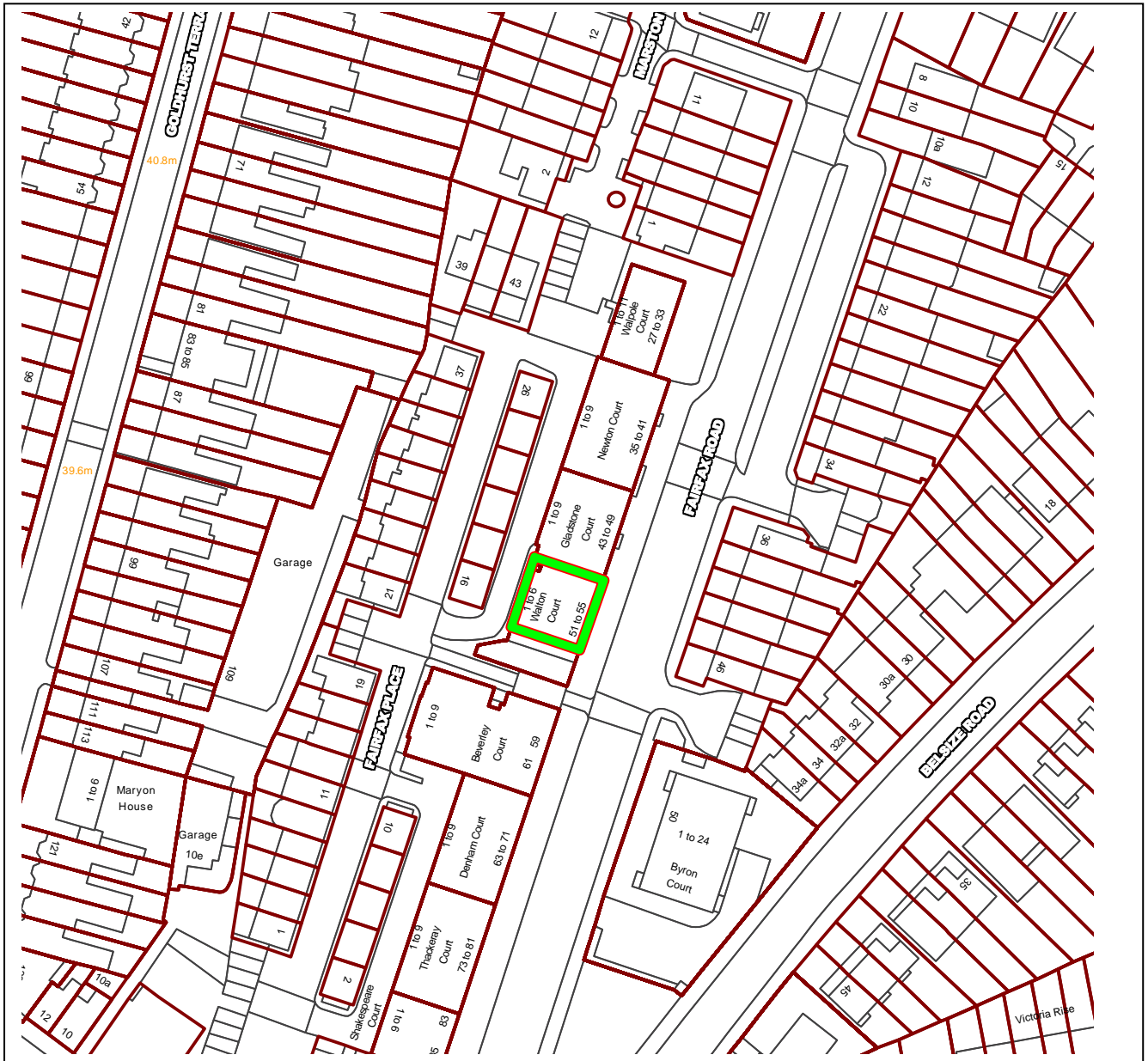


51 Fairfax Road, London, NW6 4EN

Approval of Details - 2017/1755/P

