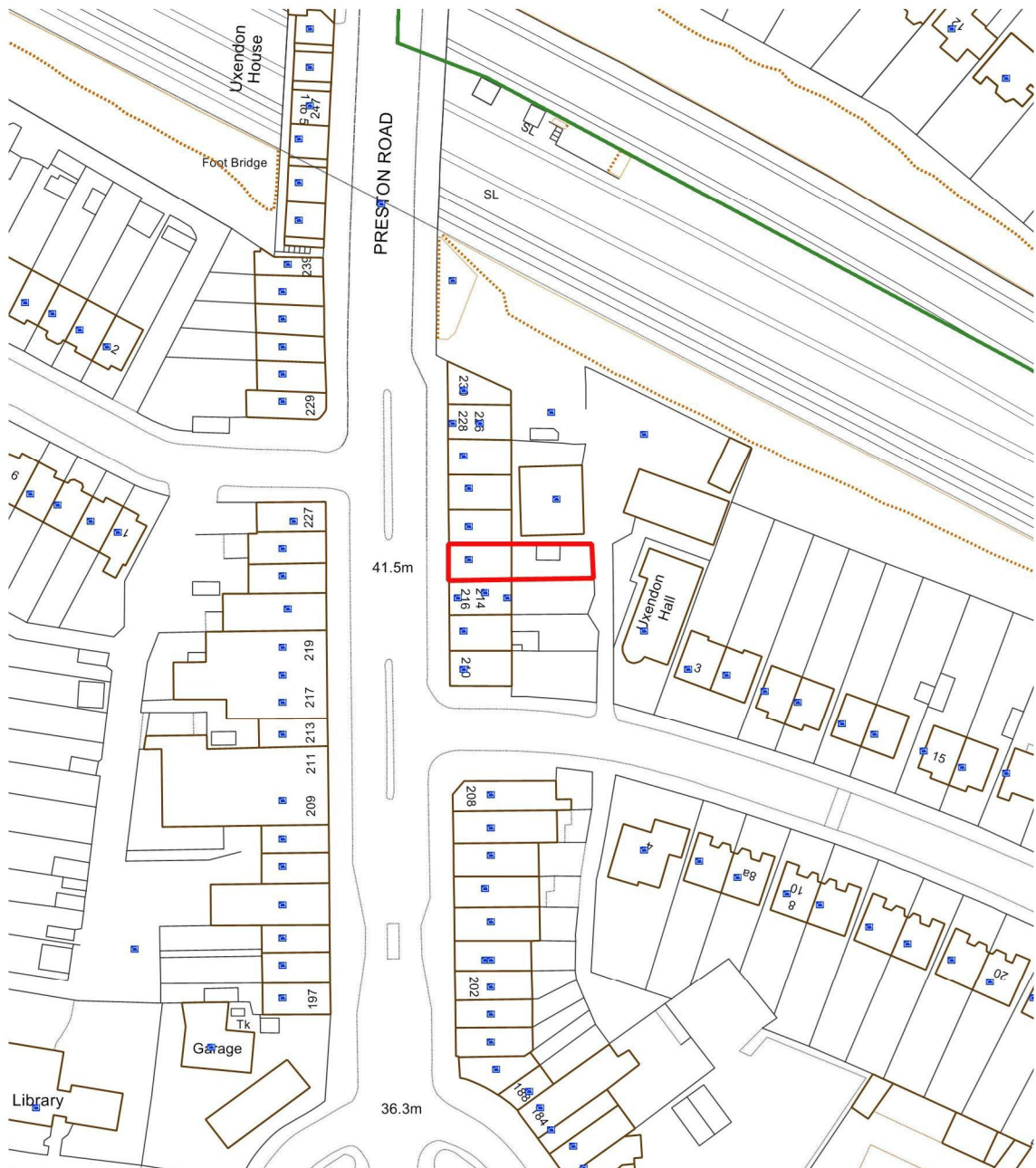
 **Planning Committee Map**  
Site address: 218 Preston Road, Wembley, HA9 8PB  
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This map is indicative only.

**RECEIVED:** 11 August, 2011

**WARD:** Preston

**PLANNING AREA:** Wembley Consultative Forum

**LOCATION:** 218 Preston Road, Wembley, HA9 8PB

**PROPOSAL:** Proposed change of use from Use Class A1 (retail) to Use Class A5 (hot food take-away), installation of new shop front, erection of 2-storey rear extension with external staircase, installation of extract duct to rear elevation and x2 floor mounted air compressors units at the rear.

