

**Committee Report**  
**Planning Committee on 2 February, 2011**

**Item No.** 8  
**Case No.** 10/2979

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**RECEIVED:** 22 November, 2010

**WARD:** Kilburn

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** 307-311 Kilburn High Road, London, NW6 7JR

**PROPOSAL:** Change of use class from A4 and D2 to A1, A2 and/or A3 on the ground floor and the construction of 4 flats at first floor level and the erection of second floor extension to accommodate 3 flats

**APPLICANT:** Sundial Capital Corp

**CONTACT:** PAD Consultancy Ltd

**PLAN NO'S:**  
Please see condition 2

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**RECOMMENDATION**

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Planning to agree the exact terms thereof on advice from the Borough Solicitor

**SECTION 106 DETAILS**

The application requires a Section 106 Agreement, in order to secure the following benefits:-

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement
- Contribution of £10,000 on material start and, index-linked from the date of committee for local open space and play space improvements.
- Terms to ensure the payment of £3,000 for each net additional bedroom on material start (Total £48,000).
- Removal of the rights of residents to apply for parking permits. (Car Free)

And, to authorise the Head of Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the Unitary Development Plan and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

**EXISTING**

The site is occupied by a two storey property on Kilburn High Road. The property is not located within a Conservation Area nor is any part of the property listed. It is located within a Secondary Shopping frontage

Neighbouring property No 315 is substantially taller being three stories high with a mansard feature. The Northern end of the affected terrace has been extended in a similar fashion to that of the proposal

The ground floor of No 307- 309 comprises a Gymnasium. No 311 is occupied by a Public house with ancillary pub space at first floor level. The first floor is sometimes in use as an occasion room. Its main entrance is on Kilburn High Road and also benefits from a secondary access off Drakes Courtyard.

## **PROPOSAL**

Change of use class from A4 and D2 to A1, A2 and/or A3 on the ground floor and the construction of 4 flats at first floor level and the erection of second floor extension to accommodate 3 flats

## **HISTORY**

Full Planning permission (Ref No: 08/2623) for the 'Change of Use of ground floor unit from a Bar (Use Class A4) to Gym (Use Class D2)' was granted on 11 November 2008.

## **POLICY CONSIDERATIONS**

### **Brent Unitary Development Plan 2004**

#### STRATEGIC POLICIES

STR1 Housing (particularly affordable) is Priority Land-Use  
STR3 Sustainable Development  
STR5 Reducing the need to Travel  
STR11 Built and Natural Environment  
STR14 Quality of the Urban Environment  
STR18 Additional Housing  
STR19 New Housing Development

#### BUILT ENVIRONMENT

BE1 Urban Design Statements  
BE2 Townscape: Local Context and Character  
BE3 Urban Structure  
BE5 Urban Clarity and Safety  
BE6 Public Realm: Landscape Design  
BE7 Public Realm: Streetscape  
BE9 Architectural Quality  
BE12 Environmental Design Principles.

#### HOUSING

H8 Resisting loss of housing.  
H9 Dwelling Mix  
H12 Residential Quality  
H13 Residential Density

#### TOWN CENTRE AND SHOPPING

SH9 Secondary Shopping Frontages

#### TRANSPORT

TRN3 Environmental Impact of Traffic  
TRN10 Walkable Environments  
TRN14 Highway Design  
TRN23 Parking Standards – Residential Developments  
TRN35 Transport Access for Disabled People and others with Mobility Difficulties  
PS14 Parking Standards – Residential Development  
PS15 Parking for Disabled People  
PS16 Bicycle Parking

TOURISM, ENTERTAINMENT AND THE ARTS.  
TEA3 - Protection of Existing Ace Facilities.

### **Brent Supplementary Planning Guidance**

#### **SPG 17 "Design Guide for New Development" Adopted October 2001**

Provides comprehensive and detailed design guidance for new development within the borough. The guidance specifically sets out advice relating to siting, landscaping, parking, design, scale, density and layout.

### **CONSULTATION**

#### External

29 Neighbouring properties were consulted on 16 December 2010. The Local Authority has received a 4 objections. The principle of the objections are listed below:

- The change of use will harm the cultural vibrancy and night-time economy
- The need for cultural and economic enhancement is greater than the need for a small number of residential units.
- The development will contribute to the congestion on Drakes Courtyard.

#### Internal

Transport Engineer - See Below

#### Other

London Borough of Camden - no objection was raised

### **REMARKS**

#### Principle of Development

The ground floor of No 311 is used as a pub and its first floor used as a large private function room. The applicant has stated that events have become less popular at the venue which has resulted in long periods of vacancy. It has also been suggested that the existing use would not be compatible with the proposed residential use of the upper floors. The ground floor of No 307 is in use as a Gymnasium

The policy objectives for Town Centres and Shopping set out in the UDP 2004, are clear in requiring a mixed use of retail services within the Town Centre. The site is located within a Secondary Shopping Frontage As such the principle of a A1 use in a Town Centre is not objected to.