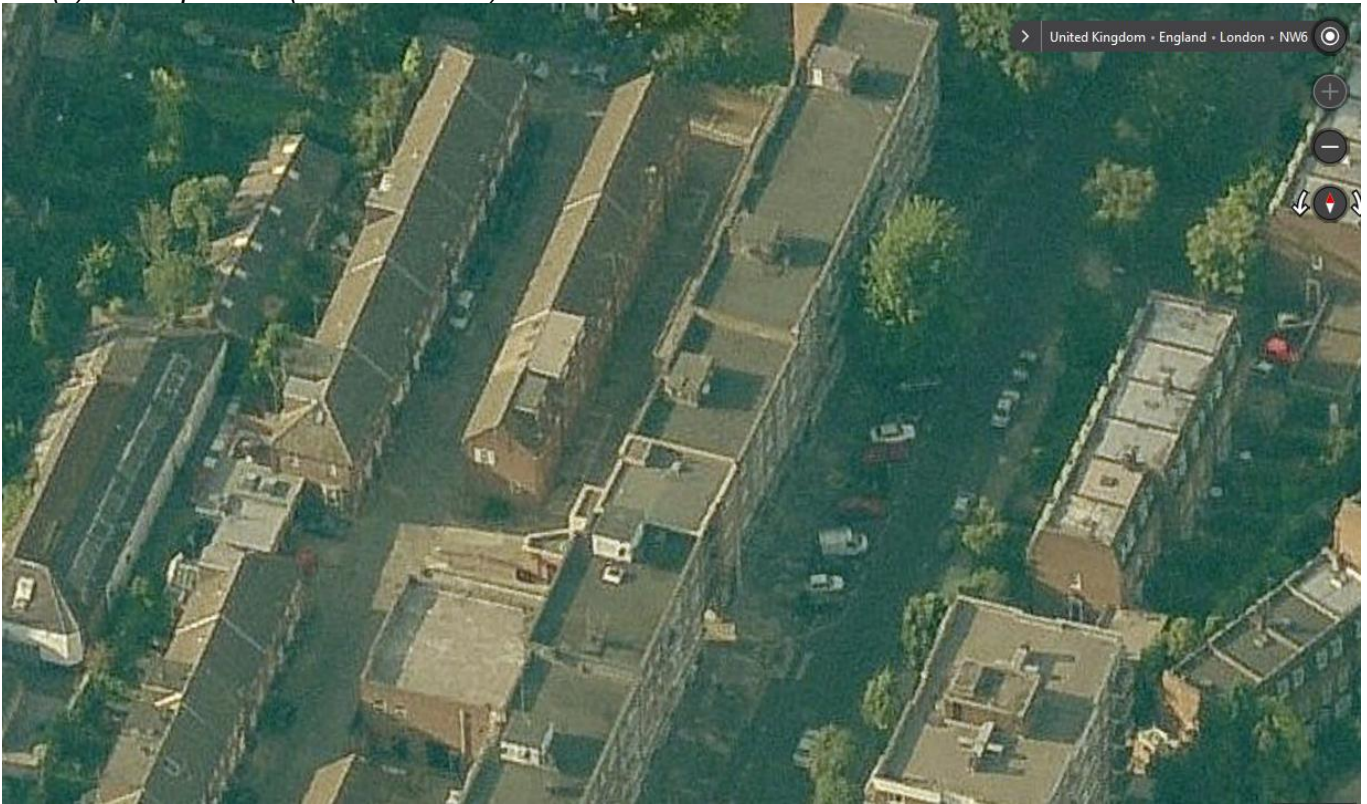


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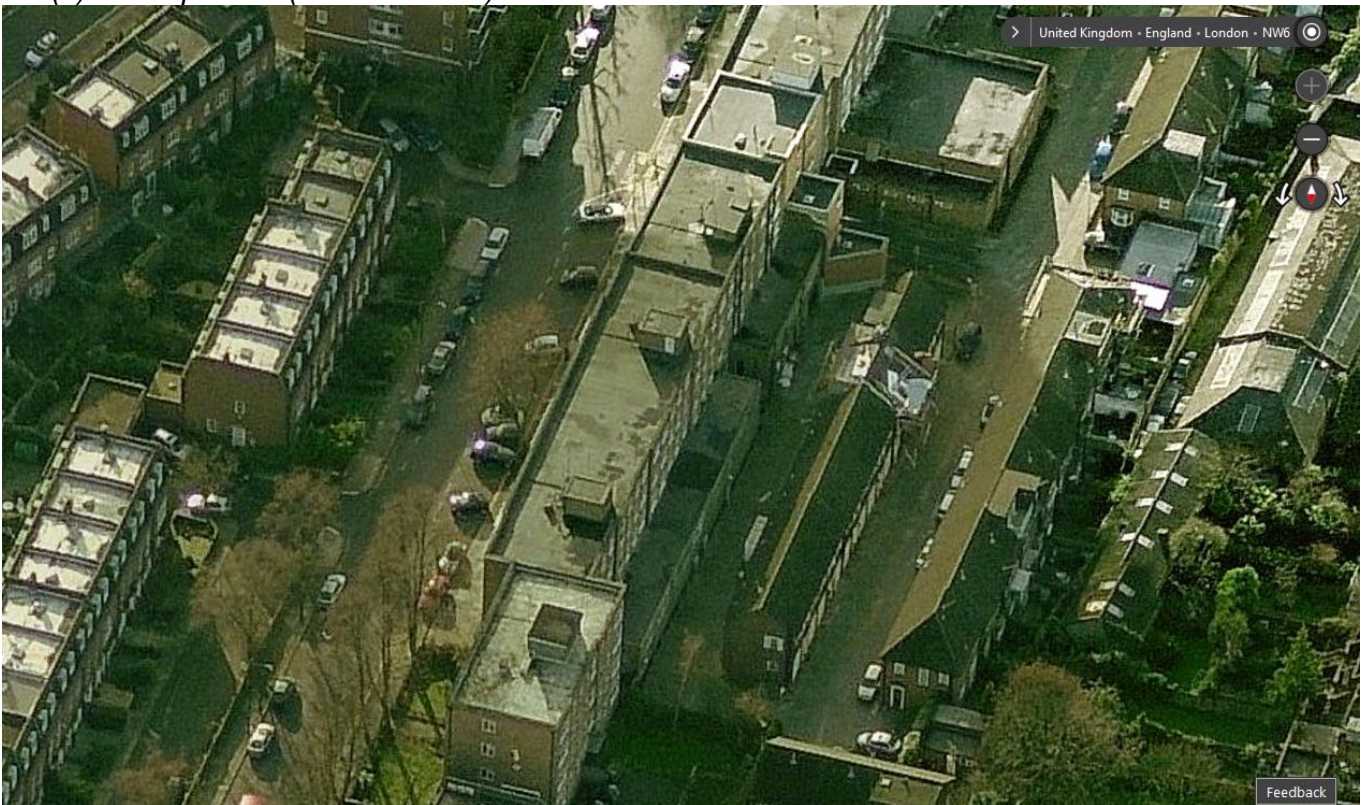
51 Fairfax Road, London, NW6 4EN

Site Photographs:

(1) Aerial photo 1 (from the South)



(2) Aerial photo 2 (from the North)



