

Delegated Report		Analysis sheet	Expiry Date:	21/06/2013
		N/A	Consultation Expiry Date:	29/05/2013
Officer			Application Number(s)	
Miheer Mehta			2013/0892/P	
Application Address			Drawing Numbers	
328C Kilburn High Road London NW6 2QN			Refer to Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Erection of a single-storey rear extension to provide additional ancillary seating to the existing restaurant (Class A3)				
Recommendation(s):		Refused and Warning of Enforcement Action to be taken		
Application Type:		Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	26	No. of responses	01	No. of objections	01
Summary of consultation responses:	<p>Site notices were displayed from 08/05/2013 to 29/05/2013.</p> <p>The statutory public consultation period formally expired on 24/05/2013.</p> <p><u>Local Residents:</u> 1 letters of objection was received from neighbouring occupiers, commenting on the below;</p> <ul style="list-style-type: none"> • This applicant has previously applied to extend their one storey shop. Living above this shop, I do have concerns. They plan to use this space as a sheesha cafe (it's already used for this in the summer). • I'm sure under smoking regulations, sheesha pipes would have to be smoked outdoors to prevent fires. Currently, they have a makeshift enclosure which increases the fire risk. Concerns for them building would be increased noise, fire risk, indoor smoking. As stated before, they already have an enclosure that they have put up which already poses a fire risk. <p><i>Officer comment: The application submitted is for an extension to an existing restaurant, therefore the use for this extension as a "sheesha" café would require a separate form of consent if it is considered to be a primary use to the existing restaurant. Noise, fire risk and smoking fall within different legislation covered under Building Control and Environmental Health.</i></p>					
CAAC/Local groups comments:	N/A					

Site Description

The subject site is a ground floor commercial unit occupied as a restaurant/take-away. The unit forms part of a larger mixed use development with other commercial units at ground floor and flats above.

The property is not located within a Conservation Area, nor is it a listed building. The main property adjoins open space to the rear which is a nature conservation area. It appears the existing and proposed structures would be located within the nature conservation area.

Relevant History

2012/5187/P – Erection of single-storey rear extension to provide additional seating to the restaurant (Class A3) (Retrospective) - WITHDRAWN - 03/12/12.

There is also an ongoing Enforcement Investigation in regards to the unauthorised rear extension and the use of the rear of the premises as a “sheesha” lounge.

Relevant policies

National Planning Policy Framework 2012
London Plan 2011

LDF Core Strategy and Development Policies

Core Strategy

CS1 (Distribution of Growth –make best use of limited land)

CS5 (Managing the impact of growth and development)

CS14 (Promoting high quality places and conserving heritage / conservation areas)

Development Policies

DP24 (Securing high quality design)

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

CPG 2011 (Design) – Chapters 1-4

Assessment

Background

The applicant has erected an extension to the rear of the existing restaurant which has been built without the benefit of planning permission or building control. The applicant has been informed the existing extension needs to be removed. An enforcement officer is also investigating the matter and has informed the applicant that action will be taken to remove the extension.

The applicant seeks to gain consent for a rear extension as part of this proposal, to replace the existing unauthorised rear extension. The current unauthorised extension may be being used as a shisha lounge; however this is also under investigation.

Proposal:

The Applicant seeks permission to erect a single storey rear extension (removing the existing unlawful rear extension currently on site).

The proposed rear extension would be 12.25m deep and 7.7m at its widest point. The extension would provide a servery and a large seating area. The proposed roof would be a green roof.

The applicant was informed the proposal is excessive in depth.

A significant period of time has been provided to the applicant with on-going negotiations to remove the existing structure; however the applicant has been reluctant to take officer advice.

The principal consideration material to the determination of this application are summarised as follows:

- Design
- Amenity

Design

The rear extension would be visible from local residents on upper floors of the building and members of the public using the train/tube network. Therefore any development should be of a high quality given that it would be visible.

The proposal is not considered to comply with Camden Planning Guidance in that it would not respect or preserve the original design and proportions of the building or existing architectural features and would appear incongruous on the rear elevation.

The proposal would be 12.25m from the existing projecting single-storey rear extension (not including the current unauthorised development). No objection is raised to the green roof proposed.

The extension would project approximately 12.25m from the main rear façade and existing single-storey rear extension which is considered to be too deep given that the existing building and terrace of the commercial units at ground floor level remains largely intact and the rear elevations are visible.

Overall, the proposed extension to the property is considered to harm the general integrity of the main building, is out of character with the local area and is considered to be unacceptable due to its excessive depth and size.

Amenity:

Daylight and sunlight

Given the height of the proposed extension and its overall size and distance from facing windows, it is

not considered that any nearby occupiers would suffer from a significant loss of daylight or sunlight.

Privacy and Noise

Given the intensification and enlargement of an existing restaurant, the location and distance from the surrounding residential properties, the proposal would be detrimental to the amenities of nearby residents and is therefore considered unacceptable. The potential use of the extension would consist of additional noise which would be harmful.

Open space

It is considered the proposal would sit within the open space to the rear of the site which is partially wooded private open space designated a site of nature conservation importance by English Nature. Concerns are raised with the removal of trees and general green screening around the rear of the site. It is considered that the impact of the size of the extension would be harmful to this setting of the open space and the proposal would encourage development on open space which is against policy.

Other matters

Through long-standing negotiations, the applicant has failed to provide clear advice on the ownership of the land to the rear and it is considered that the existing extension sits on open space and it is not confirmed if works have been undertaken to remove trees from the open space which would be considered development on open space.

Conclusion:

The existing unauthorised extension is a safety hazard and does not benefit from any planning consent. The proposed extension is considered excessive in size and harmful to the open space to the rear and is not considered acceptable.

Recommendation:

a) Refuse Planning Permission

b) Authorise enforcement action

That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

The unauthorised erection of a rear extension.

The Notice shall require within a period of 3 calendar months of the Notice taking effect:

1) Remove the unauthorised rear extension and make good the existing opening and land.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE.

The proposed rear extension, by reason of its excessive depth, inappropriate size, mass and design would result in harm to the character and appearance of the building, adjoining open space and surrounding townscape, contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy; and policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.

The extent of additional Class A3 restaurant floorspace would result in an intensification of use which would be detrimental to the amenities of nearby residential properties. The proposal would thereby

conflict with Policies CS5 The proposed rear extension, by reason of its location within a site of nature conservation and designated private open space, would result in loss to the open space, natural habitats and biodiversity, contrary to policy CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy.

The proposed development by virtue of its size would result in the provision of a significant amount of additional floorspace and intensification of the restaurant use to the detriment of the amenity of nearby residential properties contrary to Policies CS5 (Managing the impact of growth and development) and CS7 (Promoting Camden's centres and shops) of the London Borough of Camden LDF Core Strategy and DP12 (Supporting strong centres and managing the impact of non retail town centre uses), DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and Vibration) of the London Borough of Camden LDF Development Policies.