

<b>Delegated Report</b> (Refusal)		<b>Analysis sheet</b> N/A / attached		<b>Expiry Date:</b> 15/06/2018			
				<b>Consultation Expiry Date:</b> 21/06/2018			
<b>Officer</b>			<b>Application Number</b>				
Obote Hope			2018/1845/P				
<b>Application Address</b>			<b>Drawing Numbers</b>				
106-108 Cromer Street London WC1H 8BZ			See decision notice				
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>				
<b>Proposal</b>							
Installation of mechanical ventilation extract duct to the rear elevation within the existing courtyard associated with the existing use as a Restaurant. (Class A3).							
<b>Recommendation:</b>		Refuse and Warning of Enforcement Action to be Taken					
<b>Application Type:</b>		Full Planning Permission					
<b>Conditions or Reasons for Refusal:</b>		Refer to Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	<b>00</b>	No. of responses No. electronic	<b>00</b> <b>00</b>	No. of objections	<b>00</b>
<b>Summary of consultation responses:</b>		A site notice was displayed from 25/05/2018 to 15/06/2018. Press notice was displayed on 31/05/2018 to 21/06/2018.  No response from third parties were received.					
<b>CAAC/Local groups comments:</b>		No response has been received.					
<b>Site Description</b>							
The site is located on the northern side of Cromer Street on the junction with Tonbridge Street. The site comprises a mixed-use property with a commercial unit (Casa Tua restaurant) at ground floor and residential flats at upper floor level. The application relates to the rear of the building, which faces a courtyard surrounded by a number of buildings.  The site lies within the Bloomsbury Conservation Area. The building is considered to make a positive contribution to the conservation area.							
<b>Relevant History</b>							
<b>Application Site:</b>							
<b>2016/1558/P</b> – Planning permission was granted on 19.02.2018 for: Retrospective installation of two external air condenser units. A condition was attached for these external air condenser units to include additional acoustic enclosures to the rear elevation of the building within a courtyard at ground level.							
<b>2016/0754/P</b> – Variation or Removal of Condition was granted on 18.05.2016 for the variation of							

Condition 2 (opening hours) Monday to Saturday between 09:00 to 21:00 to 09:00 - 22:00 Monday to Saturday and 10:00 - 20:30 Sunday and Bank Holiday in relation to planning permission PSX0004734, dated 26/07/2000, for change of use of the basement and ground floor from retail (Class A1) to cafe (Class A3).

**PSX0004734** – Planning permission was granted on 24.11.2000 for the change of use of the basement and ground floors from retail (Class A1) to café (Class A3)

### **Relevant policies**

#### **National Planning Policy Framework 2018**

- Chapter 193

#### **London Plan March 2016**

#### **Camden Local Plan 2017**

Policy A1 Managing the impact of development

- Chapter 6.21-6.22 and 9.40

Policy A4 Noise and Vibration

- Chapter 6.85, 6.87, 6.92

Policy D1 Design

- Chapter 7.17, 7.2, 7.34 and 11.

Policy D2 Heritage

- Chapter 7.41

Policy TC4 (Town centres uses)

- Chapter 9.30 and 9.41

#### **Camden Planning Guidance 2018**

CPG 1- Design (July 2015 updated March 2018) :

- Chapters paragraph 3.7 (conservation areas) and 4.7

CPG 6- Amenity (September 2011 updated March 2018)

CPG – Employment sites and business premises (2018)

- Chapter 37

Bloomsbury Conservation Area Appraisal and Management Strategy 2011

### **Assessment**

#### **1.0 Background**

1.1 Partly retrospective planning permission was granted in 2018 (under reference 2016/1558/P) for the retention of two external air condenser units and two proposed acoustic enclosures (to mitigate the noise impact and visually conceal the plant) to the rear elevation of the building within a courtyard at ground floor level. The proposal was not implemented in accordance with the approved plans. A site visit and photos confirm the air condenser units with associated acoustic enclosures would have a finishing height of approximately 0.7m higher and 2.1m to the east with the external stairwell, which connects the ground to the lower-ground floor courtyard. Thus, the mechanical extractor unit would be located approximately 0.6m below the window of the residential amenity space at first floor level and be installed horizontally along the rear elevation.

1.2 The principal considerations material to the determination of this application are summarised as follows:

- Design and Appearance

- Residential amenity
- Enforcement

1.3 The application site is located within a 5-storey mansion block (Cromer House) with mixture of uses at ground floor level consisting of two A1, A2 units. The host building is used as a restaurant (Class A3). Policy TC2 seeks to protect and enhance Camden's existing centres, and in the case of Town Centres, seeks to resist development that would harm their primary role in providing local people's day to-day needs and ensuring that new development is of an appropriate scale, character and function for the centre in which it is located. 1.4 Policy TC4 states that the Council will consider the impact of food and drink related uses on nearby residential uses; amenity, noise, vibration and odour generated inside or outside the site. In order to manage the potential harm to amenity or the local area, appropriate conditions would be attached to any approval granted in regards to noise, hours of operation and the siting of plant and odour from extractor equipment. Officers consider that the location of the extractor mechanical extractor unit, by virtue of its location below residential windows at ground floor level, would harm nearby residential amenity by way of noise, vibration and odour.

