1 Montrose Penally Tenby SA70 7PU Argent Architects Ltd Co. Reg No. 516011

ARGENT ARCHITECTS

admin@argent-architects.co.uk www.argent-architects.co.uk Tel 01834 845440

A3626 51 2022 05 27 105 **Field End Road Eastcote**
27 May 2022

Design Statement

Statement in support of a planning application for rooftop plant items at the above address.

Background

The applicant holds the lease on a ground floor restaurant in a mixed- use building, where there are flats above.

The pre- existing conditions at the rear of the property at the time the lease was taken on can be seen below, where a ventilation flue is present serving the kitchen at that time.

In 2019 the applicant implemented planning permission Ref. 21404/APP/2018/3693 to construct a single storey rear extension and make alterations to the shopfront, creating a refurbished restaurant in this commercial unit.

Following the above works, an unsuccessful application for retrospective planning permission was made in respect of plant items (Ref. 21404/APP/2020/3281) that were placed on the roof of the ground floor extension housing the restaurant kitchen.

These items comprised of a ventilation flue and fans for the kitchen, together with an extract fan for the restaurant front- of- house, and air conditioning units as can be seen below:

There followed an unsuccessful Planning Appeal in respect of the above, Referenced APP/R5510/W/20/3266134

These proceedings found that the rooftop plant negatively affected the amenity of the surrounding residents and that it had not been successfully demonstrated that proposed mitigation measures would have solved the problems.

Moving forward

As a result of the above, Argent Architects has been asked to propose an arrangement of plant that would protect neighbour amenity and serve the functions of the restaurant.

Main factors forming the design brief

In response to sections of the Appeal Decision which made a number of statements, the proposals forming this planning application modify the previous arrangement in specific ways.

These modifications also implement the recommendations of the original Odour Risk Assessment, where the previous arrangement fell short.

The following paragraphs show excerpts from the above documents (which are also included in full as appendices to this report):

Discharge height of flue with regard to odour

Appeal decision statements- flue height

"Living Conditions - Odour
25. The Appellant's Kitchen Odour Risk Assessment5 ('KORA') concludes that odour emissions from Lahore Eastcote are considered to present a High Impact risk."]

"28. Some improvement would result in what is proposed. However, given that no rise in the height of the flue is proposed, significant odour problems would remain to the detriment of the living conditions of the occupants of nearby dwellings. Given this, I cannot remediate the problem through the use of conditions."

Odour risk assessment statements- flue height

"2.9 Currently, the vent designers consider it likely that the discharge velocity is close to 15m.s-1 when released from the jet cowl, which is considered appropriate for odour dispersion. However, it is also recommended that the kitchen extraction system discharges at least 1m above the ridge of the nearest properties. In this circumstance, that would mean raising the stack by a further 2.02m at least."

Discharge height of flue with regard to impact on outlook

A primary issue identified focusses on the impact of the flue on the outlook from the Second-floor window.

Appeal decision statements- impact of flue height

"The changes that have occurred have had a distinctly adverse effect on the outlook enjoyed by the dwellings' occupants. This would particularly be the case with regards to the second floor flat at No 105. The increased height has brought the top of the flue in line to a point directly in front of one of its windows".

Character and appearance

"….In townscape terms, the rear elevations of the parade along the service lane are not of a high quality…"

"The rear elevations of properties in the parade are utilitarian and do not add greatly to the character and appearance of the area. On one property I saw a flue that ran up the rear wall of the main parade building to a point above its roofline. Viewed in this context, the plant that has been installed, and that would result from alterations to address the noise issues would not appear incongruous"

"The development would not have an adverse effect on the character and appearance of the area."

The above accepts the utilitarian nature of the setting.

(The full Appeal Decision and odour risk assessment are provided as an appendix to this document.)

Summary of findings in respect of impacts from odour and visual impacts

The above confirms it is necessary to increase the height of the flue, whilst avoiding positioning the extended portion in front of the second-floor window of the host building.