**APPLICANT:** Dominos Pizza Group Ltd

**CONTACT:** Richard Unwin Chartered Surveyor

**PLAN NO'S:**  
(See Condition 2 for the approved plans)

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## **RECOMMENDATION**

Approve

## **EXISTING**

The subject site, located on eastern side of Preston Road is a mid-terrace 3-storey property consisting of a vacant retail unit on the ground floor, with residential accommodation above. It is not known precisely how long the retail unit, which was most recently used as dry cleaners, has been vacant for but it has certainly been vacant for the past 12 months.

The premises are situated within the designated Preston Road Primary Shopping Frontage which comprises a mixture of uses and the property benefits from a rear service road that is accessed from Elmstead Avenue.

## **PROPOSAL**

Change of use from Use Class A1 (retail) to Use Class A5 (hot food take-away), installation of new shop front, erection of 2-storey rear extension with external staircase, installation of extract duct to rear elevation and x2 floor mounted air compressors units at the rear.

## **HISTORY**

**11/0402** - Change of use from retail shop (Use Class A1) to winebar (Use Class A4) and siting of a new extractor duct to the rear, and erection of rear basement and ground floor extension. **Granted**

The loss of retail was accepted and a change of use to A4 allowed, following the Inspectors findings in determining application 10/2357. The applicants have stated that they have since been unable to let the premises for an A4 use and this is partly why permission for an A5 use is sought.

**10/2357** - Change of use from retail shop (Use Class A1) to wine bar (Use Class A4), with installation of extract duct to rear and erection of two-storey rear extension. **Refused**

*1. The proposed loss of a retail unit and change of use of the premises to a wine bar (Use Class A4) would exacerbate the existing over-concentration of non-retail units within the Preston Road Primary Shopping Frontage, resulting in there being significantly more than 35% of the units in*

*non-retail use (with a vacancy rate less than 10%), and would fail to enhance the range of services that is already provided, resulting in harm to the vitality, viability and retailing function of Preston Road Centre and lessen its attractiveness to shoppers. This is contrary to policy SH7 of the London Borough of Brent Unitary Development Plan 2004.*

*2. The application is accompanied by inadequate information to demonstrate that the proposed use of the premises as a wine bar will not give rise to conditions harmful to the amenities of residential occupiers both immediately above and adjacent to the premises, through noise transmission. Furthermore, the lack of sufficient information in support of the extraction flue fails to demonstrate that the low-level extract flue will not result in a loss of amenity for neighbouring occupiers, either above or adjoining the premises, by way of noise, vibration and smell from the extraction and ventilation equipment, including any ducting. In the absence of such information about the intended use, and given the proposed size, siting and low-level termination of the extraction equipment in proximity to habitable-room windows, the application fails to demonstrate compliance with policies EP2 and SH10 of the adopted London Borough of Brent Unitary Development Plan 2004.*

*3. The proposed rear extension, by reason of its footprint, would inhibit the use of this service yard for vehicular servicing purposes, and would result in the permanent loss of on-site rear servicing in conjunction with the ground-floor retail/commercial premises for 218 Ealing Road. This is accordingly likely to result in loading/unloading/servicing on a permanent basis from the service road to the rear, or the highway to the front of the premises, causing obstruction to the service road or highway, to the detriment of the free flow of traffic and conditions of general highway and pedestrian safety. Furthermore the proposal fails to make adequate arrangements for the storage of refuse, waste and recycling material. This is contrary to the Council's policies SH19, TRN3, TRN22 and TRN34 of the adopted Unitary Development Plan 2004.*

The application (10/2357) was the subject of an Appeal (**ref: APP/T5150/A/10/2140597**) that was dismissed in February 2011. The Inspector concluded the following;

It was the Inspectors view that the main issues in this case were the effect of the scheme on (a) the vitality and viability of the local shopping centre within which the unit is located; (b) the living conditions of nearby residents; and access and servicing arrangements.

In terms of (a) the Inspector comments that for the purpose of applying policy SH7 it is not clear whether the policy is intended to be applied by reference to linear management or to a calculation based on the number of units. To clarify this point Officers can confirm that the application of policy SH7 is concerned with the proportion of frontage by linear measurement.

The Inspector had regard to the Council frontage survey, conducted in October 2010 as part of its assessment of application 10/2357. The results of the survey concluded that at that particular time 57% of the frontage was in retail use (Use Class A1), 36% was in other uses and some 7% was vacant. The Inspector therefore concluded that "*on the face of it, therefore the scheme would be in breach of UDP policy SH7*". Critically the Inspector goes on to say that "*in my view, however, in addition to a mechanistic assessment of the scheme's compliance with policy, it is necessary to arrive at a qualitative judgement*".

It was noted by the Inspector that only one of a total of 72 units in the Primary Frontage as a whole was in a use covered by Class A4, three were in Class A3 and five fell within Class A5. Based on this it was said by the Inspector "*this does not suggest to me that the Preston Road retail centre is at present over dominated by food and drink uses or the night time economy. In addition, the low level of vacancy, the generally high quality of the physical environment and the presence of two medium sized modern supermarkets opposite the appeal site do not indicate a retail destination at any significant risk of losing its primary purpose*".

*“In the absence of any other evidence, I have concluded, notwithstanding the modest increase in the proportion of the frontage which would be given over to non-retail uses, that the effect of the change of use on the vitality and viability of the local shopping centre would be broadly neutral”.*

In terms of (b) the Inspector agreed that there was a lack of detailed information about how the arrangements for dealing with smells and fumes would be dealt with, in a way which would safeguard the amenities of the occupiers of the flat above. However the Inspector took into consideration the appellants point that the application is speculative in nature and that these matters could be resolved by the imposition of conditions.

In terms of (c) the Inspector found that the proposal *“would leave an area for servicing and parking which would be wholly inadequate for the purpose”*. No commercial vehicle of any kind could be accommodated within the site and the Inspector agreed with the Council that this would result in unacceptable servicing arrangements contrary to UDP policies SH19, TRN3(e) and TRN34.

In conclusion therefore the Inspector found the principle of the loss of retail frontage and a change of use to A4 to be broadly acceptable, and that concerns related to residential amenity are capable of resolution by the imposition of appropriate conditions. However the arrangements for servicing were considered to be wholly inadequate and for this reason alone the appeal was dismissed.

## **POLICY CONSIDERATIONS**

PPS1 ‘Delivering Sustainable Development’

PPS4 ‘Planning for Sustainable Economic Growth’

PPS6 ‘Planning for Town Centres’

The London Plan ‘Spatial Development Strategy for Greater London’- **2011**

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

*BE4 Access for Disabled People*

*BE9 Architectural Quality*

*EP2 Noise & Vibration*

*TRN22 Parking Standards Non-Residential Developments*

*TRN34 Servicing in New Development*

*PS9 Parking Standards A3 Use*

*PS16 Cycle Parking Standards*

*PS20 Servicing Standards A3 Use*

*SH1 Network of Town Centres*

*SH6 Non Retail Uses Appropriate to Primary Shopping Frontages*

*SH7 Change of Use from Retail to Non-Retail*

*SH10 Food & Drink A3 Uses*

*SH11 Conditions for A3 Uses*

*SH19 Rear Servicing*

### **Brent Core Strategy – July 2010**

*CP 16 Town Centres and The Sequential Approach to Development*

### **Supplementary Planning Guidance**

*Supplementary Planning Guidance Note 7 - Shopfronts & shop signs*

*Supplementary Planning Guidance Note 17 - Design Guide for New Development*

### **Main Considerations;**

Principle of change of use from A1 to A5?

Impact on vitality and viability of Primary Frontage

Impact on neighbouring residential accommodation

Parking, servicing standards & vehicle access

## **SUSTAINABILITY ASSESSMENT**

n/a

### **CONSULTATION**

Consultation letters were sent on 7 September 2011, in total 13 properties were consulted by letter. Brent's Transportation Team, Environmental Health Department and Ward Councillor's were also consulted.

Fairly strong opposition to the proposed change of use has been received in the form of ten individual objections and a petition signed by 28 local businesses and traders. The grounds for objection can be summarised as the following;

- The change of use will result in increased traffic and congestion and will lead to further problems of illegal parking.
- As there is already a lack of parking for existing businesses, this will only worsen the problem.
- Pizza delivery drivers will pose a danger to pedestrians and road users alike.
- The use will cause harm to the amenities of the flat above through the dispersal of cooking smells and noise generated from customers late at night.
- Will result in increased litter on the pavement.
- There is no need for additional food establishments in the area.
- The change of use will affect the value and letting potential of the flat above (not a material planning consideration).

#### Transportation;

There is a high demand for on-street parking along this side of Preston Road throughout the day and evenings. There is free on-street parking on the road for a maximum of 1 hour and no return within 2 hours. On Wembley Stadium Events this control is altered to a maximum stay of 2 hours and no return within 2 hours.

Parking and servicing standards for the retail use (existing) are set out in PS7 and PS17 of the 2004, UDP. Whereas standards for the proposed A5 use are set out in policies PS9 and PS20.

These standards dictate that the existing retail use parking standard is 1 space, and the maximum parking standard for the proposed A5 use would also be 1 space. There is no change in the parking standard. There is as it stands existing off-street parking provision within the rear service yard for four vehicles, this would be reduced to two by the proposed extension.

The servicing requirement for the existing retail use is for there to be provision for a loading bay that can cater for a 'transit' sized vehicle (3m x 5.5m). The same standard applies to the proposed A5 use. The service yard can provide this, and this will continue to be accommodated behind the proposed extension

Public cycle parking is readily available along Preston Road.

It is noted within the supporting Design & Access Statement that 80% of the business for this pizza take-away is through home deliveries, and carried out mostly by motor cycles or mopeds. It is therefore essential that space is provided at the rear of the unit for delivery motorcycles to park clear of the highway. Any parking along the footway to the front is illegal, as well as presenting a road safety hazard. As such a condition is recommended requiring that all motorcycle parking takes place within the service yard to the rear of the premises, and a revised site plan should be submitted for approval.

The space available to the rear meets transportation parking and servicing requirements, and as such there is no objection on Transportation grounds, subject to a condition that all motorcycle park only within the rear service yard.

Environmental Health:

Environmental Health officers have commented as follows;  
Insufficient information has been provided of the measures that will be undertaken to safeguard residential premises above from nuisance noise and odours. Environmental Health Officer's seek clarity and to agree on any measures that will be put in place to combat this prior to the commencement of the use.

Suggested Condition:

*Prior to the commencement of the use hereby approved, details of fume extraction and odour control equipment including any external 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.*

*Reason; To protect the amenity of nearby residents.*

Officer's also comment that the applicant has not provided a specification of the plant to be installed, and as a result require that a condition be attached to any permission granted requiring this information to approved prior to the commencement of works.

Suggested Condition:

*Prior to installation the applicant shall provide detailed designs of the extract equipment for approval, this should include details of;*

*-Specification of the fan and any silencers*

*-All fittings intended to reduce the transmission of noise and vibration to neighbouring properties.*

*-Predicted noise levels at the nearest point to the window, demonstrating that the selected units will not cause a nuisance to the property.*

*Reason: To protect the amenity of nearby residents.*

## **REMARKS**

The application seeks planning permission for the change of use of the premises from retail (Use Class A1) to a hot food take-away (Use Class A5) with a rear basement and ground floor rear extension (i.e. 2-storey rear extension), and installation of extraction flue to the rear and a new shop front to facilitate the change. An external staircase is also proposed and the installation of two floor mounted air compressor units at ground floor.

The take-away business would be a branch of Domino's Pizza.

### **Policy Context/Loss of retail & change of use from A1 to A5;**

The borough's main network of town centres, consisting of Major Town, Main District and Other District Centres, is generally formed through the designation of Primary and Secondary Shopping Frontages. Within these designated frontages the Council's planning policies, set out in the adopted Unitary Development Plan 2004 (UDP), seek to promote a diverse and appropriate mix of both retail and non-retail uses which can add vitality to the town centre.

Core Strategy Policy CP16 states that proposals outside of Wembley, that maintain the position of the different town centres will continue to be supported. It is not considered that the modest loss of retail frontage will affect the centres position in the hierarchy.

Policy SH6 of Brent's Unitary Development Plan 2004 sets out that the proposed change of use of retail premises to a food and drink establishment (e.g. A3, A4 or A5) within the designated Primary Shopping Frontage should normally be accepted where the criteria set out in policies SH7, can be satisfied as well as policies SH10 and SH11 of the UDP.

The criteria are set out in paragraphs a) to e) of policy SH7. Criteria e) (extension to an existing business) is not considered directly relevant to this proposal.

Paragraph a) requires that account be taken of the rear servicing requirements. The proposed A5 use should demonstrate that servicing by a transit sized vehicle is achievable. In this case there is sufficient space to the rear to accommodate a transit sized loading bay (3m x 5.5m) compared to the previous refusal of application 10/2357 which was dismissed on appeal due to the inadequate servicing provision. Due to the reduction in size of the extension servicing can be carried out within the site. A condition is required to restrict the parking of motorcycle vehicles that will be used for delivery purposes to the rear service yard only, to prevent the illegal parking of these vehicles on the surrounding footways. On balance though the proposed scheme demonstrates compliance with adopted parking and servicing standards, there is to be no increase in either standard above the existing use and on Transportation grounds the change of use is acceptable.

Paragraph b) sets out that proposals should not result in an excessive concentration of units or continuous non-retail frontage within any parade or street block. The adjacent units are occupied by Abby's Food & Wine (Use Class A1) and an Estate Agent (Use Class A2). There are two other units within this block in A1 Use and it is not considered a change to Use Class A5 would result in this part of frontage, or this block being overly concentrated in terms of non-retail uses.

