

Delegated Report		Analysis sheet		Expiry Date:	13/12/2018
		N/A		Consultation Expiry Date:	02/12/2018
Officer			Application Number		
Laura Hazelton			2018/4645/P		
Application Address			Drawing Numbers		
25-26 Red Lion Street London WC1R 4PS			Please refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal					
Erection of canopy within rear garden (retrospective).					
Recommendation:		i) Refuse planning permission ii) 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 canopy structure, 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.			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	00	No. of objections	09
Summary of consultation responses:	<p>The application was advertised in the local press on 08/11/2018 (expiring 02/12/2018) and 2 site notices were displayed on 02/11/2018 until 26/11/2018.</p> <p>9 Letters of objection were received from the occupants of nos. 22, 25, 26, and 56a Red Lion Street, and 1 Princeton Street, a summary of which is provided below:</p> <p>Amenity impacts</p> <ul style="list-style-type: none"> • The additional seating allows for 'at table' cooking which has resulted in cooking odours in a densely occupied residential area. Strong and offensive cooking odours have been persistent throughout the summer. • The canopy has significantly increased the number of customers the restaurant can cater for, resulting in extra noise and disturbance. • Noise disturbance from smokers congregating at the front of the restaurant. Management do nothing to enforce against the noise disturbance. • Loss of daylight to 1 Princeton Street. <p>Other issues</p> <ul style="list-style-type: none"> • Increased footfall has resulted in increases in waste and traffic issues. • Disproportionate expansion of restaurant use which is incompatible with a residential area. • The retrospective application is demonstrative of the management's general approach and inability to follow regulations. • Concerns about safety of the structure and potential fire risk. 					
CAAC/Local groups comments:	No response received from Bloomsbury CAAC.					

Site Description

The application site contains 2 x 4 four storey plus basement, mid terrace buildings located on the east side of Red Lion Street, near its junction with Princeton Street. The basement and ground floor to Nos.25 and 26 are in use as a restaurant (Class A3). The upper floors are in residential use (C3). The immediate area surrounding the application site is characterised by a mix of restaurants, commercial and residential uses.

The site is located within Bloomsbury Conservation Area and Archaeological Priority Area and has been identified as making a positive contribution to the character and appearance of the conservation area.

Relevant History

2014/5910/P (Refused 07/11/2014, Appeal dismissed 18/03/2015) - Erection of a roof extension at 4th floor level to provide a 2 bedroom flat and associated reconfiguration of existing extract duct to the rear.

2013/3640/P (Refused 09/01/2014) Roof extension at 4th floor level to provide 2no. 1 bedroom flats and associated reconfiguration of existing extract duct to the rear.

2010/5145/P (Granted 29/11/2010) Erection of single storey rear extension to existing restaurant (Class A3) – Not implemented.

PSX0204503 (Granted 08/07/2002) Alterations at rear including single storey extension in connection with existing restaurant.

PSX0204504 (Granted 19/08/2002) Installation of kitchen extract flue located on the rear elevation.

PS9904623 (Granted 28/10/1999) Change of use of part basement and ground of no.25 from retail use, and amalgamation with existing restaurant use at basement and ground of no.26 to form a food and drink (A3)unit with associated shopfront alterations.

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 is sought for the following works:

- Retention of a fixed canopy within the rear courtyard garden measuring 8.5m x 6m.

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 character and appearance of the host building and wider Bloomsbury Conservation Area),
- Amenity (impact on neighbouring amenity in terms of daylight/sunlight, outlook, 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 Bloomsbury Conservation Area Statement.

3.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") is relevant. Section 72(1) of the Act requires that special attention 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.

3.3 The proposed (and installed) canopy structure features a double pitched roof constructed of timber beams with a Perspex roof covering. It measures 8.5m x 6m, with a maximum height of 3m decreasing to 2.2m at the eaves. The structure covers the entire garden to the rear of no.26 and is in use as a 'winter garden' dining area associated with the restaurant.

3.4 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.

3.5 The canopy is not a temporary structure, and appears to be a solid, permanent construction which could not easily be removed. During the Council's inspection of the site, it was noted that the area was filled with a number of dining tables, lighting and heaters, suggesting that the decked area is used as a permanent extension of the restaurant space.

- 3.6 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).
- 3.7 The proposed (and installed) canopy is considered to be overly large and insubordinate to the host building and its small external amenity area. The canopy would be highly visible from the rear windows of neighbouring buildings, and the Perspex roof is considered an inappropriate and unsympathetic material which causes harm to the character and appearance of the building and wider conservation area. In addition, the canopy is considered to occupy an excessive area of the rear garden, which in turn causes harm to the open nature of its limited external space.
- 3.8 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 demonstrable public benefits arising from the proposal.
- 3.9 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 Although the canopy covers the entire rear garden, due to the pitched roof with fairly low eaves of 2.2m which do not project above the boundary walls, the canopy would not cause unacceptable harm to neighbouring privacy or daylight.
- 4.3 Objections have been received from neighbouring residents relating to the noise and odour resulting from the additional external seating and 'at table' cooking taking place within the garden area. Records show that the outside garden area was previously used for outside seating with a number of (removable) canopies. However, the present more permanent structure will have made the rear yard area more attractive for customer occupation in a wider range of climatic conditions resulting in more customers and longer duration of use. As such, it is likely that numbers of customers have increased with an accompanying increase in noise disturbance. The application does not demonstrate that any sound reduction measures have been employed therefore in the absence of such it is reasonable to assume that this must have increased to the detriment of neighbouring residents' living conditions.
- 4.4 In terms of odour disturbance, the Town Centre CPG recognises the impact that fumes and food preparation can have on neighbouring amenity, and the CPG Amenity advises that where food and drink uses are proposed, outdoor seating/standing areas, smoking areas, etc. should be sited away from noise sensitive facades and/or effectively screened. The canopy does not include measures to limit fumes, and no odour assessment has been submitted with this application to assess the impact from the external table-top cooking. Without this information, the Council cannot fully assess the impact of this on neighbouring amenity and this therefore forms a second reason for refusal.

5.0 Conclusion

5.1 Due to the harm caused to the character and appearance of the host building and wider conservation area, and harm to neighbouring amenity, it is recommended that planning permission is refused and enforcement action is taken to secure the removal of the structure.

6.0 Recommendation

Recommendation 1: Refuse Planning permission

Recommendation 2: 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 canopy structure, 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:

Erection of canopy within rear garden.

WHAT YOU ARE REQUIRED TO DO:

1. Totally remove the canopy structure, 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 canopy structure be removed within a period of 3 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 proposed canopy, by reason of its design, size, siting, material and insubordinate relationship with the host building, is considered to be harmful to the character and appearance of the host 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 (Design), D2 (Heritage) and A2 (Open space) of the London Borough of Camden Local Plan 2017.
3. The proposed development including the introduction of 'at table' cooking, by reason of its location and lack of supporting details to address noise and odour impacts, would cause unacceptable harm to the amenity of surrounding residential occupiers, contrary to policies A1 (Managing the impact of development), A4 (Noise and vibration), and TC4 (Town centre uses) of the London Borough of Camden Local Plan 2017.