


<b>Enforcement Delegated Report</b>		<b>Receipt date:</b>	<b>23/10/2013</b>
<b>Officer</b>		<b>Enforcement Case</b>	
John Nicholls		EN13/1207	
<b>Breach Address</b>		<b>Photos &amp; Other material</b>	
243 Kentish Town Road, London, NW5 2JT		See file	
<b>Authorised Officer Signature</b>			
 05.08.14			
<b>Alleged Breach</b>			
Erection of a metal and timber structure covering the entire rear garden and being used as a smoking shelter			
<b>Recommendation(s):</b>		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, to remove the timber structure covering the entirety of the rear garden, 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.	
<b>Priority:</b>		P3	

<b>Site Description</b>
<p>The site is occupied by a four storey mid-terraced building located to the west side of Kentish Town Road.</p> <p>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.</p>
<b>Investigation History</b>
<p>An enforcement query was opened on 23/10/2013 relating to the unauthorised structure in the rear garden.</p> <p>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 was also a concern that there had been a change of use to more of an A3 type use without planning permission.</p> <p>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.</p> <p>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, it effectively looks like a very tall rear extension.</p> <p>The roof has got beams within it and is strong enough to have at least three lighting strips attached to</p>

its underside.

There was concern that there would be shisha pipe smoking here, and even for normal smoking it is considered that the walls could be considered too high to meet the requirements of the legislation on outdoor smoking structures.

Letters were sent to the owner in late November and late December requesting that the structures were removed or applications submitted. The owners have exercised their right to submit an application for the structure alone which has now been determined.

### Relevant policies / GPDO Category

#### 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

#### Planning 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 - ongoing

**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

#### Issues:

A planning application was submitted in 2013 (2013/8269/P) to use the timber structure as a smoking shelter which covers the entire rear garden/amenity space. The application was refused for the following reasons:

*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.*

And:

*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*

The officer's report also recommended serving an enforcement notice to ensure the removal of the structure.

Notwithstanding that report and recommendation, this report is an addendum to the planning report and clarifies the wording of what is required to be undertaken.

### **Recommendation:**

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, to remove the timber structure covering the entirety of the rear garden, 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 breaches of planning control:**

The erection of a timber structure covering the entirety of the rear garden.

### **WHAT ARE YOU REQUIRED TO DO:**

Remove the timber structure entirely from the rear garden

### **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 timber structure extension, by reason of its height, bulk, mass, position and external materials / finish, results 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 timber structure introduces a development liable to result in a significant increase in intensity of the 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.