

LDC Report		02/06/2015
Officer		Application Number
Matthew Dempsey		2015/2018/P
Application Address		Drawing Numbers
135 Finchley Road London NW3 6JH		P02 (a) May 2015, P02 (b) March 2015, P03 April 2015, Finchley Road Location Plan.
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Removal of part of flat roof and redundant plant from existing bar/club.		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>Site Location:</p> <p>The site is located on the west side of Finchley Road close to the entrance to the Swiss Cottage underground station. The site is not located within a Conservation Area. The host building is not listed and not in a conservation area.</p> <p>Proposal:</p> <p>The premise has been in use as a drinking establishment for some time. The proposal relates to the flat roof at first floor level and involves the removal of part of the roof and the removal of a plant. There is currently no fixed access to the roof from within the building.</p> <p>Applicants evidence:</p> <p>The applicant has submitted the following information in support of the application:</p> <ol style="list-style-type: none"> 1. Existing and Proposed floor plans, elevation and sections. 2. Opinion given by John Hobson QC in written statement. 3. Statement in support of application for LDC, prepared by Meeson Williams Phillips Ltd, March 2015. 4. Legal precedent example – Burroughs Day Vs Bristol City Council. 5. Photographs of site I – VI. 6. Lines of sight sketches showing various views around site. 		

Assessment:

Section 55 of the 1990 Act defines development as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

The applicant has provided an opinion given by John Hobson QC, whereby; it was outlined the definition of (what does not constitute) development as expressed in section 55 of the Town and Country Planning Act 1990, i.e.)

“The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a)the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i)affect only the interior of the building, or

(ii)do not materially affect the external appearance of the building,”

The opinion then goes on to provide a case law example (Burroughs Day Vs Bristol City Council [1996]) to argue that what has been proposed in the application under consideration here can be categorised as; ‘not development’, and therefore would not require planning permission. The points listed are as follows:

1. What must be affected is “the external appearance” of the building, and not its Exterior. The alteration must be one which affects the way in which the exterior of the building is or can be seen by an observer outside the building;
2. The external appearance must be “materially” affected, and this depends in part on the degree of visibility;
3. Any change must be visible from normal vantage points;
4. Materiality must in every case take into account the nature of the particular building which it is proposed to alter;
5. The effect on the external appearance must be judged for its materiality in relation to the building as a whole, and not by reference to a part of the building taken in isolation.

The existing parapet sits at 1340mm above the flat roof. The proposed works will not be visible from the wider public realm. In light of the evidence that has been submitted it is considered that the proposed works will not materially affect the appearance of the external building because of the limited visibility of the proposed works from normal vantage points. Overall the proposed works are unlikely to alter or harm the appearance of the building.

Recommendation: **Approve.**