- The resulting flue configuration is illustrated below and shown on the proposal drawings A3626 TPS06 P9 and A3626 TPS07 P8 and A3626 TPS300 P1.

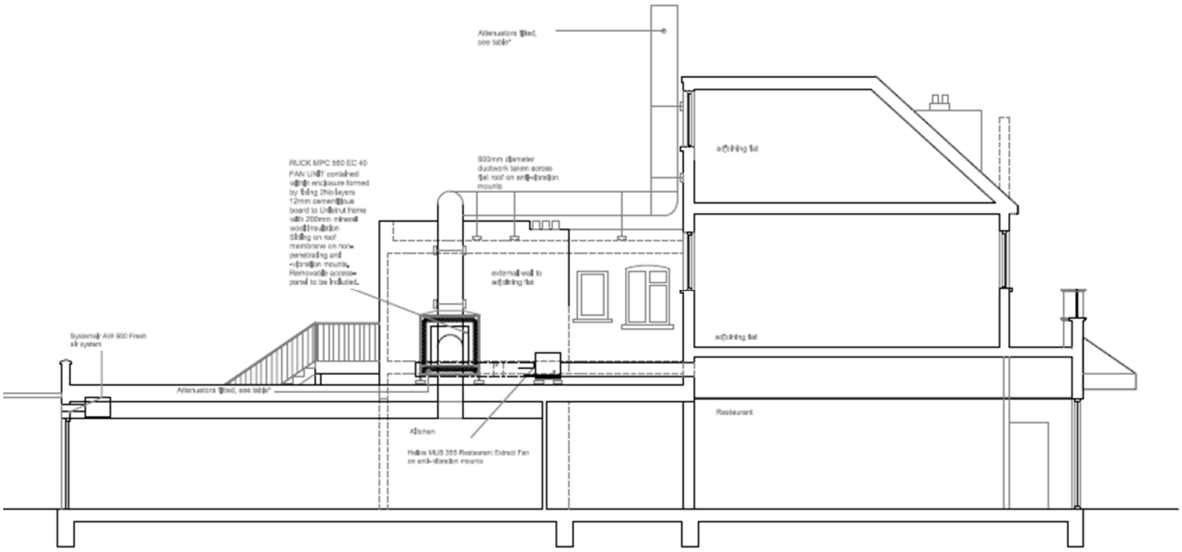
Impacts from noise

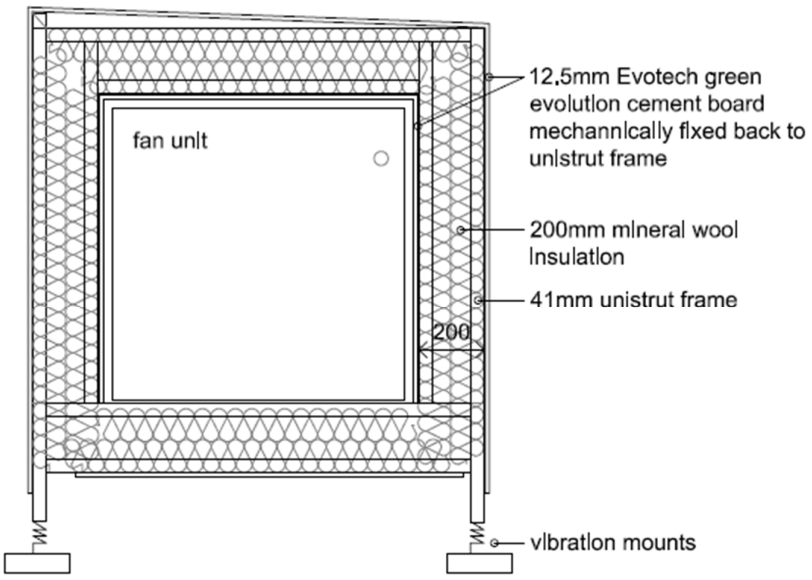
An acoustician's report was commissioned and accompanies this application. (Ref. Plant Noise Assessment Lahore Eastcote by Cass Allen)

This document analyses the predicted noise emissions from the proposed plant equipment and measures this against background noise levels that were measured at the site. The document stipulates measures for limiting the emitted noise from the equipment, in the form of enclosures and attenuators, which are required to perform to specific targets, as noted on drawing TPS06 P9.