(3) Front Elevation



(4) Rear Elevation #1



(5) Rear Elevation #2



(6) Proximity to closest neighboring properties



(7) Rear LG floor windows as installed



Delegated Report		Analysis sheet		Expiry Date:	23/05/2017
(Members Briefing)		N/A / attached		Consultation Expiry Date:	N/A
Officer			Application Number		
John Diver			2017/1755/P		
Application Address			Drawing Numbers		
51 Fairfax Road London NW6 4EN			<i>See draft decision notice</i>		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal					
<p>Details of sound attenuated windows; scheme of equipment for the control of fumes and smells; anti-vibration measures and maintenance schedule for extract and odour control system; noise report for plant equipment; and external noise levels required by conditions 5, 9, 10, 11 and 13 (respectively) of planning permission 2015/3916/P dated 05/04/2016 for the 'change of use to restaurant (A3), alteration to the shopfront and the installation of rear extract duct'</p>					
Recommendation:		Grant approval of details			
Application Type:		Approval of Details			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Summary of consultation:	<p>As the submitted application is for the approval of details reserved by condition, in line with the Town and Country Planning (Development Management Procedure) Order 2015 no official public consultation process was completed. Notwithstanding this, any comments received in relation to the approval of details application have been duly considered when determining the application.</p>			
Adjoining Occupiers:	No. of responses	06	No. of objections	06
Summary of consultation responses:	<p>Letters of objection were received from the owner/occupiers of no. 18, 22, 24, 26, 49 and 51 Fairfax Place who have objected to the submitted details for discharge on the following grounds:</p> <ol style="list-style-type: none"> 1. Development has commenced without regard to the prior conditions attached. 2. Question the background noise figures quoted 3. Request for Camden to complete independent noise assessment including measurements taken from no. 2 Walton Court 4. Rubbish collections outside of permitted hours have caused nuisance 5. Installed flue producing noise issues 6. Kitchen windows have not been installed as conditioned 7. Operations outside of conditioned hours 8. Staff have been noisily using rear courtyard 9. Unpleasant odours have been causing disturbance <p><i>Officers Response:</i></p> <ol style="list-style-type: none"> 1. <i>This is noted. It is highly regrettable that the development was initially implemented prior to the discharge of conditions; however, the applicants have now attempted to remedy the situation via the submission of this application.</i> 2. <i>Please see paras.2.6 to 2.7.</i> 3. <i>Please see paras.2.6 to 2.7.</i> 4. <i>This is noted and has been passed on to the applicant as well as the enforcement team. This condition will continue in perpetuity and as such may be enforced against at any time. It should be noted that in response to this comment, the applicant has confirmed that the refuse contractors have been replaced in order to avoid this happening again in the future.</i> 5. <i>The installed equipment will need to be replaced / upgraded in accordance with the approved details in order to ensure that the noise attenuation measures secured are put in place. The Council would enforcement again against any future breach of these conditions.</i> 6. <i>New kitchen windows details have now been submitted and will be installed prior to use.</i> 7. <i>The permitted use is restricted in terms of opening hours and the applicants have been reminded of this. Any operation outside of permitted hours (once relevant approved measures have been put in place) would remain a breach of planning and would be enforced against.</i> 8. <i>The control / management of staff is outside of the remit of planning</i> 			

	<p><i>control, however the applicant has been advised that any noise complaint received in relation to the unit/staff would be investigated duly.</i></p> <p><i>9. New odour abatement equipment details have now been submitted and will be installed prior to use.</i></p>
CAAC/Local groups comments:	N/A

Site Description

The site is a four storey building which forms part of a long and continuous terrace on the western side of Fairfax Road. The application site relates to a ground and basement floor. The site forms part of the Fairfax Road Neighbourhood Centre, which in addition to the terrace also includes properties on Fairhazel Gardens. The upper floors at this site and the surrounding area are predominantly residential. There are two passages through the terrace to allow access to the rear where in addition to servicing areas for the commercial units are a number of residential properties. The site is not a listed building and is not within a conservation area.

Relevant History

Parent application:

2015/3916/P: Planning permission granted at 51 Fairfax Road for the 'Change of use and subdivision of mixed A1/A3 to form an A3 unit at 51. Alteration to the shopfront and the installation of an extract duct from first floor to roof level on the rear elevation'

Other planning history for the site:

2013/7370/P: Planning permission refused at 51-53 Fairfax Road for the 'Change of use at ground and basement levels from retail (Class A1) to a mixed use of retail and restaurant uses (Class A1/A3), including the installation of rear kitchen extract duct from first floor to roof level'. Reason for refusal:

The proposed restaurant would result in an increase in late night activity, noise and disturbance to the detriment of the amenity of local residents contrary to policy CS5 and CS7 of the LDF Core Strategy and DP12 and DP26 of the LDF Development Policies. This permission was allowed at appeal on the 18/08/2014.