## 2.1 Design and Appearance

2.2 The four-storey blocks in a buff brick with red brick trimmings, occupy entire street blocks, with tranquil courtyards accessed through gated archways allowing glimpse views of well-tended planting. They were sensitively refurbished in the late 1990s. The southern end of each block faces Cromer Street and incorporates small shop units at street level. Although the majority of these frontages are slightly later, dating from 1937-38, they are well detailed and play an equal role in terms of contributing to the streetscape. The development as a whole is of importance in the evolution of late 19th and early 20th century social housing.

2.3 The National Planning Policy Framework (NPPF) 2018) chapter 195 *states that LPA 'should considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'*

2.2 Policy D1 (Design) states that the Council will require all developments, including alterations to buildings, to be of the highest standard of design. It requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area. Additionally, CPG1 (Design) chapter 11 requires special consideration to be given to the installation of plant and machinery (especially in conservation areas). The installation of the external mechanical equipment would cause significant visual blight and would be a dominant feature of the building. Moreover, fewer external solutions are likely to be appropriate in location where mechanical or passive ventilation is required to remove odour emissions, the release point for odours must be located above the roofline of the building and, where possible, adjacent buildings. Thus, the design and setting would be contrary to design principles of D1 and SPG guidance CPG 1 (design).

2.3 The proposed extractor duct would run horizontally along the rear wall at ground floor level. It would measure approximately 0.7m in height, 2.7m in length and 0.4m in width. The proposal would be located approximately 0.3m away from the rear communal staircase and would be visible from within the courtyard and oblique views on Tonbridge Street. Therefore, the external manifestation of the development would be visible from the oblique views from street level and within the communal courtyard that is shared between the residents of Whidbourne House and Cromer House.

2.4 The bulk and mass of the plant and its enclosures combined with the proposed mechanical extractor plant, especially given its unauthorised and more prominent location, would have a visual harm, which would be detrimental to the host building and the Bloomsbury Conservation Area. Thus, by reason of the accumulation of the mechanical equipment, its inappropriate scale and bulk, would be harmful to the character and appearance (so therefore neither preserving nor enhancing) of the

Bloomsbury Conservation Area. The proposal would be contrary to policies D1 and D2 of the Local Plan 2017.

### **3.0 Residential Amenity**

3.1 Policies A1 and A4 of the Local Plan seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, vibration and impact on daylight and sunlight. Camden's Local Plan Document is supported by CPG6 (Amenity).

3.2 As stated above, policy TC4 states that the Council will consider the impact of food and drink related uses on nearby residential uses and amenity and noise and vibration generated inside or outside the site. 3.3 CPG – Employment sites and business premises (2018) seeks to prevent concentrations of food, drink and entertainment uses. the accompanied statement suggest that the equipment would eliminate smell listing the model number as RydAIR RY2500 Electrostatic Precipitator. However, without having specific information on how the reduction of odour and fumes would be achieved, it is not possible to assess the impact the proposed extraction equipment may have on the surrounding area.

3.3 Notwithstanding the above, kitchen extract equipment requires careful assessment as it can result in fumes from cooking which could harm neighbour amenity and the proposal should accord to Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' January 2005 by DEFRA. The submission requires details of the mechanical extraction equipment and duct outlet to prevent odour emissions and requires the release point for mechanical or extractor equipment for odours be located above the roofline of the building and, where possible to demonstrate the noise levels and odour attenuation capabilities to ensure that no odour nuisance would not occur from cooking. Moreover, given that there is a shift in the location of the air condenser units and its acoustic enclosure (compared to the approved), it is anticipated that the proposal would be less than 1m below the nearest windows of the residential occupiers leading to exacerbated noise impacts on those occupiers. Thus, the proposal given its location below the windows of the residential flats and the lack of odour mitigation measures to ensure that the smell emitting for the commercial kitchen would not have a detrimental impact would be contrary to policies A1 and A4 of the Local Plan 2017.

### **4.0 Refused and Warning of Enforcement Notice to be Issued**

4.1 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 2no. x air conditioning unit to the rear at ground floor level 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.

#### **4.2 The notice shall allege the following breaches of planning control:**

Installation of 2no. x air conditioning units to the rear at ground floor level.

#### **4.3 WHAT ARE YOU REQUIRED TO DO:**

1. Removal of 2no. x air conditioning unit to the rear at ground floor level; and
2. Make good any resulting damage.

#### **4.4 PERIOD OF COMPLIANCE:**

3 months

#### **4.5 REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:**

1. There has been a failure to demonstrate that the unauthorised air-handling units would not harm the amenity of any of the surrounding occupiers or neighbours and the air-handling units are currently causing nuisance to adjoining occupiers by way of noise. The unauthorised development is considered to be contrary to policies A1 (Managing the impact of development) and A4 (noise and vibration) of the London Borough of Camden Local Plan 2017.

2. The unauthorised air-handling units by virtue of its location, design and inappropriate material finish would be harmful to the character and appearance of the property, the wider terrace and Bloomsbury Conservation Area, contrary to policies D1 (Design), D2 (Heritage), A1 (Managing the impact of development and A4 (noise and vibration) of the Camden Local Plan 2017.