SHG_EL_REAR_2 Current Rear Elevation

Proposed: 311_SH6_EL_REAR_2Rev.A, Noise Report prepared RBA Acoustics, ref 295/PNA dated 15/07/2014.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans; Proposed 31L_SH6_EL_REAR_2Rev.A, Noise Report prepared RBA Acoustics, ref 295/PNA dated 15/07/2014.

Reason:

For the avoidance of doubt and in the interest of proper planning.



- 2 The two vents to the rear facade shall be painted as closely as possible in colour to that of the brick to the rear facade. Prior to this being undertaken, a colour code and sample shall be submitted for approval in writing from the local authority within one month of the date of this notice, whilst the works shall be undertaken within 3 months of the date of this notice.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the [adjoining] premises [and the area generally] in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The vents shall be painted in a 'copper' colour as detailed in the 'Hammerite Metal Care, "Product and Colour Guide' submitted in conjunction with the planning application. This vents shall be painted within 3 months of the date of decision.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Your attention is drawn to the need for compliance with the requirements of the Environmental Health regulations, Compliance and Enforcement team, [Regulatory Services] Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 4444) particularly in respect of arrangements for noise mitigation, ventilation and the extraction of fumes and smells.

- 3 **WARNING OF ENFORCEMENT ACTION TO BE TAKEN**
Should any breaches of planning control occur pertaining to conditions relating to planning consent reference no. 2013/5610/P and planning consent reference no.2014/468, the Director of Culture and Environment may instruct the Head of Legal Services to issue an Enforcement Notice alleging a breach of planning control .
- 4 **INFORMATIVE:** In the interests of effective noise and odour management and good neighbour relations in the longer term it is strongly recommended that the kitchen window to ground floor level at the rear is kept shut, and only opened for very short periods of time for rapid ventilation purposes (i.e air circulation prior to food preparation in the early mornings).

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Culture & Environment

DECISION