

Delegated Report		Analysis sheet		Expiry Date:		12/08/2016	
(Members Briefing)		N/A / attached		Consultation Expiry Date:		29/07/2016	
Officer				Application Number(s)			
Amy-Grace Douglas				2016/3401/P			
Application Address				Drawing Numbers			
Land adjacent to, 135 Finchley Road London NW3 6JH				Refer to Draft Decision Notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Landscaping works including decking, framed planters, dwarf wall and balustrades to the side elevation in association with restaurant and bar use (Class A3/A4) and installation of awning to front elevation.							
Recommendation(s):		Grant conditional planning permission					
Application Type:		Full Planning Application					

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	05	No. of responses	05	No. of objections	05
Summary of consultation responses:	<p>Three site notices were displayed from 6 July 2016 to 27 July 2016</p> <p>5 objections in total were received (3 received from the general public – one providing no address, and two who do not reside in the Borough)</p> <p>The issues raised can be summarised as follows:</p> <ol style="list-style-type: none"> 1. Ownership of land; 2. Amenity impact on nearby residents – specifically, concerns for increased anti-social behaviour, noise, odour - as there is potential for the area to be used for dining, drinking, or smoking and shisha area; 3. Impact on street cleaning; 4. Obstructing footways; 5. Level of the development being against the retaining wall at street level, on a public footpath close to the entrance of Underground station and entrance to residential properties at Centre Heights; 6. Proximity to fire door and impact on services including gas supply currently at site, concerns with regards to safety. <p><u>Officer response</u></p> <ol style="list-style-type: none"> 1. <i>The ownership of the parcel of land has been declared under the Application Form as per Certificate B which has been signed in Part 25. Land ownership is not a relevant planning consideration.</i> 2. <i>This proposal is for landscaping to enclose a parcel of land and will be used for deliveries, refuse, and visual purposes only. However the concerns are further discussed in Part 6 below.</i> 3. <i>Street cleaning issues would not be relevant as the parcel of land is not within a public highway.</i> 4. <i>The proposed development is not within a public highway and would not impact the existing footpath.</i> 5. <i>Proximity to the public realm and residential properties and impacts on amenity is discussed within Part 6 of the report below.</i> 6. <i>The applicant is required to ensure gas supply and services are accessible however this is controlled under separate legislation and does not form part of this assessment.</i> <p>An objection was received from a local councillor (Cllr Freeman) whose comments can be summarised as follows:</p> <ol style="list-style-type: none"> 1. Area would be used for overflow for the restaurant, as such would planning permission be required for tables and chairs? Shares concerns of local residents which are consolidated in Chair of Cresta House’s response. 2. Change of use required for patron’s usage of the area and for any hours of operation. <p><u>Officer’s response:</u></p> <ol style="list-style-type: none"> 1. <i>Planning permission for tables and chairs only required for public</i> 					

- highways however a condition is recommended with any grant of permission to ensure this area is maintained for visual purposes only and is not used by patrons.*
2. *Further discussed within Part 6 of the report.*

The Chair of the Cresta House Resident's Association objected and the issues raised can be summarised as below:

1. Use – The objector is concerned that there is a '*further and intended purpose behind this new decking area*' as '*there will very likely be a change of use of this space*' due to its location and proximity to the existing restaurant'.
2. Implications of outdoor restaurant/bar – Licensing regarding opening hours requires attention if outdoor use of restaurant bar is granted. Concerned that increased levels of noise, crime, and anti-social behaviour would result.
3. History of noise and public nuisance complaints surrounding the business (previously at 100 Avenue Road). No consultation as part of change of use from D Den (nightclub) to Mia. Concerns about negative impact to local community.
4. Pulsing neon lighting behind latticed façade of side wall requires a change of use, will convert 'what were bland granite walls into two 3-storey attention-grabbing advertising billboards'.
5. Sealed flat roof modified to include smoke extractor vents – was permission granted? Concerns with smoke wafting into windows of nearby residents.
6. Incorrect answer on form in Question 3.

**Cresta House
Resident's
Association**

Officer response

1. *The cover letter submitted advises that the proposed deck is for visual enhancement only. A condition is recommended to ensure the site is not used as an ancillary outdoor area to the restaurant.*
2. *Amenity impacts discussed in Part 6 in the report below.*
3. *It was determined under enforcement case EN10/0393 that the site was not operating as a nightclub. Should a site involve the change of business, they do not need to inform the Council's planning department, unless they propose a change of use from what has already been granted.*
4. *Neon lighting does not form part of this planning application and would be investigated through relevant planning enforcement channels, if necessary.*
5. *A Lawful Development Certificate was issued in 2015 (ref 2015/2018/P) which concluded that planning permission was not required for the changes to the roof. Smoke is an Environmental Health concern and would not form part of the assessment for this proposal; any health complaints should be raised with the Council's Environmental Health officers.*
6. *The application form has been amended to ensure the correct answer is provided to Question 3.*

Site Description

The application site is located on the west side of Finchley Road close to the entrance of the Swiss Cottage underground station. It is adjacent to a 4-storey marble-clad building with a glazed façade which is in use as a restaurant (Class A3) and drinking establishment (Class A4).

