

Delegated Report		Analysis sheet		Expiry Date:	03/06/2020
		N/A / attached		Consultation Expiry Date:	17/05/2020
Officer			Application Number		
Laura Hazelton			2020/1637/P		
Application Address			Drawing Numbers		
Retail Arches at Hawley Wharf Land bounded by Chalk Farm Road, Castlehaven Road and Hawley Road London NW1 8RP			Please refer to decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal					
Installation of 34 wall-mounted speakers to the railway arches' shopfronts at fascia level and associated works [retrospective].					
Recommendations:		<p>i) Refuse planning permission.</p> <p>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 wall mounted speakers, 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.</p>			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	16	No. of objections	16
Summary of consultation responses:	<p>The application was advertised in the local press on 23/04/2020 and site notices were displayed on 21/04/2020.</p> <p>12 letters of objection were received from local residents summarised as follows:</p> <ul style="list-style-type: none"> • The location of the 34 speakers will add further background noise to this public area which will reverberate and resonate, adversely affecting the amenity and peaceful occupation of our residential area. • The number of speakers at 34 is excessive, volume levels could be intrusive. • The hours of operation are excessive, the 21:00 cut off is too late, which will adversely affect family life in this residential area. • The installation will provide further disturbance to the Regent's Canal Conservation Area, a quiet corridor through Camden, and also to the Hawley Primary School. • In central London we are assaulted on all sides by amplified music and sound. I strongly object a further extension of this in the Hawley Wharf development. • The noise assessment is completely irrelevant as it seeks to justify the levels of noise when, whatever the level of this extra noise, it is an additional noise to what is already caused by the market stalls. In addition the eleven hours of operation are too long and go on too late. • In the past at this site we have been affected immensely by stalls playing music, environmental health officers attending often had great difficulty establishing the exact culprit, as the nature of the area around the canal makes the noise travel. 					
Regents Canal Conservation Area Advisory Committee (CAAC) objection	<ul style="list-style-type: none"> • The effect of continuous noise in a semi-public space. • The disturbance to users and occupants adjacent to the site. • We think there should be conditions on the use of the installation appropriate to the site. • It should also be mentioned that the consultants' studies relate to the effects of noise on residents inside their dwellings. There will be other receptors, in the open air, notably members of the public who walk along the canal towpath, which is closer than the nearest dwellings. The canal can be a place of quietude, and its users are entitled to peace and quiet. Moreover, the arches are not a point source but cumulative; they run parallel to the towpath, so the loudspeakers will impact the length of a walk along the towpath. 					

<p>Regents Network objection</p>	<ul style="list-style-type: none"> • Outside music could proliferate, and there would be no way of controlling it if this application is given consent. For example, external speakers could appear around Camden Town and along the High Street. There is no benefit or requirement for external speakers in public and accessible locations. • No case has been made by the applicant. There is no meaning to ‘animating’ an area with music and making it a ‘vibrant and interesting place to visit’, let alone ‘supporting the function (?) of the area for retail, food and beverage’. • The public in a public area should be at liberty to choose if they wanted some music. • It is intimated by the applicant that the noise emissions from the speakers are in line with Camden’s guidance, which of course is untrue as there is no such legislation to that effect. • In the application documents there is a very doubtful assumption conveyed by the consultants who (selectively) quote the Conditions to the Planning Consents 2017 and 2018 about noise levels...However, what they are obliquely referring to is Planning Condition 54 for sound insulation measures for the nearby residences and not directly the noise level and effects of open broadcast music in the locality. • There is no guarantee of the volume of the music, and it may well be cranked up as the day and evening progress (like in pubs). Also the application states that “along the row of shops there will be different zones so the speakers can transmit <u>different music noise</u> at <u>different volumes</u>” (underlining added). • It is very worrying that there would also be an adverse effect and disturbance on the Regent’s Canal and the towpath, in the highly valued conservation area, the border of which runs along the railway viaduct where the speakers are to be installed. The applicant does not seem to be concerned about the ‘noise’ impact in the sensitive canal corridor.
<p>Castlehaven Community Association objection</p>	<ul style="list-style-type: none"> • Apparently, these were put up in the process of doing other work by LabTech. Frankly it was a disruptive and inconsiderate move on LabTech’s part in not discussing this with local groups, especially the Hawley Wharf Liaison Group and residents, and perhaps Camden Council itself? • LabTech claim that they have installed these as they would like ambient music to be broadcast around the area. But even the sweetest music played from 10am to 9pm can be a terrible irritant to those that have to live with it for those 11 hours. This would include their own residents, anyone on the towpath, anyone working or studying nearby, CCA itself and Hawley Wharf Primary School. • We think this application should be denied.
<p>Tenants and Residents Association Camden Town objection</p>	<ul style="list-style-type: none"> • TRACT has raised the issue of noise generation from potential external ‘events’ from the Hawley Wharf licence applications and some concessions were given e.g. no events to be held on the rooftop restaurants. • Playing music is bound to increase the ambient noise in the area and is very subjective. Many people find the constant playing of music extremely irritating and nothing more than noise pollution. The Db level is not always the issue. • We are particularly concerned about the potential disturbance to Hawley Primary School. • Those utilising the amenity of the canal towpath and Castlehaven open space will be impacted. Those occupying the residential apartments that are

