

Delegated Report		Analysis sheet		Expiry Date:		26/09/2016	
		N/A / attached		Consultation Expiry Date:			
Officer				Application Number(s)			
Robert Lester				2016/3674/P			
Application Address				Drawing Numbers			
181/ 183 York Way London N7 9LN				YWAR04, YWB/01, YWB/02, YWB/03, YWB/04, YWB/05, YWB/06, YWB/02R, YWB/03R, YWB/05R, Design & Access Statement,			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of ground floor and basement from internet cafe (A1) to restaurant/ cafe with shisha cafe use (sui generis), replacement of existing marquee with single storey smoking shelter with green roof, retention of decking and alterations to railings.							
Recommendation(s):		Refuse Permission					
Application Type:		Full Planning Permission					

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	54	No. of responses	05	No. of objections	05
			No. electronic	00		
Summary of consultation responses:	<p>A site notice was erected at the site on the 3/8/16 and a press notice was placed in the local newspaper on the 5/8/16 (expiring 26/8/16).</p> <p>4 responses were received from the properties at 177 York Way, 129 Camden Mews, 282 Camden Road and an anonymous address with the following points of objection/comment:</p> <ol style="list-style-type: none"> 1. Amenity harm to nearby residential properties, by reason of noise and disturbance, smells and odours, smoke pollution, increased people traffic and noise from plant and equipment all linked with the late night shisha smoking use. The existing shisha use has been causing noise and disturbance to the detriment of the residential amenity of nearby residents late at night. There are several residential properties close to the shisha building to the rear of the restaurant and therefore its impact on nearby residents is significant. This area also has high levels of noise and disturbance from traffic and commercial noise. <p>Case Officer's Response: See Para's 3.1-3.6 of the attached report</p> <ol style="list-style-type: none"> 2. The shisha tent is sited on former residential car parking spaces and turning space which causes increased congestion, impact on traffic, parking and road safety conditions. The area of car park which is retained is used by customers of the shisha café. <p>Case Officer's Response: See Para's 5.1-5.7 of the attached report</p> <ol style="list-style-type: none"> 3. The use of the shisha ten causes a loss of privacy to neighbours of nearby residential properties. <p>Case Officer's Response: The shisha building would be sited in the rear part of the site. The enclosure provided by the roof and rear boundary wall would prevent overlooking and loss of privacy.</p> <p>The shisha smoking creating fire hazards and health and safety issues.</p> <p>Case Officer's Response: These are not material planning considerations – these matters are dealt with under separate regulations (Building Control & Environmental Health)</p> <ol style="list-style-type: none"> 4. The design and size of the shisha building to the rear is out of character and overbearing on this part of Camden Road. <p>Case Officer's Response: See Para's 4.1-4.7 of the attached report</p> <ol style="list-style-type: none"> 5. This use already has a small area of decking to the front of the restaurant for smoking. Smoking to the rear should not be permitted due to the proximity of 					

residential properties and the resulting amenity impacts.

Case Officer's Response: See Para's 3.1-3.6 of the attached report

6. The alteration to provide a green roof to the rear building is positive.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

**Camden Square
CAAC**

Objection

1. The development would not enhance the conservation area.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

2. It is likely to cause excessive noise, light and air pollution that will adversely impact on the lives of neighbours whose privacy will also suffer.

Case Officer's Response: : See Para's 3.1-3.6 of the attached report

3. The drawings are technically inadequate, with little information about the structure itself or its impact on neighbouring buildings, particularly 282 Camden Road and 179 York Way, both of which are directly adjacent to the proposed outdoor dining and smoking area.

Case Officer's Response: See Para's 3.1-3.6 of the attached report

4. The bulk and massing is totally out of keeping with the neighbouring buildings.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

5. The proposed structure would form an inappropriate infill of valued open space within a densely knit area and would therefore be detrimental to the character of its environment.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

6. In the absence of information, it is impossible to assess the scale and proportion of the development. There is little or no information about the proposed materials. The treatment of the timber structure is not stated nor is there reference to the material and appearance of the railings.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

7. There are reservations regarding the durability and maintenance of some of the proposed materials.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

8. There are no details of how the green roof will be maintained and no consideration has been given to its drainage.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

9. The poor quality materials and lack of details of maintenance for the green roof would result in a neglected and unattractive appearance.