Critically, the resulting noise emissions are calculated to be below the relevant statutory limits.

- The proposal drawings A3626 TPS06 P9 and A3626 TPS07 P8 and specifically A3626 TPS300 P1 clearly show these measures.





Details from drawings TPS06 & -7 & TPS300 showing the flue arrangement and enclosure to the main extract fan for the restaurant kitchen.

Appendix 1:

Odour Risk Assessment

Kitchen Odour Risk Assessment

105 Field End Rd, Eastcote

November 2020

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Kitchen Odour Risk Assessment

105 Field End Rd, Eastcote

November 2020

Argent Architects
1 Montrose Penally
Tenby
SA70 7PU

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Phlorum Limited

Southern Office: Unit 12, Hunns Mere Way, Woodingdean, Brighton, East Sussex, BN2 6AH

T: 01273 307 167 E: info@phlorum.com

Contents

1. Introduction

1.1 Phlorum Ltd has been commissioned by Argent Architects to undertake a kitchen odour risk assessment (KORA) to assist in the retrospective planning application (Ref: 21404/APP/2018/3693) for the installation of ventilation and heating plant at Lahore Eastcote, an Asian restaurant, at 105 Field End Road, Eastcote, Pinner (HA5 1QG). This follows concerns from the London Borough of Hillingdon (LBH) regarding the current odour abatement strategy at the restaurant.

1.2 The proposals approved in the planning application were for extensions and alterations to the existing restaurant, providing that the conditions listed in the planning decision notice could be discharged.

1.3 The odour-based concerns raised by LBH regard a complaint from a nearby resident on a recently installed kitchen flue system. The flue connects to the extraction canopy hood cover over the cooking hob and grill of the restaurant, which specialises in Asian cuisine. The flue's point of termination is at the same elevation as occupants of the dwellings above the restaurant. As such, the concern is that these occupants might sometimes be affected by odours released from the flue.

1.4 This assessment provides guidance on what an appropriate level of mitigation might comprise, based on the identified level of risk, to limit odour risks associated with the new flue system.

2. Kitchen Odour Risk Assessment

Methodology

2.1 Defra provides guidance[1] on the determination of the odour impact risk from commercial kitchens. The guidance also outlines the level of mitigation that might be required to reduce the risk to an acceptable level. Whilst this guidance has been withdrawn, it still provides a framework from which the likely odour risk can be determined. EMAQ+ have produced an amendment to this guidance[2] which has also been referred to in this KORA.

2.2 Across both guidance documents, the odour risk impact is determined as a function of:

- dispersion characteristics;
- proximity of sensitive receptors;
- cooking type; and
- the size of kitchen.

2.3 The odour risk assessment scoring matrix is set out in Table 2.1 below.

Table 2.1: Odour Risk Assessment Scoring Matrix

Criteria	Score	Score	Details
Dispersion	Very poor	20	Low level discharge, discharge into courtyard or restriction on stack.
	Poor	15	Not low level but below eaves, or discharge at below10 $m.s^{-1}$.
	Moderate	10	Discharging 1 m above eaves at 10-15$m.s^{-1}$.
	Good	5	Discharging 1 m above ridge at 15$m.s^{-1}$.
Proximity of receptors	Close	10	Closest sensitive receptor less than 20m from Kitchen discharge.
	Medium	5	Closest sensitive receptor between 20 and 100m from kitchen discharge.