currently not let will be impacted and have no say.

- This application is yet more noise, pollution, aggravation and an assault on resident's amenity and we ask you to reject this application.

Site Description

Planning permission was granted in January 2013 for the redevelopment of the Hawley Wharf site to create a mixed use development to provide employment, housing, retail market, cinema, produce market, and associated works. The Hawley Wharf site is bounded by Castlehaven Road, Chalk Farm Road, Hawley Road, Kentish Town Road and Regents Canal.

The application site incorporates a number of railway arches within the Hawley Wharf development located along Water Lane and Hawley Quay.

The site is located within the Regents Canal Conservation Area. It does not contain any listed buildings although nos. 57 – 63 Kentish Town road and 1 Hawley Road adjoining the site to the east are Grade II listed.

Relevant History

2018/1715/P - Redevelopment of site to create a mixed use development comprising 8 new buildings between 3 and 9 storeys in height to provide, employment, housing, retail market, cinema, produce market, including change of use of 1 Hawley Road to educational, together with associated engineering works to create basements, plant and ancillary works, highways, public realm improvements, car and cycle parking and landscaping, tree removals, and associated works, following the demolition of all buildings across the site including single storey shopfront extensions at 1-6 Chalk Farm Road (excluding 1 Hawley Road and remaining structures at 1-6 Chalk Farm Road). (This application is accompanied by an Environmental Statement and is a redesign of a scheme that was refused on 4 May 2012 [Ref: 2011/4932/P]. Key revisions include: increase in size of public open spaces across the site, reduction in height/bulk/massing to some buildings, reduction in floor space, and new facade designs, particularly along the canal frontage). Granted subject to S106 legal agreement 23/01/2013.

2018/1715/P - Variation and removal of various conditions of planning permission dated 23/01/2013 ref: 2012/4628/P (for the mixed use redevelopment of the site), to reflect various physical amendments to permitted scheme, to provide temporary solution for retention of coal chute, and to refer to previously approved drawings and planning conditions. Granted 03/12/2018.

Relevant policies

National Planning Policy Framework 2019

The London Plan March 2016

Draft London Plan 2020

Camden Local Plan 2017

Policy G1 Delivery and location of growth

Policy A1 Managing the impact of development

Policy A4 Noise and vibration

Policy D1 Design

Policy D2 Heritage

Policy TC2 Camden's centres and other shopping areas

Policy TC4 Town centre uses

Policy TC6 Markets

Camden Planning Guidance

CPG Design 2019

CPG Amenity 2018

Regents Canal Conservation Area Statement 2008

Assessment

1.0 Proposal

- 1.1 The proposals seek planning permission for the installation of 34 wall mounted speakers along the shopfronts of the retail arches within the Hawley Wharf development. Each speaker measures 245mm high x 188 mm wide x 203mm deep and are coloured black.
- 1.2 The speakers are of varying heights from the floor, as they are attached to the shopfront fascia, which are located at different heights depending on the arch to which they relate. Although it depends on the shopfront fascia, the speakers are mounted on the fascia about 2160mm from ground level and 200mm from the edge of the fascia. The proposed speakers would operate from 10:00 – 21:00 Monday to Sunday and on Public/Bank Holidays.
- 1.3 The speakers were installed on site in January 2020, and as such, retrospective permission is sought for their installation. However they are not operational yet.

2.0 Assessment

- 2.1 The principal considerations in the determination of this application are as follows:
- Design – Impact on the character and appearance of the host building and the wider Regent's Canal Conservation Area)
 - Amenity - Impact on amenity of neighbouring residents in terms of outlook, daylight, privacy and noise disturbance

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.
- 3.2 Camden's Development Policies Document is supported by CPG (Design) and the Regent's Canal Conservation Area Statement.
- 3.3 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") is relevant to the determination of this application. It 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.
- 3.4 Given the small size of the speakers, their visual impact would be limited and the proposals would not harm the character and appearance of the arches, local area or this part of the Regents Canal Conservation Area. Thus in design terms alone, they are acceptable in accordance with policies D1 and D2 of the Camden Local Plan.