The application site is not located within a Conservation Area; however it is within the Finchley Road/Swiss Cottage designated Town Centre.

The application site is adjacent to an existing fire escape from the building at 135 Finchley Road, and hoardings and some decking have been erected around the perimeter without planning permission (see planning history below for details).

Relevant History

Application site

9500303 – Change of use of the lower ground upper ground and first floors from a bank within Class A2 to café/bar within Class A3 – Granted May 1995

PW9605135 – The erection of a four storey building comprising retail use on lower ground and ground levels with residential use on first and second floors. Refused 11/6/1997

PW9703068 – The erection of a two storey building for use within Class A2 (financial and professional services) of the Town and Country Planning (Use Classes) Order 1987 – Granted 26/05/1998

2007/6299/P – Change of use of basement, lower/upper ground and first floor from bar (Class A4) to office use (Class B1) – Granted 19/3/2008

2012/0076/A – Display of internally illuminated digital display panel on monopole – Refused 31/05/2012

2012/1984/P – Installation of brick piers, metal railing and associated landscaping in connection with enclosure of an area of land – Granted 29/05/2012

2013/8151/A – Digital media display on a freestanding advertising display unit -Refused14/02/2014 – Appeal Dismissed 27/06/2014

2015/2018/P – Removal of 15m U-shape strip of flat roof and redundant plant from existing bar/club. – Lawful Development Certificate – Granted 21/5/2015

2015/4946/P – Alterations to the fenestration at ground and first floor level for the replacement of the existing vertical framed windows between the ground and first floor level – Granted 11/11/2015

2015/5554/P – installation of aluminium perforated screen façade fixed on aluminium rails on the existing front and side elevations. – Granted 21/12/2015

2015/6098/A – The display of 2 x non-illuminated fascia signs to the front and side elevation at raised ground floor level. – Granted 21/12/2016

Related Enforcement Cases

EN10/0393 - Possible change of use from bar to nightclub. – Withdrawn/Closed 25/6/2010 - *No material change of use, still a bar operating within A4*

EN16/0541 – Unauthorised timber decked area on the side elevation at ground floor level – Planning application submitted retrospectively (the subject of this report).

Relevant policies

National Planning Policy Framework 2012

National Planning Practice Guidance

The London Plan 2016

LDF Core Strategy and Development Policies

CS5 Managing the impact of growth and development

CS7 Promoting Camden's centres and shops

CS8 Promoting a successful and inclusive economy and Development Policy

CS14 Promoting high quality places and conserving our heritage.

CS17 Making Camden a safer place

CS18 Dealing with our waste and encouraging recycling

DP12 Supporting strong centres

DP13 Employment premises and sites

DP21 Development connecting to the highway network

DP24 Securing high quality design

DP26 Managing the impact of development on occupiers and neighbours

DP28 Noise and vibration

Camden Planning Guidance (2013/2015)

CPG1 (Design)

CPG5 (Town centres, retail and employment)

CPG6 (Amenity)

Assessment

1 Background

1.1 This proposal involves the construction of a decked area and associated planters at a site adjacent to 135 Finchley Road, and an awning and dwarf wall to the front elevation. Permission is sought retrospectively for the decking which has been partially installed without planning consent.

1.2 The proposed landscaped area would be located adjacent to an existing fire escape door to the flank elevation of 135 Finchley Road, in a previously vacant area.

1.3 The area would be accessible and visible from the public realm to the south, via stairs and a ramp.

1.4 The decked area and entrance door into the restaurant would be used for deliveries of supplies, refuse removal and visual enhancement purposes only, in connection with the establishment at 135 Finchley Road (Mia restaurant).

2 Proposal

2.1 Planning permission is sought for:

- Erection of timber decking to a height of 0.7m maximum above ground level, covering an area of approximately 43sqm, with planters in the centre of the deck covering approximately 8sqm, and a ramp, to be constructed to the side elevation to the south of 135 Finchley Road;
- Rendered dwarf wall of height 1.1m with metal railings to be erected along Finchley Road adjacent to the building;
- Erection of a canopy above the entrance doors at the front elevation.

3 Revisions

- 3.1 The proposal was amended to incorporate an awning to the front elevation entrance door as part of the works.
- 3.2 The plans were amended to incorporate additional soft landscaping elements in order to deter loitering within the area, following objections from local residents and the Council's crime prevention officer.
- 3.3 The plans were further amended to include a secure sliding gate to enclose the area, and minor changes to the awning were made.

4 Assessment

4.1 The main planning considerations in the assessment of this application are:

- Design
- Amenity

5 Design

- 5.1 It is proposed to install, to the south of 135 Finchley Road, planter timber boxes 2m in height to the west elevation, a 1.1m brick rendered wall to be erected at the front elevation, and a glass balustrading to run the length of the proposed decking area of maximum height 0.7m.
- 5.2 The proposed area would not be used as an extension to the seating area or for use by customers of the restaurant but would be for deliveries and emergency exits via the fire door to this flank elevation. The proposal would utilise a previously vacant area, enhancing the amenity of the pedestrian passageway that runs between Finchley Road, the Swiss Cottage Underground Station and Belsize Road.
- 5.3 The proposal includes both hard and soft landscaping treatments which would contribute to greening the area and would result in an improvement in terms of visual amenity of the subject site. A condition is recommended requiring details of the landscaping to ensure it is of a high quality and maintained over time.
- 5.4 The proposal would be subordinate to the building and would not appear incongruous or obtrusive when viewed from the south and west. Due to the levelling of the site it would not be significantly visible from Finchley Road. Overall, it is considered that the replacement of the area with decking, balustrades and planters would enhance the appearance of the site when viewed as approaching Finchley Road from Belsize Road.
- 5.5 Given the proximity to the public realm and the proposed works being situated approximately 3.5m from the entrance to the Swiss Cottage Underground Station, it is considered necessary to require a Management Strategy to be submitted to and approved in writing by the Council prior to development commencing to ensure the area is kept tidy and to a high standard, and to ensure the safety of nearby residents and passers-by is upheld at all times through lighting, CCTV and gating. A suitable condition is recommended.
- 5.6 The proposed awning to the front of the host building, above the entrance door, is a modest addition that would not cause harm in terms of visual impact. It would have a width of 3m, a height of 1m, and project into the street to a depth of 1.2m and incorporate the word 'Mia' to reflect the

business. Due to the scale of the host building, the size and projection depth of the proposed awning, and the character of the surrounding area, which consists of commercial frontages at ground floor level, the proposal would not detrimentally impact the streetscene or character of the surroundings.

6 Amenity

- 6.1 Objections have been received from a number of occupants with regards to amenity issues, including concerns about noise, increased rates of anti-social behaviour, odour and smoke.
- 6.2 The agent/applicant has advised the area would not be used for patrons of the restaurant or bar, and any proposed use of the area for patrons is recommended to be controlled through condition. The comings and goings of the restaurant to this side of the building would be minimal as the door is an emergency fire exit and for deliveries and refuse only, and would not be used by the public to access or leave the restaurant. However to address the above concerns it is recommended to include a condition preventing the use of the area for patrons of the establishment, prohibiting the use of this side of the restaurant as a public entrance or exit, and restricting delivery times to ensure the amenity of surrounding residents and the general public is not detrimentally impacted.
- 6.3 Camden's Licensing team have confirmed that the parcel of land in question is not included on the premises licence and an application to vary the current licence would be required to sell or consume alcohol on that area of land or have regulated entertainment there.
- 6.4 The Council's Crime Prevention officer advised the site is prone to anti-social behaviour with complaints about fly-tipping and the area of ground being used by homeless people and street drinkers. It was recommended that the perimeter requires improvements in terms of security to avoid anti-social behaviour that has historically occurred at the site. Revised plans were submitted showing additional areas of soft landscaping and a secure sliding gate to enclose the area, in order to address these concerns.
- 6.5 A condition requiring the submission of a Management Strategy for the area prior to the commencement of works is also recommended. This would be required to address crime prevention measures, such as a secure gate, CCTV cameras and external lighting as proposed by the agent, to ensure the safety of nearby residents and the general public. The Management Strategy would also cover delivery times, refuse locations and maintenance of the area.
- 6.6 The proposal is for visual purposes, deliveries and refuse storage to the adjoining entertainment business only, and it is considered that there would be no resultant residential amenity issues for adjoining neighbours, subject to the inclusion of the abovementioned conditions. As such, on balance, it is not considered that the proposal would detrimentally impact adjoining residents should these conditions be adhered to.

7 Transport and Access

- 7.1 The proposal has been reviewed by the council's Transport officers who have advised it is acceptable in terms of highways impacts however the developer must be informed that all relevant highway licences must be acquired from Network Management prior to the commencement of works. It is recommended to include this as an informative.
- 7.2 The proposed awning to the front elevation has also been reviewed by the council's Transport officers who have advised that due to the clearance of the awning above street level in excess of

2.5m it does not impede nor hinder pedestrian movement on the public highway.

7.3 The proposal has been reviewed by the Council Access officer who has advised the ramp width and stair widths are compliant, subject to detail ensuring the gradients are at the acceptable levels.

8 Conclusion

8.1 On balance, the proposal is considered acceptable subject to conditions ensuring the amenity of nearby residents and the general public is safeguarded.

Disclaimer

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 12th September 2016, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.