1 Defra (2005).*Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems*
2 EMAQ+ (2018) Amendment to Defra (2005). *Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems*

Criteria	Score	Score	Details
	Far	1	Closest sensitive receptor more than 100m from kitchen discharge.
Size of kitchen	Large	5	More than 100 covers or large sized take-away.
	Medium	3	Between 30 and 100 covers or medium sized take away.
	Small	1	Less than 30 covers or small take-away.
Cooking type (odour and grease loading)	Very high	10	Pub (high level of fried food), fried chicken, burgers or fish & chips. *Middle Eastern or any premises cooking with solid fuel.*
	High	7	Vietnamese, Thai, Indian, Japanese, Chinese, Steakhouse.
	Medium	4	Cantonese, Italian, French, Pizza (gas fired)
	Low	1	Most pubs (no fried food, mainly reheating and sandwiches etc, tea rooms.

2.4 Once the total score has been determined, the odour impact risk, and the level of odour control required to negate that risk, can be identified from the matrix in Table 2.2, below.

Table 2.2: Odour impact risk and control requirement level

Impact Risk	Odour Control Requirement	Significance Score
Low to Medium	Low level odour control	Less than 20
High	High level odour control	20 to 35
Very high	Very high level odour control	more than 35

Kitchen Odour Risk Assessment

2.5 It is understood that Lahore Eastcote is currently operational at the site. The restaurant seating area is located at the front of the building facing the main road, with kitchen, storage and yard to the rear. No details have been provided regarding the type of kitchen equipment used, but the restaurant specialises in spicy and oily Asian cuisine. Food is served at the restaurant between 12:00 and 00:00 daily, with peak periods between 19:00 and 21:00 on Friday and Saturday. The restaurant capacity is 75 covers.

2.6 The KORA for the restaurant is set out below in Table 2.3.

Table 2.3: Odour impact risk for Lahore Eastcote

Criteria	Score	Score	Lahore Eastcote
Dispersion	Poor	15	The three-phase inverter fan odour extraction system at the restaurant comprises a Flakt Woods 560MM JM extract fan unit (56 MaXfan Compac). The discharge Velocity of one of these fans alone is 5.2m.s^{-1}. However, as this is a 'three-phase' system, the discharge rate towards the termination point (Jet Cowl) is suspected to be closer to 15m.s^{-1}. The flue discharges above the ridge of the 1st floor, but the site has a tiered elevation, so the flue is also discharging below the eaves of the 2nd floor residences by approximately 1m. As such, dispersion is considered to be poor.
Proximity of receptors	Close	10	Residential receptors are located above and adjacent to the property, within 10m. The adjacent flat is 5.156m from the termination point.
Size of kitchen	Medium	3	The restaurant provides up to 75 covers.
Cooking type (odour and grease loading)	High	7	This is an Asian Restaurant, cooking primarily spicy oily foods.
		Score	**35**

2.7 Based on the current ventilation strategy, odour emissions from Lahore Eastcote are considered to present a *High* Impact risk.

Mitigation and Recommendations

2.8 The two general mitigation measures most appropriate to this KORA are to improve odour dispersion and reduce odour concentrations before dispersion.

2.9 Currently, the vent designers consider it likely that the discharge velocity is close to 15m.s^{-1} when released from the jet cowl, which is considered appropriate for odour dispersion. However, it is also recommended that the kitchen extraction system discharges at least 1m above the ridge of the nearest properties. In this circumstance, that would mean raising the stack by a further 2.02m at least.

2.10 However, irrelevant of whether the stack height is increased, the restaurant would still benefit from a *High Level* of pre-dispersion odour abatement. Currently, Lahore Eastcote comprises a baffle-type grease filter.

2.11 EMAQ+ provides guidance on what a *High Level* of odour mitigation might include:

"1. Fine Filtration or ESP followed by carbon filtration (carbon filters rated with a 0.2 -0.4 second residence time);

2. Fine Filtration or ESP followed by UV ozone system to achieve the same level of control as 1."

3. Conclusion

3.1 Phlorum Ltd has been commissioned by Argent Architects to undertake a kitchen odour risk assessment (KORA) to assist with the retrospective planning application (Reference: Ref: 21404/APP/2018/3693) for the flue extraction system at 105 Field End Rd, Eastcote.

3.2 Concerns have been raised by the London Borough of Hillingdon regarding odours emitted from the Asian restaurant, Lahore Eastcote, with odours discharging from a flue in close proximity to nearby residences. A complaint has been received by one of these residents.

3.3 The KORA has been undertaken in line with EMAQ+ Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems and has identified that Lahore Eastcote requires a *High Level* of odour control.

3.4 Following implementation of the odour mitigation measures discussed herein, the risk of odour impact from Lahore Eastcote will be minimised and it is considered unlikely to significantly impact the amenity of surrounding dwellings.

Phlorum Limited

Head Office & Registered Office:
Unit 12
Hunns Mere Way
Woodingdean
Brighton
East Sussex
BN2 6AH
T: 01273 307 167

Northern Office:
Ground Floor
Adamson House
Towers Business Park
Wilmslow Road
Didsbury
Manchester
M20 2YY
T: 0161 955 4250

Western Office:
One Caspian Point
Pierhead Street
Cardiff Bay
Cardiff
CF10 4DQ
T: 029 2092 0820

info@phlorum.com
www.phlorum.com

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Appendix 2:

Appeal Decision

The Planning Inspectorate

Appeal Decisions

Site visit made on 6 December 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date:11th February 2022

Appeal Ref: APP/R5510/C/21/3275179
Land at 105 and 105A Field End Road, Pinner, Middlesex HA5 1QG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Naveen Sagar of Eastcote Karahi Ltd against an enforcement notice issued by the Council of the London Borough of Hillingdon ('the Notice').
- The enforcement notice, numbered HS/ENF/018288, was issued on 8 April 2021.
- The breach of planning control as alleged in the notice is: The unauthorised installation of rooftop plant equipment to serve the ground floor restaurant at 105 and 105A Field End Road, Pinner.
- The requirements of the notice are (i) Remove the plant equipment, including the large vertical ventilation flue and two air conditioning units, located on the flat roof of the ground floor to the rear of the property as shown in the approximate position on the attached plan outlined in blue; and (ii) Remove from the land all debris, items, building materials to include plant and machinery and fittings resulting from compliance with point (i) above.
- The period for compliance with the requirements is 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Appeal Ref: APP/R5510/W/20/3266134
105 Field End Road, Ruislip HA5 1QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Naveen Sagar of Eastcote Karahi Ltd against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 21404/APP/2020/3281, dated 13 October 2020, was refused by notice dated 8 December 2020.
- The development proposed is: Installation of ventilation plant equipment on flat roof area of extended restaurant unit to rear of property.

Decision

1. Appeal A - the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

2. Appeal B – The appeal is dismissed.

Preliminary Matters

3. In Appeal B, the description of development on the application form differs from that on the Council's decision notice. I have used that from the former in my header. The slight difference in addresses in my headers for the two

appeals, reflects differences in the submissions. Notwithstanding this, there is no doubt that two appeals relate to the same property.

4. At my site visit, I was given access to a first floor flat directly above the restaurant, from where I was able to see the plant that has been installed.

The Ground (a) Appeal in Appeal A and the Section 78 Appeal in Appeal B

Main Issues

5. The Main Issues are the same for both the enforcement and planning appeals, namely, the effect of the development on:

- The living conditions of the occupants of neighbouring properties having particular regard to noise, odour and outlook; and
- The character and appearance of the area.

Reasons

Background

6. Eastcote Karahi is situated on the ground floor of a parade that flanks this part of Field End Road. This parade has shops and restaurants at ground floor level, with two floors of residential accommodation above.

7. Access to some of the flats is via flights of steps leading to doors in first-floor flat-roofed projections at the rear of the parade. Between these projections are single storey flat-roofed elements; that at the appeal property houses the kitchen serving the restaurant. Residential accommodation at first and second floor levels look out onto these single storey flat roofs. The rooftop plant equipment that is the subject of the appeals is set onto the single-storey flat roof at 105 Field End Road (No 105), and looked out onto from residential accommodation at No 105 and 103 Field End Road .

8. The Appellant purchased the lease for the restaurant at No 105 and gained planning permission to extend and alter it. Then, as now, the restaurant was served by a rear kitchen. The evidence shows that the kitchen was served by a square profile metal flue rising from the kitchen, through the ground floor flat roof and up the side wall of the rear first floor projection. That flue was topped with what appears to be a rain cowl. Drawn evidence[1] shows that it projected vertically to a point roughly conterminous with the top of a chimney on the first-floor projection; between the level of first and second-floor windows in the main parade building.

9. It is stated that Figure 2 is an "excerpt from approved drawing TP0005", and this shows a "larger flue replacing the original". The flue shown in the drawing is wider but appears to be the same height as the original. I have not, however, been told which planning permission the drawing relates to. Notwithstanding this, the flue that is the subject of the appeals is markedly larger and different from both the one shown in that drawing and that which was previously in-situ.

10. The largest piece of equipment that is the subject of the appeals consists of a kitchen ventilation flue, circular in profile, and its associated equipment. The

[1] Figure 2 – Appellant's Statement in relation to Appeal A

flue exits the ground floor flat roof and then runs vertically up the side wall of the first-floor projection, to which it is fixed. It has a greater width and height than that which it replaced; rising for a considerable distance above the first-floor projection to the level of second floor windows in the main parade. Towards its lower end, it has an Axial Fan that drives fumes up the flue.

11. The flue is flanked by a pair of air conditioning units (AC units), which sit on the flat roof. A restaurant extraction fan is located on the roof and there is a kitchen extraction fan at the end of the single-storey area.

12. The Appellant states that the equipment was installed within the "the relevant technical requirements and contemporary standards". I have no reason to doubt that this was the case; the issue before me, however, is does the plant cause harm to the living conditions of the occupants of nearby dwellings?

Living Conditions - Noise

13. The residential development above No 105 consists of two flats, set one above another. These and a maisonette at 103 Field End Road look out onto the flat roof where the equipment has been installed. Although I only accessed the first floor flat at No 105, this allowed me to assess the effects of the plant on the occupants of all of the units.

14. The flue and the AC units are located on a blank area of the side wall of the first-floor projection towards its end furthest from the main parade building. There are windows serving residential units close-by, both in this side wall and in the rear elevation of the main three-storey part of the parade.

15. The Appellant[2] and Council[3] agree in their submissions that the Axial Fan, AC units and kitchen fan are noise generators. Although the AA report for the Council questions the methodology used by NRG in its baseline assessment, it notes that the NRG report accepts that the plant results in a 'Significant Observed Adverse Effect Level' (SOAEL). This is the case both when the kitchen fan is in use and when it is not. It is accepted by the Appellant, in the NRG report, that this has an adverse effect on the occupants of dwelings close-by, (described as the "nearest receptors").

16. From this, I find that the enforcement appeal should not succeed in respect of the installed plant. However, through the NRG report, the Appellant proposes mitigation measures designed to overcome the harm. These were the subject of the planning application that forms the subject of Appeal B.

17. It is a material consideration in terms of Appeal A, against the Notice. As such, I assess the scheme of mitigation as an alternative to what has been installed, under the Ground (a) appeal, and assess it as the proposed development under Appeal B. Given the similarities, both can be assessed in the same decision without prejudice.

18. It is acknowledged that unacceptable levels of noise generation can have a seriously harmful effect on the living conditions of third parties. Given this and the proximity of neighbouring dwellings, it is right to take a precautionary approach to an assessment of the submitted information.

[2] Field End Road, Eastcote, Noise Assessment April 2020 - NRG Consulting (NRG)
[3] Noise and Odour Statement of Case, 105 and 105A Field End Road, Pinner August 2021 – Anderson Acoustics (AA)

19. In brief, the mitigation measures in the NRG report are as follows. The Axial fan should be relocated inside the building and underneath the roof, or in a suitable acoustic enclosure providing 29dB(A) of attenuation. The restaurant extraction fan should be relocated inside the building, with a suggestion that it is replaced with an alternative with multiple silencers. The AC units should be enclosed providing 27dB(A) of attenuation, and it is suggested that the units should be set to 'night mode' after 11pm, to provide a further decrease in sound levels. The restaurant extraction fan system should be redesigned with a quieter fan or silencers and this should be moved inside the building. Lastly, it proposes that the kitchen fresh air supply fan should be moved inside the building, with further attenuation, or if this is not possible it should be replaced with another fan.

20. The Appellant has provided evidence of how he can meet the proposed mitigation in drawings[4], his Statements, and in his Final Comments. These show the Axial Fan enclosed by a metal frame clad in rendered cementitious board with 'Rockwool' infill. It is proposed that the AC units would be housed in acoustic enclosures; however, no details of their construction is given. It is stated that they would achieve the 27dB(A) target and the units would be set to night mode after 11pm. The restaurant extraction fan would be moved inside the building, into a void between the restaurant and first floor residential unit. It would be replaced or fitted with silencers enabling it to achieve a sound reduction of 36dB(A). Lastly, the fresh air supply to the kitchen is shown to be moved inside the building and attenuated by 32dB(A).

21. When in the room that has the blank wall to which the flue was attached, I was able to clearly hear noise from the plant. This was coming through the wall. Whilst the mitigation measures propose to enclose the Axial Fan, nothing is proposed between that fan and the blank wall. I cannot, therefore, be sure that this noise, which I find would cause significant annoyance to the occupants of the flat, would be mitigated. Furthermore, whilst the Axial Fan remediation treatment is provided in some detail, I do not have the same level of detail for the enclosures around the AC units.

22. Although both the restaurant extraction fan and the kitchen fresh air fan are to be set inside, I have no details of what the proposed plant would be, whether it would fit where it is proposed to be installed, whether their proposed positions would be acceptable, and whether they would function in the required manner. This reinforces a problem that is common to all of the information given: it has not been fully demonstrated that what is proposed would be practicable and/or effective.

23. Whilst it appears that the proposed mitigation might accord with the NRG recommendations, I would have expected, and require, them to be backed up by the views of an acoustic expert in order to be able to properly assess their acceptability. It might be that the architectural practice that produced the drawings has that expertise, but this has not been evidenced. Given the gaps in the evidence, this is a matter which cannot be addressed through the use of conditions.

24. Taking the precautionary approach, I find that the proposed scheme would not provide appropriate mitigation for the the acknowledged problems with noise generation. I therefore find the proposed mitigation measures to be contrary to

[4] Numbered TPS03/P2, TPS04/P2, TPS05/P1

London Borough of Hillingdon Local Plan Part 2, Development Management Polices, Adopted January 2020, (the 'LP'), Policies DMHB11 and DMTC4 (ii). These both require that development proposals do not cause harm to amenity through noise generation.

Living Conditions - Odour

25. The Appellant's Kitchen Odour Risk Assessment[5] ('KORA') concludes that odour emissions from Lahore Eastcote are considered to present a High Impact risk.

26. To mitigate this harm, it proposes that the raising of the flue to a point at least 1m above the ridge of the nearest properties is undertaken. It states that this would require a rise of at least 2.02m in its height. It then says that, irrespective of whether this is done, benefits would still arise if a high level of pre-dispersion odour abatement were introduced. I read this as saying that the raising of the flue is a requirement to fully address the problem, but that some improvement could be achieved with the pre-dispersion measures.

27. The AA report for the Council finds that, if implemented in full, the mitigation measures would overcome the current odour problems. However, as it says, the various drawings submitted by the Appellant do not illustrate whether, what and where the mitigation measures would be put in place.

28. Some improvement would result in what is proposed. However, given that no rise in the height of the flue is proposed, significant odour problems would remain to the detriment of the living conditions of the occupants of nearby dwellings. Given this, I cannot remediate the problem through the use of conditions.

29. I approach this issue in a precautionary manner, similar to that which I have taken with regards to noise generation and mitigation. Odour nuisance can cause great harm to residents' living conditions and, given the proximity of flats to the flue, this is a matter where it must be clearly shown that appropriate mitigation measures can and will be put in place.

