

**Application reference: 21/1262/FUL**  
**MORTLAKE, BARNES COMMON WARD**

Date application received	Date made valid	Target report date	8 Week date
09.04.2021	11.06.2021	06.08.2021	06.08.2021

**Site:**

1 The Broadway, Barnes, London, SW13 0NY

**Proposal:**

Proposed extractor fan and ducting

Status: Pending Decision (If status = HOLD please check that all is OK before you proceed any further with this application)

**APPLICANT NAME**

Mr Devander Singh  
1 The Broadway  
London  
SW13 0NY  
United Kingdom

**AGENT NAME**

Mr Randip Sahib  
14 Chestnut Grove  
Isleworth  
TW7 7EZ

**DC Site Notice:** printed on 11.06.2021 and posted on 18.06.2021 and due to expire on 09.07.2021

**Consultations:**

**Internal/External:**

**Consultee**

LBRuT Non-Commercial Environmental Health Noise Issues

**Expiry Date**

25.06.2021

**Neighbours:**

1 First Avenue, Mortlake, London, SW14 8SP, - 11.06.2021  
334A Cowley Mansions, Mortlake High Street, Mortlake, London, SW14 8SL, - 11.06.2021  
334B Cowley Mansions, Mortlake High Street, Mortlake, London, SW14 8SL, - 11.06.2021  
336 Mortlake High Street, Mortlake, London, Surrey, SW14 8SL - 11.06.2021  
338A Cowley Mansions, Mortlake High Street, Mortlake, London, SW14 8SL, - 11.06.2021  
338B Cowley Mansions, Mortlake High Street, Mortlake, London, SW14 8SL, - 11.06.2021  
336 Cowley Mansions, Mortlake High Street, Mortlake, London, SW14 8SL, - 11.06.2021  
2B The Broadway, Barnes, London, SW13 0NY, - 11.06.2021  
1B The Broadway, Barnes, London, SW13 0NY - 11.06.2021  
1A The Broadway, Barnes, London, SW13 0NY, - 11.06.2021  
2 The Broadway, Barnes, London, SW13 0NY, - 11.06.2021  
2A The Broadway, Barnes, London, SW13 0NY, - 11.06.2021

**History: Development Management, Appeals, Building Control, Enforcements:**

Development Management

Status: GTD

Date: 09/10/1972

Application: 72/2181

Erection of temporary cover to yard area at rear of shop.

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Development Management

Status: GTD Application:73/1687  
 Date:29/08/1973 Conversion of first and second floors above shop to two self-contained flats.

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Development Management

Status: GTD Application:06/0059/COU  
 Date:31/03/2006 Proposed change of use to a coffee shop (A3)

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Development Management

Status: REF Application:21/1239/FUL  
 Date:01/07/2021 Installation of a new replacement shopfront

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Development Management

Status: PDE Application:21/1262/FUL  
 Date: Proposed extractor fan and ducting

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Building Control

Deposit Date: 01.04.2021 Refurbishment and restaurant fit out including new shop front  
 Reference: 21/0585/FP

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Enforcement

Opened Date: 07.11.2005 Enforcement Enquiry  
 Reference: 05/0551/EN/UCU

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Enforcement

Opened Date: 20.06.2006 Enforcement Enquiry  
 Reference: 06/0273/EN/BCN

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Enforcement

Opened Date: 28.03.2019 Enforcement Enquiry  
 Reference: 19/0150/EN/ADV

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Enforcement

Opened Date: 16.03.2021 Enforcement Enquiry  
 Reference: 21/0088/EN/UBW

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**21/1262/FUL**  
**1 The Broadway**

**1. INTRODUCTION**

This application is of a nature where the Council's Constitution delegates the authority to make the decision to Officers rather than it being determined by the Planning Committee.

Before preparing this summary report the planning officer has considered any relevant previous planning applications in relation to the development and considered any comments made by those interested in the application such as consultees with specialist knowledge and nearby residents.

By indicating that the development proposal complies with relevant Local Plan Policies, the planning officer is taking into account the information submitted with the application, any previous relevant applications, any comments received in connection with the application and any other case specific considerations which are material to the decision.

**2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

The application site comprises a three storey end of terrace building located on the corner between Mortlake High Street and First Avenue. The site is located within the Mortlake Conservation Area and constitutes a Building of Townscape Merit. It is within an Area of Mixed Use and forms part of a Secondary Shopping Frontage.

**3. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

Retrospective permission is sought for the construction of an extractor fan and associated ducting.

There is no relevant planning history associated with the site.