Case Officer's Response: See Para's 4.1-4.7 of the attached report

10. The parking spaces for the residential flats should be retained. The argument to reduce these on the basis that the flats are student-lets and public transport accessibility is good is disingenuous. With the ever increasing availability of purpose built student accommodation and the increasing demand for general accommodation in the immediate neighbourhood, the high demand for off street parking will remain. The neighbourhood suffers

greatly from inadequate parking facilities.

Case Officer's Response: See Para's 5.1-5.7 of the attached report

11. Given that its purpose is to provide facilities for the "smoking of cigarettes or shisha, the proposal runs counter to the spirit and letter of the Smoke-free (Premises and Enforcement) Regulations 2006. Under this Regulation, smoking is not permitted in substantially enclosed Premises. The proposed is very clearly enclosed: it has a solid roof and abutting walls on three sides (more than 50%), as an enclosed space, smoking is illegal.

Case Officer's Response: This matter is dealt with under the Smoke-free regulations. However, the building would be open-sided and would not be more than 50% enclosed.

Site Description

The site at 181-183 York Way contains a Victorian 3 storey terraced building with a shisha-café use at ground floor level and within an open sided marquee-type structure to the rear. This mixed A1/A3 class use would be classified as a sui generis use. The unit also has ancillary storage within a small basement.

The site is located close to the junction with Camden Road (A503), the adjacent building at no. 183 York Way being the end unit on this terrace. There is a car park to the rear of no's 181-183 which is accessed via Camden Road.

The site is located on the neighbourhood commercial frontage terrace between 155-183 York Way which contains a mix of retail and non-retail uses.

The shisha-café use has been operating unlawfully for some time; the lawful use of the site being an A1 unit. The Council's enforcement records show that the unlawful use commenced in December 2015.

Planning permission was granted at the site in 1995 (ref 9401695) for the conversion of the upper floors of 181-183 York Way to provide 4 self-contained residential flats. The area to the rear was secured by planning condition as providing 4 car parking spaces for the flats and a turning area. The marquee-structure and associated screening to the rear is sited on the location of 2 of these spaces.

Relevant History

Planning History

17359 - Change of use of ground and basement floors from chemist shop to use as a dry-cleaning establishment – granted 05/11/1973.

8701133 - Demolition of existing building and the erection of a basement and four-storey building comprising three ground-floor retail units and six office suites above including provision of three car parking spaces - Refused - 12/08/1987

8903727 - Redevelopment by the erection of a basement and three storey building comprising retail use (Use Class A1) on part ground and basement floors office use (Class A2) on part ground and basement office use (Class B1) and two residential flats on first and second floors - Refused 15/06/1990

9401695 - Redevelopment of the site by the erection of a basement and 3-storey premises comprising Class A1 retail Class A2 financial and professional on the ground floor and 4 self-contained residential flats – granted 18/05/1995

Enforcement History

EN/15/1228 - Unlawful shisha café use with building to the rear – pending.

EN16/0707 - Unlawful shisha café use operating at night – closed duplicate.

Relevant policies

National Planning Policy Framework 2012

London Plan 2016

Camden LDF Core Strategy 2010

CS5 Managing the impact of growth and development

CS7 Promoting Camden's centres and shops

CS11 Promoting sustainable and efficient travel

CS13 Tackling climate change through promoting higher environmental standards

CS14 Promoting high quality places and conserving our heritage

CS16 Improving Camden's health and well-being

CS17 Making Camden a safer place

CS18 Dealing with our waste and encouraging recycling

Camden Development Policies 2010

DP12 Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses

DP16 The transport implications of development

DP18 Parking standards and limiting the availability of car parking

DP19 Managing the impact of parking

DP21 Development connecting to the highway network

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

DP29 Improving access

DP32 Air quality and Camden's Clear Zone

Camden Planning Guidance (updated 2013)

CPG1 Design – Section 4 (Extensions, alterations and conservatories)

CPG5 Town Centres, Retail and Employment Section 3 (Town Centres), Section 6 (Food, drink and entertainment uses)

CPG6 Amenity – Section 2 (Air Quality) Section 4 (Noise and vibration)

CPG 7 Transport – Section 5 (Car free and car capped development), Section 6 (On-site car parking), Section 7 (Vehicle access) – Section 9 (Cycling Facilities).

Camden Square Conservation Area Statement (2011).

Assessment

1. Main Issues

1.1 The main planning issues for the consideration of this application are an assessment of the (i) principle of the use (ii) the impact on residential amenity, (iii) the design and visual impact of the extensions, and (iv) transport and highway issues.