30. The evidence before me is that the adverse effects on living conditions through odour generation can be overcome. However, it has not been demonstrated that this would be achieved in the proposed scheme. Therefore, my finding on this issue is that, for the reasoning given above, the development in Appeals A and B is contrary to LP Policy DMTC4 (ii) that, amongst other things, seeks to ensure that developments do not cause harm to living conditions through odour generation.

Living Conditions - Outlook

31. Windows serving flats and a maisonette at Nos 105 and 103 look out onto, and across, the flat roofed area where the plant has been installed. From these, the flue and AC units are clearly seen.

32. Using the scale bar on Drawing TPS04/P2, the flue is set some 5m from the rear elevations of the dwellings. The lower portion of the flue, including its

[5] Phlorum, November 2020

Axial Fan, and the AC units are seen either against the wall of the first-floor projection or the flat roof above the restaurant. They have little effect on occupants' outlook, which would not be harmed were the AC units and Axial Fan to be enclosed in the manner proposed.

33. The higher part of the flue has a far greater effect. It forms a stark feature against the sky and significantly detracts from the outlook from these residential units. In assessing its effects, the nature of the flue that was replaced has to be taken into account. The evidence shows that, although of a different shape, it was markedly narrower and significantly lower than that which has been installed. The changes that have occurred have had a distinctly adverse effect on the outlook enjoyed by the dwellings' occupants. This would particularly be the case with regards to the second floor flat at No 105. The increased height has brought the top of the flue in line to a point directly in front of one of its windows. The previous flue was well below that window. The increase in height has a significantly harmful effect on the outlook its occupants previously enjoyed.

34. It follows that I find that were the flue to be raised further to address the odour problems, it would exacerbate this harm.

35. For the above reasons, I find that the flue causes significant harm to the outlook enjoyed by residents of flats in this part of the parade. It is therefore contrary to LP Policy DMHB11 that, amongst other things, seeks to ensure that development proposals do not have an adverse effect on the amenity of adjacent properties. Although LP Policy DMTC4 refers to harm to residential amenity, its reference to visual impact is couched in terms of the character of the wider area. It is not, therefore, relevant here.

Character and Appearance

36. In townscape terms, the rear elevations of the parade and the area along the service lane is not of a high quality.

37. The Council's Delegated Report states that the development appears as a significant and harmful visual intrusion in the wider area. A view of the flue is gained from the public highway in Abbotsbury Gardens; however, from here it does not form a prominent and incongruous feature.

38. It is more clearly seen from the rear service lane, and some of the other plant is also seen from here. Signs show that this is private land and not a public thoroughfare. However, as members of the public would access flats and businesses along the lane, it is appropriate to assess the effect of the development from here.

39. The rear elevations of properties in the parade are utilitarian and do not add greatly to the character and appearance of the area. On one property, I saw a flue that ran up the rear wall of the main parade building to a point above its roofline. Viewed in this context, the plant that has been installed, and that would result from alterations to address the noise issues, would not appear incongruous.

40. For the above reasons, I find that the development would not have an adverse effect on the character and appearance of the area. It would, therefore, accord with the terms of LP Policy DMTC4 that seeks to ensure that development

proposals do not cause visual harm to the area in which they are located.

Other Matters

41. In reaching my findings, I have borne in mind that the site lies in a commercial centre, that the property has a lawful use as a restaurant and there has previously been a flue on the rear elevation. I am also aware of the Appellant's point that the Council's approach has left the business under threat. These are all material considerations that carry substantial weight.

42. Notwithstanding this, I find that the need to protect the living conditions of occupants of residential properties located in very close proximity to the plant and equipment that has been installed, outweighs those considerations. That the Mayor seeks to address constraints on businesses in outer boroughs has to be read in the context that appropriate weight should be given to both economic and local environmental objectives. This is how I have undertaken my assessment.

Conclusion

43. On Appeal A, for the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

44. On Appeal B, the appeal is dismissed.

Roy Curnow

Inspector