Policy SH9 of Brent's Unitary Development Plan 2004 sets out that the proposed change of use of a premises to non-retail uses A2 and A3 within the Designated Shopping Parade will be permitted where these provide a service to visiting members of the general public, subject to residential amenity and highway and traffic considerations. In brief, transport engineers have not taken issue with the change of use as discussed below, specifically the main concern with the development could be future servicing. However the applicant has rights to Drakes Courtyard and officers consider this area to adequate for future servicing requirements. As such no objection is raised on transportation grounds. Further with the limitation on opening hours and provision of insulation as suggested by condition the impact on future residents should be limited.

The upper floor occasion room is an ancillary use to the ground floor pub. Whilst the loss of the ancillary occasion room is regrettable, its loss cannot be prevented in policy terms. It is also notable that the upper floor occasion room has remained vacant for long periods of time. Prior to the applicants' purchase of the property last year, the property was been marketed in excess of 12 months and no interested noted.

Your officers find there to be no policy grounds for refusal to resist their loss. The replacement uses will contribute to the vitality and viability of the established Town Centre thus meeting policy objectives outlined in the Council's Unitary Development Plan 2004, PPS 6 : Planning for Town Centres and indeed the Council's Adopted Core Strategy.

#### Size, Scale and Design of Extension

The proposed extension will be placed on the existing building to facilitate the conversion of the existing property. The extension will see the height of the building on the site boundary increased by an additional floor. There are no residential dwellings in Drakes Court Yard to the rear.

The proposed extension has been designed to form a continuation of the main body of the building and respects existing building lines and the scale and design of the surrounding streetscene. The Council's design officer has commented on the proposal and considers that the extension is appropriately sited and laid out whilst maintaining the existing street formation and grain. The proposed extension respects the design and scale of the existing building and will complement its character. Details of materials will be secured by condition. Although this type of roof extension is often considered to be unacceptable by reason of its form and design, it is considered that in the circumstances set out above the proposed extension can be supported.

#### Residential Quality

The proposed development would provide seven flats in total comprising five 2-bedroom and two 3-bedroom flats. The proposed flats exceed the minimum internal floor space requirements set out in SPG17. All but two units are appropriately stacked. Units 6 and 2 and units 7 and 5 appear to have bedrooms placed over or under living rooms. Whilst these relationships are not ideal, noise transmission could be mitigated by correct insulation. In order to deal with the issue of street noise from Kilburn High Road the applicant will be required to undertake a noise assessment to ascertain what level of mitigation is needed to ensure that suitable attenuation is achieved in the rooms facing the Kilburn High Road (particularly the bedrooms). A condition to this effect will accompany the permission if the application is approved.

The applicant has ensured that all first floor kitchens will be serviced by a lightwell or solatub. An internal light assessment which confirms adequate daylight to all units has been provided.

Six of the seven proposed flats will have balconies. Four of the seven balconies will provide approximately 3m<sup>2</sup> of external amenity space. Whilst this is significantly less than requirements set out in SPG 17, a lack of external amenity space is generally common place for residential developments within such town centre locations. Where it is often difficult to meet guidance as a result of site constraints however, this proposal does include 2 three bedroom flats, which would obviously benefit from outside space and in order to mitigate this, the applicants have agreed to make a S106 contribution (£10, 000) to open space environmental improvements in the local area that will go some way to offset the lack of amenity space on site.

#### Highway Considerations

The site currently comprises 194sqm of D2 Gymnasium floorspace, which attracts a parking standard of 1 car space per 60 patrons, plus 1 per 5 staff. There are no specific servicing requirements associated with this. The existing 491sqm of A4 Pub/Bar floorspace attracts a parking standard of 1 car space per up to 400sqm, plus 1 space per 100sqm thereafter and requires servicing by 10m rigid vehicles.

The proposed development will be permitted 1 car space per up to 400sqm for a retail or restaurant use, and 1 car space per 300sqm for an A2 professional services use. The impact of this change of use should not result in a dramatic increase in the parking standard. On balance, servicing requirements will be more onerous however as both A1 and A2 units of this size require a full-sized loading bay. Failing this as an absolute minimum bays for 8m rigid vehicles should be provided. The rear servicing road (Drake's Courtyard) will be capable of handling the relevant servicing requirements for all proposed uses.

