

Delegated Report		Analysis sheet		Expiry Date:	30/09/2016
		N/A / attached		Consultation Expiry Date:	24/08/2016
Officer			Application Number(s)		
Robert Lester			2016/3675/P		
Application Address			Drawing Numbers		
181/ 183 York Way London N7 9LN			YWA/01, YWA/02, YWAR01, YWAR02, YWAR03, YWAR04		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Variation of planning conditions 3 & 4 of planning application ref: 9401695 to allow for the removal of the car parking spaces/turning area approved on that application and the provision of 2 car parking spaces for the existing on site commercial use.					
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	49	No. of responses	01	No. of objections	01
			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>1 response was received from 129 Camden Mews.</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. 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.2. The alteration to provide a green roof to the rear building is positive. <p>Case Officer's Response: These objections do not directly relate to this application, but to associated application 2016/3674/P for a shisha café and outbuilding at this site.</p>					
Camden Square CAAC	<p><u>Objection</u></p> <ol style="list-style-type: none">1. The development would not enhance the conservation area.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.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.4. The bulk and massing is totally out of keeping with the neighbouring buildings.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.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.					

7. There are reservations regarding the durability and maintenance of some of the proposed materials.
8. There are no details of how the green roof will be maintained and no consideration has been given to its drainage.
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: These objections do not directly relate to this application, but to associated application 2016/3674/P for a shisha café and outbuilding at this site.

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 2.3-2.11 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 objection does not directly relate to this application, but to associated application 2016/3674/P for a shisha café and outbuilding at this site.

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 site is located in an accessible PTAL 3 location close to several bus routes.

A shisha-café use has been operating unlawfully at this site 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.

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

2016/3674/P - Change of use of ground floor and basement from internet cafe (A1) to restaurant/ cafe (A3) with ancillary shisha cafe use, replacement of existing marquee with single storey smoking shelter with green roof, retention of decking and alterations to railings – Refused 30/09/2016

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 Planning permission was granted at this site in 1995 (permission ref: 9401695) to provide 4 self-contained residential flats. The area to the rear was secured by planning conditions 3 & 4 as providing 4 car parking spaces for the flats and a vehicle turning area.

1.2 The main planning issues for the consideration of this variation of condition application are an assessment of the implications of the proposed variation of conditions 3 and 4

1.3 The Council is also dealing with another application at this site 2016/3674/P for the retention of the unlawful shisha café use at the site and a replacement shisha smoking building to the rear together with 2 commercial car parking spaces.

2. Assessment

2.1 Planning conditions 3 and 4 of the 1995 permission ref: 9401695 for 4 self-contained flats at this site were as follows:-

3. The whole of the car parking accommodation shown on the drawings shall be provided and retained permanently for the parking of vehicles of the occupiers and users of the remainder of the building.

Reason: To ensure the permanent retention of the accommodation for parking purposes and to ensure that the use of the building does not add to traffic congestion.

4. The vehicular turning area shown on the approved drawing no. 538/21F shall be kept free of obstruction and available for this use at all times.

Reason: In order to allow for free vehicular turning movement within the site without any obstructions.

2.2 The application is to remove these conditions.

Planning Condition 3

2.3 In relation to condition 3, the original permission ref: 9401695 provided 4 off-street car parking spaces for 4 residential flats at this site (100% provision). This would not be supported in this accessible location against up-to-date Council policies DP18 and CPG7. The current Council policy is to prevent off-street residential car parking in accessible locations and to also restrict the rights to on-street car parking permits in order to promote sustainable travel and reduce the highway impacts of traffic congestion.

2.4 The application proposes to remove condition 3. The supporting information submitted with the application states that the 4 car parking spaces are no longer provided/used and that the flats are let out to students who do not have cars.

2.5 In accordance with policy DP19 in order to promote more sustainable modes of travel, the Council generally welcomes proposals to reduce the amount of off-street parking in the borough, provided that the removal of spaces would not displace parking to controlled parking zones (CPZs), particularly in identified areas of parking stress. The Council would therefore support the removal of the condition requiring the car parking spaces to be retained provided the original development is secured as a car free development via a section 106 agreement to prevent displacement of car parking of future residents onto CPZs. The site is located in a CPZ which does not experience very high levels of congestion (74% capacity). However policy DP19 does not exclusively apply to CPZs that experience high parking stress pressure; there is just particular concern with highly stressed zones.

2.6 The original permission secured the car parking spaces so that residents of the units did not have to park on the public highway. Irrespective of whether the 4 off-street spaces are currently in use or not, there is the

potential when the flats have different occupiers in the future, that those 4 cars would be displaced onto the public highway as a result of the on-site spaces being removed. This is contrary to DP19, paragraph 19.14. To mitigate and to be in keeping with policy DP19 the flats must therefore be secured as car free, so no displacement onto public highway can happen within this controlled parking zone location.

2.7 The proposed variation of condition 3 would therefore be unacceptable in the absence of a legal agreement to secure the removal of the rights to car parking permits for the residents of the 4 flats.

Planning Condition 4

2.8. In relation to condition 4, the original permission secured the turning area to the rear to allow for free vehicular turning movement within the site without any obstructions

2.9 Policy DP21 seeks to avoid disruption to the highway network, to ensure adequate sightlines for vehicles and avoid causing harm to highway safety or hinder pedestrian movement. CPG7 requires that all vehicles must be able to enter and leave the site in a forward facing direction.

2.10 The turning area to the rear has been reduced by reason of the siting of a shisha outbuilding (see application 2016/3675/P). In light of this change on the site since the original permission was granted, the developer has submitted no vehicle tracking/swept path diagrams with this application to demonstrate that vehicles can still adequately turn within the site.

2.11 It is therefore considered that insufficient information has been submitted to allow the local planning authority to ascertain that the permission, as varied would still provide free vehicular turning movement within the site without any obstructions, contrary to policy CS11 of the London Borough of Camden Local Development Framework Core Strategy 2010-2025 and policy DP21 of the London Borough of Camden Local Development Framework Development Policies 2010.

3. Conclusion

3.1 Overall, the variation of conditions 3 & 4 is considered to be unacceptable for the above reasons and this application is recommended for refusal accordingly.

7. Recommendation

7.1 Refuse variation of condition