2013/3896/P: Planning permission refused at 51 Fairfax Road for "Retention of replacement air-conditioning unit, installation of additional replacement air-conditioning unit, and installation of acoustic baffles to both units, all on rear elevation of premises". The reason for refusal was:

The proposed air conditioning units by virtue of their close proximity to neighbouring residential properties and the proposed duration of their operation are likely to cause noise disturbance and harm to the amenity of nearby residents. This is contrary to Core Strategy policy CS5 and Development Policies DP26 and DP28 of the Camden Local Development Framework. This permission was allowed at appeal on the 11/04/2014.

2012/5787/P: Planning permission refused at 51 Fairfax Road for "Installation of air conditioning unit on rear elevation at first floor level in connection with existing retail unit (Retrospective)". The reason for refusal was:

The air conditioning unit is detrimental to the amenity of neighbouring properties due to noise nuisance and failing to meet the required standard for noise emission near to sensitive receptors. This is contrary to Core Strategy policy CS5 and Development Policy DP28 of the Camden Local Development Framework

2011/5949/P: Planning application (Ref: 2011/5949/P) submitted at 51 Fairfax Road for 'Change of use from retail (Class A1) at ground and basement to coffee shop/restaurant (Class A3) including installation of extract flue from first floor to roof level on rear elevation and alterations to shopfront'. This was heard at committee on 28 June 2012 where there was a resolution to grant but with a section 106 legal agreement to cover a number of aspects relating to neighbouring amenity. The applicant subsequently resolved not to enter into such an agreement and appealed against non-determination. In the absence of a legal agreement the deemed reason for refusal was:

The proposed restaurant would result in an increase in late night activity, noise and disturbance to the detriment of the amenity of local residents contrary to policy CS5 and CS7 of the LDF Core Strategy and DP12 and DP26 of the LDF Development Policies. The appeal was dismissed on the 06/03/2013.

2011/0962/P: Planning permission was refused at 51-53 Fairfax Road on the 10/11/2011 for the 'Change of use from retail use (Class A1) at ground floor and basement level to a mixed retail (Class A1) and restaurant use (Class A3) including installation of extract flue from first floor to roof level on rear elevation'. The reason for refusal was:

The proposed restaurant would result in an increase in late night activity, noise and disturbance to the detriment of the amenity of local residents contrary to policy CS5 and CS7 of the LDF Core Strategy and DP12 and DP26 of the LDF Development Policies.

Relevant policies

NPPF (2012)

The London Plan 2016

LDF Core Strategy and Development Policies (2011)

LDF Core Strategy (2010)

CS5 – Managing the impact of growth and development

Development Policies (2010)

DP26 – Managing the impact of development on occupiers and neighbours

DP28 - Noise and vibration

Camden Planning Guidance

CPG6: Amenity (2013)

Emerging Policy:

Last summer, the Camden Local Plan was formally submitted to the government for public examination. Following the public hearings, the Council is consulting on Main Modifications to the Local Plan. Following the Inspector's report into the examination, which is expected in early-mid April 2017, policies in the Local Plan should be given substantial weight. Adoption of the Local Plan by the Council is anticipated in June or July. At that point the Local Plan will become a formal part of Camden's development plan, fully superseding the Core Strategy and Development Policies, and having full weight in planning decisions.

The following policies are considered to be relevant:

- Policy A1 Managing the impact of development
- Policy A4 Noise and vibration

Assessment

1. Proposal

1.1. The application submitted is in relation to details for 5 conditions of the original planning (2015/3916/P) which require discharging prior to the commencement of the approved use of the site. These are as follows:

- No.5 - Sound attenuated rear windows
- No. 9 - Scheme of equipment for the control of fumes and smells
- No. 10 - Anti-vibration measures and maintenance schedule for extract and odour control system
- No.11 & 13 - Noise report for plant equipment (note, this condition was repeated on the decision notice in error)

1.2. It should be noted that the impact and extent of the proposed development has been previously assessed. The requirements of these conditions therefore relate purely to the demonstration that the mitigation measures installed at the structure would result in adequate levels of noise and vibration attenuation so as to ensure that the amenities of nearby residents are not impeded by the development.