The conversion to 7 self-contained flats will see standard increase to 5.9 spaces. Given that Kilburn High Road is London Distributor Roads it is not acceptable to accommodate this increase in parking standard on-street. The absence of any forecourt or external space to the subject site also removes the possibility of off-street parking provision.

The proposed development will therefore need to be "car-free" as no additional parking can be provided. The subject site is located within controlled parking zone "KD" and has very good accessibility to public transport, given its close proximity to a number of bus routes and tube/train stations with a PTAL rating of level 5. As such the Council's Transportation Unit will accept a "car-free" development in this location, subject to the applicant entering into a S106 agreement. The introduction of a "car-free" agreement would also contribute positively to existing on-street parking pressures by removing all existing parking requirements from the site. For the avoidance of doubt the previous the function room use could have attracted more cars to the site than these 7 flats when it was fully operational.

Cycle parking has been incorporated for the residential accommodation towards the rear of the ground floor, which is acceptable in type as it is secured and covered (being within the building). The number of spaces provided is nine, which is welcomed as this exceeds the standard of 1 cycle space per dwelling.

Existing refuse and recycling arrangements for the commercial element of the scheme will be retained, comprising storage facilities at the rear of the site. These are acceptable. A similar arrangement in two stores at the rear of the ground floor of the residential accommodation is also viewed to be acceptable.

### S106

For the avoidance of doubt, this particular scheme would attract the following requirements:

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
- Contribution £10,000 on material start an, index-linked from the date of committee for local open space and play space improvements.
- Terms to ensure the payment of £3,000 for each net additional bedroom on material start (Total £48,000).
- Removal of the rights of residents to apply for parking permits.(Car Free)

### Other

Details of exact specification of the ventilation and extraction equipment intended for the proposed A3 use has not been specified. An assessment of the development revealed the service risers could accommodate an extraction system. Details of the extraction system shall be secured by condition

The applicant has proposed a green roof, details of which will be secured by condition. The biodiversity green roof shall not be used as an amenity or sitting out space of any kind and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.

### Consideration of Objection

The use of the premise for the purpose of a public house, occasion room and Gym is not protected under local policy nor under the provisions of the Use Classes Order 2005, as amended. It has therefore been considered that proposed development would not compromise the viability of the site as a public house beyond existing market conditions.

All other objections have been addressed in the body of this report

**RECOMMENDATION:** Grant Consent subject to Legal agreement

- (1) The proposed development is in general accordance with policies contained in the:-

Brent's Unitary Development Plan 2004  
Council's Supplementary Planning Guidance 17:-Design Guide For New  
Development

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment  
Housing: in terms of protecting residential amenities and guiding new development  
Town Centres and Shopping: in terms of the range and accessibility of services and their attractiveness  
Transport: in terms of sustainability, safety and servicing needs

**CONDITIONS/REASONS:**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawings:

1267-P1/001  
1267-P1/EX010  
1267-P1/EX011  
1267-P1/EX014  
1267-P1/P025  
1267-P1/P022  
1267-P1/P021  
1267-P1/P024  
1267-P1/P026  
1267-P1/P027  
1267-P1/P028  
1267-P1/P029  
1267-P1/P030  
1267-P1/P031  
1267-P1/EX015  
1267-P1/EX016  
1267-P1/EX017  
1267-P1/EX018  
1267-P1/EX019  
1267-P1/EX020  
1267-P1/EX021  
1267-P1/P020

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) The ground floor premises shall not be used or open to customers except between the hours of:

0800 to 2300 Monday to Saturday  
1000 to 2230 Sundays and Bank Holidays.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties.

- (4) Prior to the commencement of any A3 development on the ground floor, details of fume extraction and odour control equipment, including any ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority. Such equipment shall be installed in its entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents.

- (5) Prior to the commencement of occupation of flats, details of the green roof layout, construction and planting will be submitted to the Local Planning Authority. Such details/considerations will include:

- Biodiversity based with extensive substrate base (depth 80-150mm);
- Planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (focused on wildflower planting, and no more than a maximum of 25% sedum coverage).

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (6) The biodiversity green roof shall not be used as an amenity or sitting out space of any kind and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.

Reason: To safeguard neighbouring amenity

- (7) Proposed refuse, recycling and cycle storage shall be permanently maintained unless the prior written consent of the Local Planning Authority is obtained.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (8) Details of materials for all external work, including samples, shall be submitted to and approved in writing by the Local Planning Authority before any work associated with the extension is commenced. The work shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (9) Prior to occupation of the dwellings results of the post-completion testing undertaken in the noise affected dwellings closest to the road to demonstrate that reasonable resting conditions (Living rooms) LAeq, T 30 – 40 dB (day: T =16 hours 07:00 –23:00), reasonable sleeping conditions (Bedrooms) LAeq, T 30 – 35 dB (night: T = 8 hours 23:00 – 07:00) LAmax 45 dB (night 23:00 – 07:00) have been met should be submitted and approved in writing by the Local Planning Authority and thereafter the development shall not be occupied until the approved scheme has been fully implemented.