**4. CONSULTATIONS CARRIED OUT**

The list of neighbours notified of this application are listed above.

No letters of representation were received.

**5. MAIN POLICIES RELEVANT TO THE DECISION**

**NPPF (2021)**

The key chapters applying to the site are:

- 4. Decision-making
- 6. Building a strong, competitive economy
- 7. Ensuring the vitality of town centres
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 16. Conserving and enhancing the historic environment

These policies can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005759/NPPF\\_July\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf)

**London Plan (2021)**

The main policies applying to the site are:

- Policy 7.4 Local character
- Policy 7.8 Heritage assets and archaeology

These policies can be found at: <https://www.london.gov.uk/what-we-do/planning/london-plan>

### **Richmond Local Plan (2018)**

The main planning considerations applying to the site and the associated Local Plan policies are:

Issue	Local Plan Policy	Compliance	
Local Character and Design Quality	LP1	Yes	No
Impact on Designated Heritage Assets	LP3	Yes	No
Impact on Non-Designated Heritage Assets	LP4	Yes	No
Impact on Amenity and Living Conditions	LP8	Yes	No
Retail Frontages	LP26	Yes	No

These policies can be found at

[https://www.richmond.gov.uk/media/15935/adopted\\_local\\_plan\\_interim.pdf](https://www.richmond.gov.uk/media/15935/adopted_local_plan_interim.pdf)

### **Supplementary Planning Documents**

Air Quality  
Buildings of Townscape Merit  
Design Quality  
Development Control for Noise Generating and Noise Sensitive Development  
Planning Guidance for Food and Drink Establishments  
Shopfronts

These policies can be found at:

[https://www.richmond.gov.uk/services/planning/planning\\_policy/local\\_plan/supplementary\\_planning\\_documents\\_and\\_guidance](https://www.richmond.gov.uk/services/planning/planning_policy/local_plan/supplementary_planning_documents_and_guidance)

### **Other Local Strategies or Publications**

Other strategies or publications material to the proposal are:

Community Infrastructure Levy  
Mortlake Conservation Area Statement  
Mortlake Conservation Area Study

### **Determining applications in a Conservation Area**

In considering whether to grant planning permission with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this context, "preserving", means doing no harm.

To give effect to that duty, decisions of the court have confirmed that for development proposed to be carried out in a conservation area, a decision-maker should accord "considerable importance and weight" to the desirability of preserving or enhancing the character or appearance of the conservation area, when weighing this factor in the balance with other material considerations which have not been given this special statutory status. This creates a strong presumption against granting planning permission where harm to the character or appearance of a conservation area is identified. The presumption can be rebutted by material considerations powerful enough to do so.

In applications where the decision-maker is satisfied that there will be no harm to the character or appearance of a conservation area, the statutory presumption against granting planning permission described above falls away. In such cases the development should be permitted or refused in accordance with the policies of the development plan and other material considerations.

## **6. EXPLANATION OF OFFICER RECOMMENDATION**

The key issues for consideration are:

- i Design and impact on heritage assets
- ii Impact on neighbour amenity
- iii Fire Safety

### **Issue i – Design and impact on heritage assets**

Policy LP1 of the Local Plan requires all development to be of high architectural and urban design quality and compatible with local character in terms of development patterns, scale, height and design.

Policy LP3 requires development to conserve and, where possible, take opportunities to make a positive contribution to, the historic environment of the borough. Development proposals likely to adversely affect the significance of heritage assets will be assessed against the requirement to seek to avoid harm and the justification for the proposal.

Policy LP4 seeks to preserve, and where possible enhance, the significance, character and setting of non-designated heritage assets, including Buildings of Townscape Merit.

The application building forms part of an early 20th century terraced group which forms part of a commercial centre of Mortlake. All the buildings within the terraced group are designated BTMs and are situated within the Mortlake Conservation Area. The building is three storeys with a ground floor projecting shop front which forms a dual frontage to The Broadway and First Avenue.

Having regard to its prominent siting on the corner plot, the application building is very visible. Whilst the application form states that works have not commenced, it is noted that the construction of the extractor fan and associated ducting are in place.

From the submitted plans and a review of aerial imagery, the pre-existing extraction equipment is discrete in both siting and scale. In comparison, the equipment which has been installed is large, with a flue occupying the full height of the building to discharge above eaves level and the units occupying a large proportion of the ground floor roof, although it is noted that the submitted plans do not accurately show the full extent of this.