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, and construction impacts.

- 4.2 The proposed speakers would not impact residential amenity by way of loss of outlook, daylight, or privacy. The principal consideration is the potential noise disturbance which would arise from use of the speakers.
- 4.3 The speakers would be installed to the retail unit fascias within the railway arches along Water Lane and Hawley Quay and would play music at a controlled level between 10am and 9pm, seven days a week. A noise impact assessment has been submitted in support of the application which describes permission being sought for the installation of the speaker system to “improve the atmosphere and shopping environment of specific areas of the site”.
- 4.4 The nearest offsite noise-sensitive buildings are approximately 50m away from the closest speaker location and will benefit from the effects of acoustic screening, owing to surrounding buildings and the railway. The nearest onsite new residential flats are about 6m away from the closest speaker location and will have a direct line-of-sight. Construction of these dwellings has recently been completed and they remain unoccupied at the time of writing.
- 4.5 An assessment of the noise emissions to neighbouring noise sensitive properties has been considered in line with the Camden Local Plan and Condition 54 of the original planning permission. Condition 54 states:
- “Noise levels arising from external sources within all habitable rooms during the night period (23:00 - 07:00) shall not exceed 30dB LAeq (8 hours) nor 45dB LAmax (fast). Similarly, noise levels in habitable rooms shall not exceed 35 dB LAeq (16 hours) during the day time (07:00 -23:00). Sound insulation measures for all relevant residential windows shall be installed in accordance with the details approved on 24/03/2017 under reference 2017/0632/P, or other such details which have been submitted to and approved in writing by the local planning authority. The approved sound insulation measures shall be installed prior to occupation of any of the residential units, and retained and maintained thereafter.”*
- 4.6 The noise impact assessment has been reviewed by the Council’s Environmental Health Officer. The assessment is considered to be unacceptable due to the use of baseline noise data that was submitted by Hoare Lea in 2018. The new report does not make a physical assessment of the cumulative noise effect of all 34 loudspeakers on residential amenity, nor is there a noise map showing the noise propagation from the proposed speakers which would be expected for development of this kind.
- 4.7 Notwithstanding this, the principle of the installation of 34 speakers serving individual retail units is considered unacceptable. Although it is proposed for the overall noise level to be controlled by the landlord through a ‘centralised system’, it is not clear how this would work in practice, and there would be no way to prevent each separate speaker playing something different. Even if the overall noise output complied with Camden’s noise standards, consideration must be given to how this would be experienced in practice, and the cumulative impact and disturbance that would arise from the speakers, not just on nearby residential occupants but also visitors to the site and users of the adjoining Regents Canal. The proposals could result in 34 different soundtracks being played for eleven hours a day, seven days a week. The noise disturbance would have a significant impact on amenity, quality of life and wellbeing of local residents, contrary to policies A1 and A4, and it is recommended that planning permission is refused for this reason.
- 4.8 No adequate justification has been made by the applicant as to why or how the proposal would enhance the area or the market’s usage and atmosphere. As noted by objectors above, there is no reason why background music is necessary or desirable in ‘animating’ this area and making it a ‘vibrant and interesting place to visit’, let alone ‘supporting the function of the area for retail, food and beverage’. Also there is no justification provided for the hours of operation or numbers of speakers proposed. The music from them could compete with or further amplify the music from individual stalls as well as general noise

within the market, and, as the music would be externally played with scope for noise leakage beyond the site's boundary, the impact would not be contained and easily controlled within an enclosed building such as in the case of a shopping mall.

5.0 Conclusion

5.1 It is recommended that the application is refused due to the likely cumulative impact and noise disturbance arising from the use of the proposed speakers, which would result in unacceptable harm to the amenity of residential occupants and users of the Canal, contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Camden Local Plan 2017.

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 wall-mounted speakers**, 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:

The installation of 34 wall-mounted speakers to the railway arches' shopfronts at fascia level and associated works

WHAT YOU ARE REQUIRED TO DO:

1. Remove the wall-mounted speakers in their entirety;
2. Make good any damage caused as a result of the above works.

PERIOD OF COMPLIANCE : 3 MONTHS

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE

1. It appears that the breach of planning control has occurred within the last 4 years.
2. The development, as a result of the likely cumulative impact and noise disturbance arising from the use of the proposed speakers, would result in unacceptable harm to the amenity of surrounding residential occupants and users of the Regents Canal, contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Camden Local Plan 2017.