Reason: To ensure that the occupiers are not subjected to excessively high noise levels and to ensure an adequate standard of amenity.

**INFORMATIVES:**

- (1) The applicant is informed that in the event that an A3 use is proposed at ground floor level the Environmental Health Officers of the Council must be contacted prior to occupation (0208 937 5252).

Any person wishing to inspect the above papers should contact Tanusha Naidoo, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5245

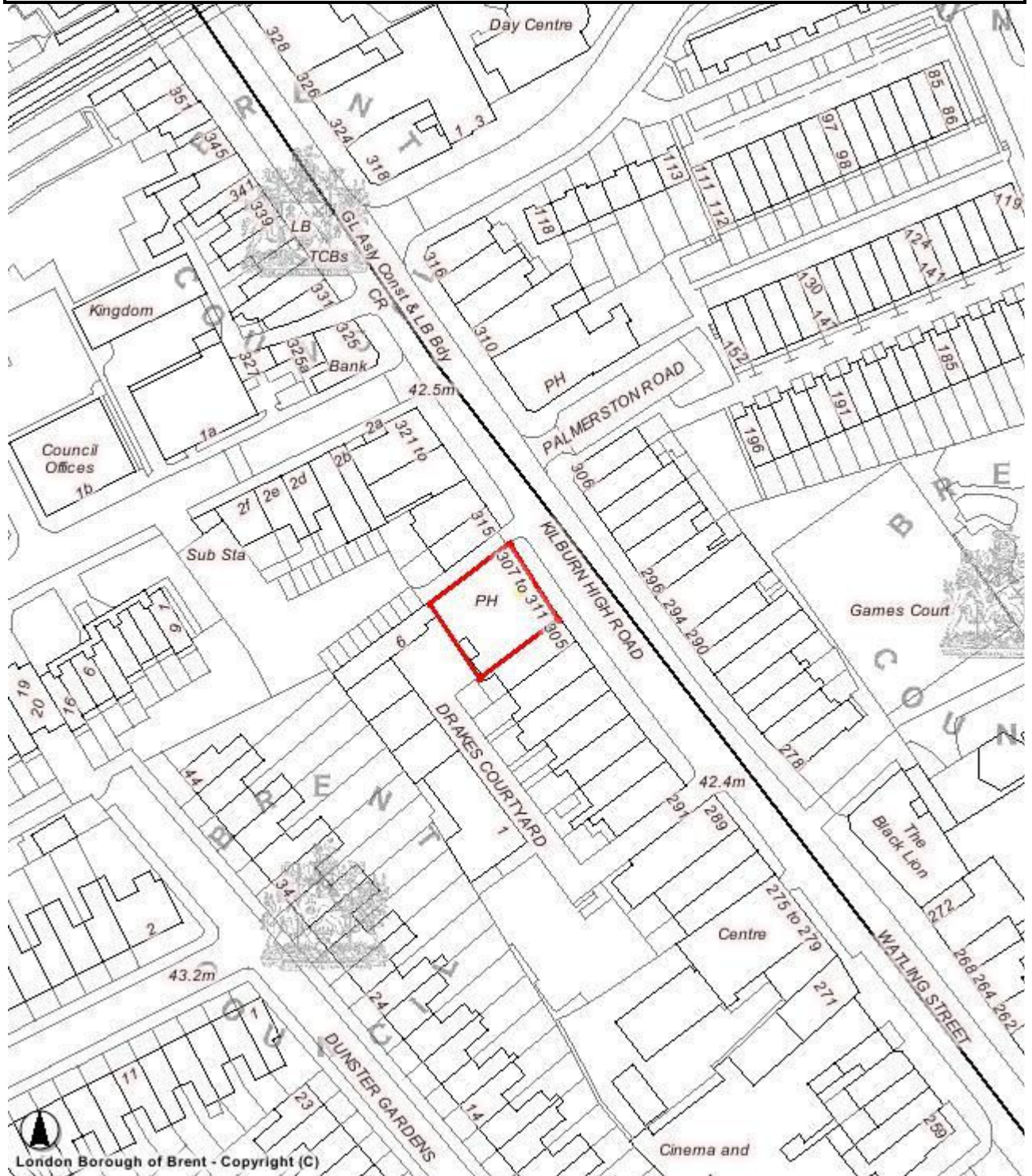




# Planning Committee Map

Site address: 307-311 Kilburn High Road, London, NW6 7JR

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