2. Assessment

Condition 5

2.1. Condition 5 requires the submission of details of double glazed, sound attenuated windows to be installed to the rear elevation of the property. In order to address this condition, details of double glazed, sound attenuated windows to the rear of the property at ground and lower ground floor levels have been received. At lower ground floor level, these windows have already been installed however in accordance with the condition details have now also been received for the installation of double glazing to the rear ground floor window as well as the ground floor side toilet window. The details confirm that these windows would be fixed shut and insulated from noise as required by this condition and as was requested by members during the committee hearing of the parent application. These details have been reviewed alongside the Council's Environmental Health Noise officers and are considered satisfactory to discharge the condition.

2.2. It should be noted that a number of comments received have made reference to the fact that at the time of submission, not all rear windows had been replaced. This was noted during the site visit however the approval of the submitted details is a prerequisite for the installation of rest of the proposed windows and as such the existing situation would be improved as a result of the approved details.

Condition 9

2.3. Condition 9 requires the submission of a scheme for the installation of equipment to control the emission of fumes and smell from the premises. Evidence submitted in relation to condition 9 includes specification details of the extract, filtration and odour control system to be installed. The Council's Environmental Health officers have confirmed that the proposed system is of high specification (including all necessary filtration and odour control/ozon features) and has been designed in a manner which would ensure that the amenities of adjoining residential occupiers would be safeguarded in terms of odour and fumes.

2.4. Similarly to the discussion outlined in para.2.2, a number of comments received have raised the issue of odour as a disturbance whilst the unit was in use. Condition 9 was attached to the original permission in order for the Council to be able to formally assess proposed equipment prior to its installation. Although it is regrettable that the use initially commenced prior to enforcement action, the details hereby submitted are for *proposed* plant and therefore once installed residents should no longer be impacted upon by issues of odour. This condition contains within it stipulations that

this equipment must be retained and maintained in perpetuity.

Condition 10

- 2.5. Condition 10 requires the submission of details of anti-vibration measures and a maintenance schedule for extract and odour control system. For the purposes of condition 10, a report compiled by 'Fan Rescue' has been submitted which outlines measures for the necessary works to mitigate vibration disturbances from the kitchen extraction system. This report contains full details of anti-vibration measures as well as a full cleaning/maintenance schedule. Having reviewed these details alongside the Council's Environmental Health officers, these details are considered appropriate and, as this condition requires the permanent retention of these elements, it is considered that this condition may be discharged. It should also be noted that this condition include a stipulation that the schedule of maintenance is adhered to in perpetuity. The requirement to ensure that this system is properly maintained therefore also remains an enforceable condition in perpetuity.

Condition 11 / 13

- 2.6. Conditions 11 and 13 (condition repeated) require the submission of external noise levels emitted from plant/ machinery/ equipment and as well as relevant mitigation measures. With regard to conditions 11 and 13, a Noise Impact Assessment prepared by Clement Acoustics has been submitted. This report has demonstrated that subject to the installation of appropriate noise attenuation measures (as secured by condition 5 & 10), under a worst case assessment (i.e. utilising the loudest mode of operation for the equipment) the external noise level emitted from equipment will be lower than the lowest existing background noise level by 15dBA (5dBA lower than the requirement of the condition as the source is considered non-tonal). The Council's Noise Team has confirmed that the submitted report is satisfactory and compliant and as such this condition may be discharged. It is worth noting that were any future complaints to be received regarding noise, provisions within this condition would still mean that a post-insulation noise report may be requested as necessary.
- 2.7. Many of the comments received have questioned the accuracy of the submitted Noise Report and have requested that the Council commission an independent report. It should be noted that the submitted noise report has been prepared in accordance with British Standards BS7445:1991 (Description and measurement of environmental) and the Council's Noise Officers have confirmed that the calculations and analysis provided is sound. The noise consultants who prepared the report (Clement Acoustics) are a non-partisan, third party contractor whose methodology is governed by the aforementioned British Standards. Although daytime readings taken in 2017 at the site were 5dB(A) higher than those recorded in 2013, this variation across a period of 4year is not uncommon and the increase is not so great that it would skew the requirements of the condition as suggested. It is also worth noting that the applicants have demonstrated that they would be able to reach a level of 15dB below background noise which is 5dB lower than the condition requirement.
- 2.8. As the submitted details are considered sufficient to discharge this condition, it would not be reasonable for the Council to require further monitoring for the purposes of this assessment. It would also not be reasonable for the Council to commission independent noise assessments due to the costs involved and the fact that Environmental Health officers have confirmed that they are satisfied with the details provided. It should however be noted that were issues of noise to resurface at a later stage (despite the upgraded equipment); conditions 11/13 include a provision that a post-installation report may be required were necessary and this will likely be requested in this instance so as to ensure that the values stated are shown to be achieved once all attenuation measures are in situ.

