

Delegated Report		Analysis sheet	Expiry Date:	17/07/2018
		N/A / attached	Consultation Expiry Date:	05/08/2018
Officer			Application Number(s)	
Laura Hazelton			i) 2018/2396/P ii) 2018/3124/L	
Application Address			Drawing Numbers	
16 Leigh Street London WC1H 9EW			Refer to decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposals				
Installation of parasol and timber decking at rear of premises (retrospective).				
Recommendations:		i) Refuse Planning Permission ii) Refuse Listed Building Consent iii) That the Borough Solicitor be instructed to issue an Enforcement notice under Section 172 of the Town and Country Planning act 1990 as amended to remove the unauthorised decking and fixed parasol, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control. iv) That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requiring the removal of the unauthorised decking and fixed parasol, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 43 and or appropriate power and/or take direct action under section 42 respectively, in order to secure the cessation of the breach of planning control.		
Application Type:		i) Full Planning Permission ii) Listed Building Consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notices					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	00	No. of objections	00
			No. electronic	00		
Summary of consultation responses:	No consultation responses were received prior to the determination of this application.					
CAAC comments:	No consultation response was received from the Bloomsbury Conservation Area Advisory Committee prior to the determination of this application.					

Site Description

The application site is located on the south side of Leigh Street opposite Radleigh House and comprises a 5 storey (including basement) mid terrace building in mixed use. The basement and ground floor are currently utilised as a restaurant (A3) (linked to the restaurant at no.15 at basement level), while the upper levels are residential flats.

The building is Grade II listed and the terrace of which the application site forms part of, i.e. number 1-19 (consecutive) dates back to 1813 and is also Grade II listed. The site lies within the Bloomsbury Conservation Area. Although no. 16 is also listed in the relevant Conservation Area appraisal and management strategy as having an element of streetscape interest, the shopfront itself is not noted as a shopfront of merit.

The surrounding area is predominately mixed use with commercial uses at ground floor level and residential units on the upper levels. The site backs unto Macnaghten House, a large 6 storey building in hostel use. The site also lies within Marchmont Street/Leigh Street/Tavistock Place Neighbourhood Centre and a Controlled parking Zone.

Relevant History

LSX0105384 - Erection of single storey conservatory to rear, removal of wall around rear lightwell, rebuilding of the existing outbuilding and installation of air conditioning unit in lightwell – Granted 30/05/2002

PSX0105383 - Erection of single storey conservatory to rear, removal of wall around rear lightwell, rebuilding of the existing outbuilding and installation of air conditioning unit in lightwell – Granted 30/05/2002

2004/4470/P and 2004/4473/L - Retention of works (not built in accordance with planning permission and listed building consent granted 6/6/02) to rear extensions of restaurant (Class A3) – Granted 08/07/2005

No.15

8800042 - The erection of a rear conservatory to provide additional restaurant floorspace. Refused 08/09/1988 Appeal dismissed against planning permission, appeal allowed against Listed Building Consent. 02/05/1989

8900272 - Erection of rear extension to restaurant - Granted 15/11/1989

2004/5056/P - Certificate of Lawfulness for use of ground and basement floors as a restaurant. (existing) Granted 10/03/2005

2013/7894/P and 2013/8064/L - Addition of window guards at first floor level to front elevation. Granted 01/04/2014

15 & 16

2016/4772/P & 2016/5210/L - Installation of replacement flue pipe to rear elevation (retrospective) and removal of timber structure to the rear ground floor. Granted 21/08/2017.

2016/4227/L - Create access between 15 and 16 at basement level. Granted 22/09/2016.

Relevant policies

National Planning Policy Framework 2018

The London Plan March 2016

Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy A2 Open Space

Policy D1 Design

Policy D2 Heritage

Camden Planning Guidance

CPG1 Design (July 2015, updated March 2018)

CPG Amenity (March 2018)

Bloomsbury Conservation Area Statement 2011

Assessment

1.0 Proposal

1.1 Planning permission and listed building consent are sought for the following works:

- Retention of a collapsible floating parasol within the rear courtyard; and
- Retention of floating timber decking within the rear courtyard.

2.0 Assessment

2.1 The principle considerations in the determination of this application are as follows:

- Design (the impact of the proposal on the special character of the host Grade II listed building and wider Bloomsbury Conservation Area),
- Amenity (impact on neighbouring amenity in terms of daylight/sunlight, outlook, noise and privacy).

3.0 Design

3.1 The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. Policy D1 of the Local Plan requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. Camden's Development Policies Document is supported by CPG1 (Design) and the Redington and Frognal Conservation Area Statement.

3.2 Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") are relevant.

3.3 Section 16(2) provides that in considering whether to grant listed building consent for any works to a Listed Building special regard must be had to the desirability of preserving the building or its

setting or any features of special architectural or historic interest which it possesses.

- 3.4 Section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.
- 3.5 The effect of these sections of the Listed Buildings Act is that there is a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption.
- 3.6 The collapsible parasol consists of a base unit measuring 900mm x 900mm with a parasol measuring 4.5m x 4.5m when extended. The maximum height of the parasol is 3.3m with an 'eaves' height of 2.5m. The parasol is fairly substantial in size, covering the majority of the external space to the rear of the application site when opened, with detachable sides to enclose the space beneath. Timber decking and steps have also been installed to cover the entire external area aside from a narrow raised planter to the rear.
- 3.7 Camden Planning Guidance 1 (Design) states that good design should consider the degree of openness of an area and of open spaces. When discussing development in rear gardens, it highlights that buildings, sheds and other structures can often have a significant impact upon the amenity, biodiversity and character of an area, and states that development should:
- ensure the siting, location, scale and design of the proposed development has a minimal visual impact on, and is visually subordinate to, the host garden
 - not detract from the open character and garden amenity of the neighbouring gardens and the wider surrounding area
 - use suitable soft landscaping to reduce the impact of the proposed development
 - use materials which complement the host property and the overall character of the surrounding area.
- 3.8 Although the parasol could be retracted each night, the Council would have no control over this and therefore must assess the application as though the parasol was permanently extended. Indeed, during the Council's inspection of the site, it was noted that the parasol abutted the rear building elevation and a clock and ornaments had been installed on the rear wall, suggesting that the decked area is used as a permanent extension of the restaurant space.
- 3.9 Policy A2 (Open space) states that Development within rear gardens and other undeveloped areas can have a significant impact upon the amenity and character of the area. The Council will protect such spaces in accordance with paragraph 97 of the National Planning Policy Framework. Gardens help shape their local area, provide a setting for buildings, provide visual interest and may support natural habitats. Therefore they can be an important element in the character and identity of an area (its sense of place'). The Council will resist development that occupies an excessive part of the garden, and the loss of garden space which contributes to the character of the townscape (paragraph 6.37). This is again emphasised in Policy D1 (Design) which states that the Council will resist development that occupies an excessive part of a garden (paragraph 7.21).

- 3.10 The proposed (and installed) parasol is considered to be overly large and insubordinate to the host listed building and its small external amenity area, and would occupy an excessive area of the garden space causing less than substantial harm to the building's setting and the open nature of its limited external space. Likewise, the decking covers the entire external area, and extends upwards onto the rear building elevation to create steps from the restaurant space and shelving. The extensive use of decking would not preserve the character of the host building, and is considered to cause less than substantial harm to the listed building.
- 3.11 Paragraph 196 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset (as is considered to be the case in this instance), this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Council does not consider there to be any public benefits arising from the proposals, nor that the installation of the parasol and decking is necessary to secure the ongoing optimum viable use of the building.
- 3.12 Consequently, the development is considered to be contrary to policies D1, D2 and A2 and it is therefore recommended that planning permission is refused on this basis.

4.0 Amenity

- 4.1 Policies A1 and A4 seek to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, daylight and sunlight.
- 4.2 Due to the location and nature of the proposals, they are not considered to cause such harm to neighbouring amenity to warrant refusal of the application for this reason.

5.0 Conclusion

- 5.1 Due to the less than substantial harm caused to the setting of the host listed building, it is recommended that planning permission and listed building consent are refused, and enforcement action is taken.

6.0 Recommendation

Recommendation 1: Refuse Planning permission

Recommendation 2: Refuse listed building consent

Recommendation 3: That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended to remove the unauthorised decking and fixed parasol, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

Installation of parasol and timber decking.

WHAT YOU ARE REQUIRED TO DO:

1. Totally remove the timber decking and parasol, including all associated fixtures and fittings;
2. Make good any damage, caused to the rear elevation of the property in materials that match the existing adjacent with regard to the methods used and to material, colour, texture and profile.

PERIOD OF COMPLIANCE

The Notice shall require that the timber decking and parasol be removed within a period of 2 months of the Notice taking effect.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE.

1. It appears to the Council that the above breach of planning control has occurred within the last 4 years.
2. The timber decking, by reason of its design, extent, footprint, materials and relationship with the listed building, is considered to be harmful to the historic interest of the listed building and the character and appearance of this part of the Bloomsbury Conservation Area, contrary to policies D1 and D2 of the London Borough of Camden Local Plan 2017.
3. The proposed parasol, by reason of its design, size, siting, material and insubordinate relationship with the host building, is considered to be harmful to the historic interest of the listed building, the open nature of its rear garden, and the character and appearance of this part of the Bloomsbury Conservation Area, contrary to policies D1, D2 and A2 of the London Borough of Camden Local Plan 2017.

Recommendation 4:

That the Borough Solicitor be instructed to issue an Enforcement Notice under a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requiring the removal of the unauthorised works to the listed building, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 43 and or appropriate power and/or take direct action under section 42 respectively, in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

Installation of parasol and timber decking.

WHAT YOU ARE REQUIRED TO DO:

1. Totally remove the timber decking and parasol, including all associated fixtures and fittings;
2. Make good any damage, caused to the rear elevation of the property in materials that match the existing adjacent with regard to the methods used and to material, colour, texture and profile.

PERIOD OF COMPLIANCE

The Notice shall require that the timber decking and parasol be removed within a period of 2 months of the Notice taking effect.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE.

1. The timber decking, by reason of its design, extent, footprint, materials and relationship with the listed building, fails to respect the special historic and architectural interest of the listed building contrary to Policy D2 (Heritage) of the Camden Local Plan 2017.

2. The proposed parasol, by reason of its design, size, siting, material and insubordinate relationship with the host building, harms the open nature of its rear garden and fails to respect the special historic and architectural interest of the listed building contrary to Policy D2 (Heritage) of the Camden Local Plan 2017.