The application site and the row of BTMs of which it forms a part have been somewhat altered to the rear, however there are no examples of comparable development having been approved. It is noted that the Mortlake Conservation Area statement identifies the use of poor quality products in building works as a problem and a pressure of the conservation area. It also advises seeking to encourage good quality and proportionate design and better quality materials that are sympathetic to the period and style of the building as an opportunity for enhancement.

The extractor unit that has been put in place is large and has a bright silver appearance and cannot be considered sympathetic to the character and style of the building. It is in a prominent location which is readily visible from the surrounding conservation area and no attempt has been made to mitigate its impact. As such, the extractor unit is considered to appear incongruous and an alien feature to the rear of this parade of BTMs and would fail to preserve the character of the surrounding conservation area.

The proposal, by virtue of its siting, design, inappropriate material results in an unsympathetic form of development that would harm the setting, appearance and character of this Building of Townscape Merit (BTM), detrimental to the setting of adjoining BTMs and would fail to preserve or enhance the appearance and character of the Conservation Area and the visual amenities of the streetscene. The proposal is contrary to the NPPF and Local Plan, in particular policies LP1, LP3 and LP4 of the Local Plan.



The applicant has sited No. 7 The Broadway as comprising a similar extraction duct, however no planning history can be found for this equipment, furthermore, every application is assessed on its own merits.

Paragraph 193 of the NPPF states 'When 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 202 of the NPPF states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'. In this instance, whilst the proposal would lead to less than substantial harm to the setting, character and appearance of both the BTM and the conservation area, there is no public benefit arising from the proposal as such it is contrary to the NPPF.

In view of the above, the proposal fails to comply with the aims and objections of policies LP1 and LP3 of the Local Plan.

#### **Issue ii- Impact on neighbour amenity**

Policy LP8 requires all development to protect the amenity and living conditions for occupants of new, existing, adjoining and neighbouring properties. This includes ensuring adequate light is achieved, preserving privacy and ensuring proposals are not visually intrusive.

There are a number of residential properties in close proximity to the proposed extraction fan and ducting, including the residential units in the upper floors of the application building, Nos. 1A and 1B The Broadway.

The proposed unit and associated ducting are readily visible from the rear windows of the upper floor

residential units. However, having regard to their siting and scale, it is not considered that they have resulted in any unacceptable loss of light to these properties, nor would they appear obtrusive in terms of scale.

A Noise Impact Assessment Report prepared by Sound Licensing Ltd has been submitted in support of the proposal, however no information has been submitted in relation to any odour assessment.

The Councils Environmental Health Officer has been consulted on the application and notes that the submitted detail includes for high level discharge but no detail has been included as to the type of cooking or odour assessment to determine if this will be adequately controlled by high level discharge alone. It is acknowledged that the proposals are to replace an existing system but it would appear the type of cooking undertaken will fundamentally change and no information has been submitted in this regard.

In the absence of any odour assessment, the scheme fails to demonstrate that the replacement extraction units would not result in an unneighbourly form of development causing harm through odour to the amenity of surrounding residential units. The proposal would therefore be contrary to policy LP8 of the Local Plan.

### **Issue iii- Fire Safety**

The new London Plan (2021) has recently been adopted. Of particular relevance is Policy D12 Fire Safety.

Policy D12 states that:

In the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety and ensure that they:

- 1) identify suitably positioned unobstructed outside space: a) for fire appliances to be positioned on b) appropriate for use as an evacuation assembly point
- 2) are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures
- 3) are constructed in an appropriate way to minimise the risk of fire spread
- 4) provide suitable and convenient means of escape, and associated evacuation strategy for all building users
- 5) develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in
- 6) provide suitable access and equipment for firefighting which is appropriate for the size and use of the development.

The supporting text explicitly asks applicants to:

- a) demonstrate on a site plan that space has been identified for the appropriate positioning of fire appliances. These spaces should be kept clear of obstructions and conflicting uses which could result in the space not being available for its intended use in the future.
- b) show on a site plan appropriate evacuation assembly points. These spaces should be positioned to ensure the safety of people using them in an evacuation situation.

The supporting text also stresses that fire safety of developments should be considered from the outset. For this reason, a fire safety statement is now considered a validation requirement and is not considered appropriate to resolve by condition.

In the absence of a fire safety statement detailing the developments approach to fire safety risk, the scheme is considered to adversely impact on the safety of future occupant contrary to the aims and objectives of London Plan Policy D12.

### **Issue iv – Other Matters**

It is noted that the submitted drawings do not accurately show the siting and full extent of the extraction equipment that have been installed on site. It is also noted that other works are shown on the submitted plans including works to the shop front which have already been considered under application 21/1239/FUL. Had the proposal been considered acceptable, revised plans would have

been requested.

## **7. LOCAL FINANCE CONSIDERATIONS AND OTHER MATTERS**

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The weight to be attached to a local finance consideration remains a matter for the decision maker. The Mayor of London's CIL and Richmond CIL are therefore material considerations.

On initial assessment this development is not considered liable for the Mayoral or Richmond CIL however this is subject to confirmation by the CIL Administration Team.

## **8. RECOMMENDATION**

This recommendation is made following careful consideration of all the issues raised through the application process. In making this recommendation consideration has been had to the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements set out in Chapter 16 of the NPPF.

For the reasons set out above, it is considered that the adverse impacts of allowing this planning application would significantly outweigh the benefits, when assessed against the policies in NPPF (2019) and Development Plan, when taken as a whole.

### **Refuse planning permission for the following reasons**

#### **Reasons:**

##### **Impact on BTM/CA**

The proposal, due to its siting, design and inappropriate material results in an unsympathetic form of development that would harm the setting, appearance and character of this Building of Townscape Merit (BTM), detrimental to the setting of adjoining BTMs and would fail to preserve or enhance the appearance and character of the Conservation Area and the visual amenities of the streetscene. The proposal is contrary to the NPPF and Local Plan, in particular policies LP1, LP3 and LP4 of the Local Plan.

##### **Odour**

In the absence of an Odour Impact Assessment regarding the replacement kitchen extraction units, the scheme fails to demonstrate that it would not result an un-neighbourly form of development that adversely harms the residential amenities and health of nearby occupants in terms of odour and fumes. The scheme is contrary to policies LP8 and LP10 of Council's Local Plan (2018) and the Planning Guidance for Food and Drink Establishments SPD.

##### **Fire Safety**

In the absence of a fire safety statement detailing the developments approach to fire safety risk, the scheme is considered to adversely impact on the safety of future occupants contrary to the aims and objectives of London Plan Policy D12.

## **9. ENFORCEMENT ACTION**

- 1) Issue an Enforcement Notice

For the reasons set out in this report and owing to the fact that the unauthorised addition of an extractor fan and associated ducting to the rear of the building is already present, it is considered expedient to take enforcement action. The Head of Legal Services is to be instructed to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 as amended, and to authorise in the event of non-compliance, to prosecute 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 BREACH OF PLANNING CONTROL ALLEGED**



Without planning permission an extractor fan unit and associated ducting has been added to the rear elevation and ground floor roof of the property at No.1 The Broadway.

**REASONS FOR ISSUING THIS NOTICE**

- a. The proposal, due to its siting, design and inappropriate material, results in an unsympathetic form of development that would harm the setting, appearance and character of this Building of Townscape Merit (BTM), detrimental to the setting of adjoining BTMs and would fail to preserve or enhance the appearance and character of the Conservation Area and the visual amenities of the streetscene. The proposal is contrary to the NPPF and Local Plan, in particular policies LP1, LP3 and LP4 of the Local Plan.
- b. In the absence of an Odour Impact Assessment regarding the replacement kitchen extraction units, the scheme fails to demonstrate that it would not result an un-neighbourly form of development that adversely harms the residential amenities and health of nearby occupants in terms of odour and fumes. The scheme is contrary to policies LP8 and LP10 of Council's Local Plan (2018) and the Planning Guidance for Food and Drink Establishments SPD.
- c. In the absence of a fire safety statement detailing the developments approach to fire safety risk, the scheme is considered to adversely impact on the safety of future occupants contrary to the aims and objectives of London Plan Policy D12.

**WHAT YOU ARE REQUIRED TO DO**

- i. Revert the rear elevation and ground floor roof on this property to its condition prior to the breach of planning control; and
- ii. Remove from the property all materials, rubble, and debris resulting from compliance with step (i) above

**Compliance due date:** within 3 months of this notice taking effect.

**Recommendation:**

The determination of this application falls within the scope of Officer delegated powers - YES / ~~NO~~

**I therefore recommend the following:**

- 1. REFUSAL
- 2. PERMISSION
- 3. FORWARD TO COMMITTEE

This application is CIL liable  YES\*  NO  
(\*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement  YES\*  NO  
(\*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file)  YES  NO

This application has representations on file  YES  NO

Case Officer (Initials): .....GE.....

Dated: .....02/08/2021.....

**I agree the recommendation:**

Principal Planner

Dated: .....WWC.....3/8/21.....