Conclusion

- 2.9. Overall it is considered that the submitted details are in accordance with the individual

requirements of the above conditions and that these measures will cumulatively act to ensure that use of the unit does not lead to future issues of noise and disturbance for nearby residential occupiers. The development would therefore remain in general accordance with the requirements of policy CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

2.10. As it is considered that, in this instance, a post-installation noise report would be necessary in order to ensure that the stated noise levels are achieved an informative will be added to the decision to remind the applicants of their required to submit.

3. Recommendation

3.1. Grant approval of details

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Tuesday 2nd May 2017, 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'.

Mr David Mansoor
Drawing and Planning Ltd
Mercham House
25-27 The Burroughs
Hendon
NW4 4AR

Application Ref: **2017/1755/P**
Please ask for: **John Diver**
Telephone: 020 7974 **6368**

DRAFT

27 April 2017

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Approval of Details Granted

Address:
**51 Fairfax Road
London
NW6 4EN**

DECISION

Proposal: Details of sound attenuated windows; scheme of equipment for the control of fumes and smells; anti-vibration measures and maintenance schedule for extract and odour control system; noise report for plant equipment; and external noise levels required by conditions 5, 9, 10, 11 and 13 (respectively) of planning permission 2015/3916/P dated 05/04/2016 for the 'change of use to restaurant (A3), alteration to the shopfront and the installation of rear extract duct'

Drawing Nos: 1505/PL1_00.00A/rA; FR-FAIRFAX-M001 rev P1; Planning Statement (dated March 2017); Double Glazing installation letter (dated March 2017); Lower ground Window Specification data sheet (prepared by Crystal Clear dated March 2017); Window installation confirmation letter (prepared by Hendon Glazing dated April 2017); Ground floor Window Specification data sheet (prepared by Crystal Clear dated April 2017); GBW500 - Centrifugal fan specification; 24x24x4 prefilter specification; High Odour Filtration Unit specification; Carbon Filter specification; Proposed Fan & Attenuators specification; Kitchen extraction system proposal report (prepared by Fan Rescue); Canopy and ductwork regulations statement; Equipment Schedule (prepared by QT Acoustic); Noise Impact Assessment report (ref. 12150-NIA-01 RevE) prepared by Clement Acoustics.

Executive Director Supporting Communities



The Council has considered your application and decided to grant permission.

1 Reasons for granting approval

The proposed details were found to be in accordance with the various requirements of the aforementioned conditions attached to planning permission 2015/3916/P dated 05/04/2016. For a more detailed understanding of the reasons for the granting of approval of these details, please refer to the officer report.

2 Please note that in accordance with the requirements of condition 11/13, a post-installation noise report will be required to be submitted to the Local Planning Authority in order to demonstrate that the levels of noise attenuation outlined in Noise Impact Assessment report (ref. 12150-NIA-01 RevE) has been achieved once in situ.

3 You are reminded that conditions 5, 9, 10 and 11/13 of planning permission 2015/3916/P dated 05/04/2016 requires the hereby approved details to be implemented prior to the first use of the development and thereafter permanently retained.

4 Please note that in accordance with the requirements of condition 5, the double glazed windows once installed shall remain permanently fixed shut, unless otherwise agreed in writing by the Local Planning Authority.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning