

Committee	PLANNING COMMITTEE A	
Report Title	4A CLARENDON RISE, LONDON, SE13 5ES	
Ward	LEWISHAM CENTRAL	
Contributors	Russell Brown	
Class	PART 1	14 th September 2017

<u>Reg. Nos.</u>	DC/16/098621
<u>Application dated</u>	04.10.2016
<u>Applicant</u>	Sivan Covil Trust
<u>Proposal</u>	A retrospective application for the installation of an extraction and ventilation system with two flues to replace the existing at 4a Clarendon Rise, SE13.
<u>Applicant's Plan Nos.</u>	KND/10/16/315; KND/ 10/ 16/ 315A; KND/ 10/ 16/ 315B; KND/ 10/ 16/ 315B; KND/ 10/ 16/ 315D; KND/ 10/ 16/ 315E; KND/ 10/ 16/ 315F; Noise Impact Assessment Received 21st October 2016 Design & Access Method Statement Received 3rd November 2016 Kitchen Extract Fan Acoustic Commissioning; Kitchen Extract Odour Comments Received 15th December 2016 Incense Fan Noise Measurements Received 6th March 2017
<u>Background Papers</u>	(1) Case File LE/735/4A/TP (2) Core Strategy (June 2011) (3) Development Management Local Plan (November 2014) (4) London Plan (March 2015, furthered altered in March 2016)
<u>Designation</u>	Area of Archaeological Priority PTAL 6b Flood Risk Zones 2 and 3 Local Open Space Deficiency Major District Centre Adjacent/Affecting Conservation Area
<u>Screening</u>	N/A

1.0 Introduction

- 1.1 This application was presented at Planning Committee A on 11th May 2017, but it was resolved that the decision be deferred pending a noise assessment being carried out on site by the Council's Environmental Protection team.

1.2 A copy of the original committee report is provided in Appendix A.

2.0 Planning Considerations

- 2.1 Noise generating development must not have an adverse impact in order for the occupiers of adjoining or nearby properties to have a healthy and high quality of life. It is noted that flues and other ventilation equipment can cause detrimental impacts in terms of noise, vibration and odour because of their location, the nature of the equipment installed and lack of mitigation. In this case, the subject extraction / ventilation system has led to complaints regarding noise and odour.
- 2.2 An Environmental Protection Officer from the Council has attended site and taken independent measurements in order to assess the accuracy or otherwise of the noise report that was submitted with the planning application. The assessment compared the levels against the background noise measured at the time and considered the report's approach in following the BS4142 (British Standard) methodology.
- 2.3 The report assessed both the flue serving the kitchen and the one linked to the room where incense is sometimes burnt. Measurements were taken within the rear garden of 6 Mercia Grove, which directly backs onto the flat roof where the flues are located, and measurements were also taken from there.
- 2.4 The assessment found that if the fan within the kitchen is set at a speed of 2.5 then it would result in a 3dB increase in noise. This correlates with the findings within the submitted noise report and is considered to be acceptable since the increase in noise would not be significant.
- 2.5 However, the kitchen fan can be turned up to a speed of 10. A fan speed of 6 was tested and there was an increase of 9dBA in the rear garden of 6 Mercia Grove as well as an increase of 10dBA on the background noise. The BS4142 2014 states that "if noise is 10 dB or higher than the background noise level then this is an indication of a significant adverse impact".
- 2.6 In terms of the fan used to extract the emissions from the burning incense, when measured on its own, there was a clear rattling sound from the fan and when comparing against the background there was a 10dB increase at 200Hz, which could have been contributed to by the rattling sound. Had the fan been fixed and the noise mitigated, for example enclosing the fan, Officers would have considered it to be acceptable in its own right. As it is, however, it adds to the adverse acoustic impact experienced by neighbouring properties.
- 2.7 It has thereby found that the noise reports submitted with the application were accurate when the fans were operating at a speed of 2.5, but it did not state that the fans could be turned up nor did it explicitly state at which fan speed the extraction system was tested.
- 2.8 The assessment was undertaken on a weekday when there is less cooking done than at a weekend, and certainly less than any day that assumes religious significance for the temple. As such, Officers consider that it is very probably that the fan speed is increased in those circumstances and therefore have to give weight to that point. Furthermore, there are no methods of physically restricting the speed of the fans that have been installed, nor are Officers satisfied nor aware

of any other mitigation that could make the noise impact acceptable. Indeed, during the course of the application, the applicant carried out a number of measures that were being proposed had the extraction system been found to be unacceptable.

- 2.9 Officers therefore recommend that the previous recommendation at Planning Committee A is overturned to a planning refusal and the matter referred to the Councils Planning Enforcement Team due to it being inappropriate for use in relation to a kitchen associated with the cooking of hot foods with the subsequent adverse noise impact and its location close to residential properties. Furthermore, the Environmental Protection Officer has advised that the internal environment for those people in the kitchen would not be pleasant if the fan speed was set much higher than 2.5, like at 6, as the air would not be cleared.
- 2.10 In terms of odour, this is subjective as pointed out in the submitted odour report. However, Officers did not smell any odours emanating from the extraction system, both at fan speeds of 2.5 and 6, while cooking was occurring. It is therefore considered that, without substantiated evidence to the contrary, the associated odour complaint is without foundation.
- 2.11 Therefore, Officers are of the opinion that the proposal is unacceptable, as it would result in a significantly adverse noise impact on the nearby residential properties contrary to London Plan Policy 7.15 and DM Policy 26.
- 2.12 It is not considered reasonable nor enforceable to recommend approval subject to conditions restricting the certain types of cooking. Although the kitchen is vegetarian, there would be no feasible way of enforcing this.

3.0 Equality Considerations

- 3.1 Members are referred to paragraph 7 of the original report in respect of Equality considerations.
- 3.2 Officers remain of the view that the planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Equality Act 2010, and therefore it has been concluded that there is no impact on equality.

4.0 Conclusion

- 4.1 Officers have considered the particular circumstances of the application against relevant planning policy set out in the Development Management Local Plan (2014), the Core Strategy (2011), London Plan (March 2016) and the National Planning Policy Framework (2012).
- 4.2 After further assessment, it is considered that the extraction and ventilation systems as installed and applied for, would cause an unacceptable level of harm to the amenity of nearby occupiers in terms of noise. It is not considered that there are conditions, which could reasonably be imposed to mitigate the issues arising which have resulted in the recommendation to refuse planning permission.

5.0 **RECOMMENDATION: REFUSE PLANNING PERMISSION** for the following reason:

- 1) The extraction and ventilation system, by reason of noise and vibration, as evidenced by noise testing, in the absence of sufficient mitigation, results in an adverse impact upon the quality of life and amenity for neighbouring occupiers contrary to Policy 7.15 Reducing noise and enhancing soundscapes of the London Plan (March 2015, furthered altered in March 2016) and DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

INFORMATIVES

Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought before the application was submitted. Whilst the application was recommended for approval at Planning Committee, it was deferred and further investigations have found that the development would be unacceptable and no solution is considered possible.

The applicant is advised that following this refusal of planning permission, this matter will be referred to the Council's Planning Enforcement team.