1.2 The application is part-retrospective; the shisha café use has commenced on the site, however the application proposes to replace the existing marquee-type structure to the rear with a single storey flat roofed building together with associated alterations to the screening.

2. Principle of Development

2.1 The site is located in a neighbourhood retail area outside of the central London area. These centres mainly provide convenience retail use for people living nearby, but also provide other suitable town centres uses including food and drink uses which make a positive contribution to the character, function, vitality and viability of the centre. In accordance with Policy CS7 the Council will promote successful and vibrant neighbourhood centres by ensuring that new development is of an appropriate scale and character for the Centre, resisting the loss of shops where this would cause harm to the character and function of a centre and making sure that food, drink and entertainment uses do not have a harmful impact on residents and the local area. Policy DP12 states that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. CPG 5 states that the Council will resist schemes that result in less than 50% of ground floor premises being in retail use; or more than 3 consecutive premises being in non-retail use.

2.2 This neighbourhood centre frontage contains 13 units, 7 of which are in retail use (53%) after the change of use of no. 181. The adjacent units at no's 177 & 179 York Way are in hot food takeaway use (A5), however the unit's at no's 175 7 183 are in retail use (A1). The development does not therefore result in less than 50% of units on the frontage being in non-retail use and does not result in more than 3 consecutive non-retail uses in accordance with policy CPG5.

2.3 However, the site is located close to residential properties including the flats above at 179, 181-183 York Way and the property to the rear at 282 Camden Road. The shisha café use results in an amenity impacts on nearby residential properties by virtue of noise and disturbance, odour and smoke pollution (see next section). This use is therefore not considered to be a suitable use for this site contrary to policies CS7 and DP12.

3. Residential Amenity

3.1 Policy DP12 states that the Council will ensure that the development of food, drink, entertainment and other town centre uses does not cause harm to the amenity of neighbours, taking into account the impact on nearby residential uses, noise and vibration, fumes likely to be generated and any cumulative impact.

3.2 Policy DP26 states that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity including the consideration of noise and vibration levels, odour, fumes and dust;

3.3 The shisha café use includes the space within the main building at ground floor level (58 sq. m) and the replacement single storey building to the rear (28 sq. m). The shisha smoking activity itself would take place in the building to the rear (where shisha smoking takes place at present within the existing marquee type structure). The building to rear would be a timber framed/open-sided building with a flat/green roof.

3.4 Typically shisha café use can generate noise and disturbance from customers smoking and talking and associated music; it can also generate odour and smoke from the shisha use. A shisha café use operates from this site at present since 2015 and the Council has received objections and Environmental Health complaints to the use from nearby residents on the grounds of noise, and disturbance and odour/smoke pollution. The site is located close to residential properties including the flats above at 179, 181-183 York Way and particularly the

property to the rear at 282 Camden Road which is directly to the rear of the shisha building the rear.

3.5 It is considered that this development and particularly the shisha building to the rear results in an unacceptable amenity impact on nearby residential properties by virtue of noise and disturbance, odour and smoke pollution. This use is therefore not considered to be a suitable use for this site contrary to policies CS7 and DP12. There are residential properties directly adjacent to the rear shisha building at 179, 181-183 York Way and particularly the property to the rear at 282 Camden Road, which would be significantly impacted by the continued operation of this site as a shisha café even considering the proposed hours of operation to 11pm at the latest.

3.6 The Council's Environmental Health team have objected to this application and have received separate noise complaints about this application due to noise and disturbance including after midnight.

3.7 It is also noted that no details of extract systems or associated noise assessment for the use was submitted with this application.

4 Design

4.1 Policy DP24 requires all developments to be of the highest standard of design and will expect developments to consider the character, setting, context and the form and scale of neighbouring buildings; the character and proportions of the existing building and the quality of materials to be used.

4.2 Policy DP25 requires development to preserve or enhance the character of the conservation area.

4.3 The Camden Square Conservation Area Statement (CSCAS) states that the gaps between buildings represent an important established feature of relief in an otherwise densely developed environment, where the buildings are generally arranged in terraces 3 storeys in height. The Council will resist back garden development, where it can be seen from the public realm, in order to preserve green gaps within streetscapes and views along rear vistas.

4.4 The CSCAS also states that high quality design and high quality execution will be required of all new development at all scales, and opportunities for enhancement and further revealing the significance of the conservation area should be taken. The properties at 282a also 181-183 York Way are identified in the CSCAS as making a neutral contribution to the character of the conservation area.

4.5 The site is located close to the junction within Camden Road at the north eastern corner of the Camden Square Conservation Area. The rear part of the site where the proposed replacement shisha building would be located is visible from Camden Road to the north. The application proposes a replacement single storey building on this part of the site to be used for shisha smoking. This would be 4.7 m deep, 5.8 m wide and 2.7 m high with a flat green roof. Replacement 2 m high railings are also proposed adjacent to the northern side of the shisha building to provide screening.

4.6 The proposed single storey shisha building by reason of its location to the rear of 181-183 York Way in a highly visible gap site and due to its incongruous design and poor quality appearance would harm the character and appearance of the streetscene and would fail to preserve or enhance the character of the conservation area, contrary to policies DP24, DP25 and the Camden Square Conservation Area Statement.

5. Transport & Highways

Car Parking

5.1 The site is located in an accessible PTAL 3 location close to several bus routes on Camden Road and York Way. The application actually proposes to provide 2 off-street car parking for the commercial use in the car parking area to the rear accessed from Camden Road. This commercial parking would be used by customers and staff of the shisha café use and together with the shisha building to the rear would replace the former 4 off-street car parking spaces for the residential flats above, provided through permission ref: 9401695.

5.2 The Council would resist the introduction of car parking spaces for employment use. This would be contrary to policy DP18 which only supports car parking for commercial use where public transport accessibility is low (Appendix 2 - Parking Standards' of DP18 states that if it can be demonstrated that travel to a workplace by public transport is severely limited then 1 space per 1000sqm may be introduced for business use).

5.3 In this case public transport adequately serves the site and it is not considered absolutely necessary that employees must rely on car travel in order to get to work. The number of spaces proposed in this application for commercial use (2 spaces) is far greater than the number of spaces required to be policy compliant (0.132 spaces). The proposal is therefore contrary to Development Policy DP18 as dedicating the 2 car parking spaces for commercial use would provide an unsustainable form of development on this highly accessible site contrary to policy DP18.

Access and Turning Space

5.4 CPG7 requires that all vehicles must be able to enter and leave the site in a forward facing direction.

5.5 Policy DP21 requires works affecting highways to avoid disruption to the highway network, ensure adequate sightlines for vehicles and avoid causing harm to highway safety or hinder pedestrian movement.

5.6 The hard standing to the rear of 181-183 York Way provide 4 off-street car parking spaces and an associated turning area, both of which were secured by planning conditions 3 & 4 of planning application ref: 9401695. The existing/proposed shisha building is located on part of this parking/manoeuvring area and the remaining area (to the rear of 183) is now used to provide 2 commercial parking spaces for the shisha café use.

5.7 Vehicles are not be able to turn around within the boundary of the site and will thus either reverse from public highway into the parking area or reverse onto public highway from the parking area. There is particular concern regarding reversing onto the public highway due to the location of the site. Such a manoeuvre will have a negative impact with regards to the highway safety at the junction and will have a detrimental impact upon vulnerable road users and pedestrian movement. No swept path analysis drawings showing vehicle turning have been submitted.

5.8 In the absence of swept path analysis showing vehicles entering and exiting the proposed area in forward gear and visibility splays, the application is unacceptable as it is contrary to DP21 and CPG 7.

Cycle Parking

5.9 Development Policy DP18 requires development to provide cycle parking facilities in accordance with the minimum requirements of our cycle parking standards and we also expect the development to provide cycle parking facilities in accordance with the minimum requirements of the London Plan.

5.10 For restaurants / cafes (A3) larger than 100sqm, The London Plan requires 1 long-stay cycle parking space to be provided for every 175sqm and 1 short-stay cycle parking space for every 40sqm. The development therefore requires 1 long-stay cycle parking space together with 3 short-stay cycle parking spaces. In the absence of this the application is contrary to Development Policy DP18 and is unacceptable.

6. Conclusion

6.1. Overall, the development is considered to be unacceptable due to its amenity impact on neighbouring properties by reason of noise and disturbance, the siting and design of the shisha building, the provision of excessive off-street vehicle parking, inadequate turning space resulting in harm to highway safety and insufficient cycle parking. The development is considered to be contrary to the relevant policies considered above and is recommended for refusal accordingly.

7. Recommendation

7.1 Refuse planning permission