Paragraph c) sets out that proposals should not generally increase the proportion of non-retail frontage to over 35% unless the vacancy rate exceeds 10% in which case up to 50% non-retail frontage may be permitted. The Planning Service undertakes a survey of the existing uses within the Borough's town centres bi-annually in order to monitor the vitality and health of the centres. This survey was last undertaken in summer 2009 although as part of an earlier application at this site Officers visited the primary frontage in Preston Road to update the survey with any recent changes. The survey was updated on October 2010.

The October 2010 survey results revealed that 57.34% of the primary frontage is made up of A1 uses, and that 42.6% of the frontage is occupied by non-retail uses. The vacancy rate at that time was 6.6%, and remains below the 10% threshold that would permit a higher proportion of non-retail frontage. These figures are based on a linear measurement of the length of frontage and the proportion of frontage given over to various uses, and are not based on the proportion of unit numbers in a particular use. These figures also take into account the proposed change of use at 218 from A1 to A5.

The existing situation in Preston Road's primary frontage fails to comply with the criteria set out in paragraph c) and the proposed change of use would only seek to worsen the retail offer, exceeding the non-retail offer even further above the 35% threshold.

**October 2010 Survey results;**

No	Use Class	Address	Length of frontage (m)
192	A1	Preston Rd	4.8
194	A1	Preston Rd	4.8
196	Vacant	Preston Rd	4.8
197	A3	Preston Rd	4.8
198	A1	Preston Rd	6.1
199	A1	Preston Rd	6.1
200	A1	Preston Rd	6

201	A1	Preston Rd	4.8
202	Vacant	Preston Rd	6.1
203	A2	Preston Rd	7.9
204	A1	Preston Rd	6.1
205	Vacant	Preston Rd	6.1
206	A1	Preston Rd	6.1
207	4.8	Preston Rd	4.8
208	Sui Generis	Preston Rd	4.8
209-211	A1	Preston Rd	14
210	A3	Preston Rd	7
212	A1	Preston Rd	6.1
213	A1	Preston Rd	4.8
214	A2	Preston Rd	6.1
215	A1	Preston Rd	15.8
<b>218</b>	<b>A5</b>	<b>Preston Rd</b>	<b>6.1</b>
220	A1	Preston Rd	7.6
222	A1	Preston Rd	7
223	A2	Preston Rd	4.8
224	A5	Preston Rd	3
224	A1	Preston Rd	1
224	A5	Preston Rd	3
225	A1	Preston Rd	6.1
226	A5	Preston Rd	6
227	A2	Preston Rd	4.8
229	A1	Preston Rd	4.8
230	Vacant	Preston Rd	7.6
231	A1	Preston Rd	4.8
233	A2	Preston Rd	4.8
235	A1 & A2	Preston Rd	1.2 + 1.2
237	A1	Preston Rd	4.8
239	A1	Preston Rd	3
241	A1	Preston Rd	11.8
245	A1	Preston Rd	6.1
247	Vacant	Preston Rd	6.1
249	A5	Preston Rd	3.9
251	A1	Preston Rd	7.8
255	A1	Preston Rd	4.8
257	A2	Preston Rd	6.1
259	A1	Preston Rd	6.1
260	A2	Preston Rd	12.5
261	A1	Preston Rd	6.1
263	A5	Preston Rd	6.1
264	A1	Preston Rd	3.3
265	A2	Preston Rd	6.1
266	A1	Preston Rd	7
267-269	A1	Preston Rd	11.8
268	A1	Preston Rd	7.9
270	A1	Preston Rd	7
271	B1	Preston Rd	4.8
272	A1	Preston Rd	7
273	A2	Preston Rd	4.8
274	A1	Preston Rd	7
275	A1	Preston Rd	9.7
276	A2	Preston Rd	7



278	A4	Preston Rd	7.9
279	A1	Preston Rd	6.1
280	A2	Preston Rd	7.9
282	A1	Preston Rd	6.1
284	A1	Preston Rd	7
286	A1	Preston Rd	3.6
288	D1	Preston Rd	14
290	A1	Preston Rd	6.1
292	A2	Preston Rd	7
294	A3	Preston Rd	7.9
296	Sui Generis	Preston Rd	7

Use	Proportion of frontage
<b>A1 %</b>	<b>57.34</b>
A2	17.44
A3	4.24
A4	3.01
A5	4.73
B1	1.03
D1	3.01
Sui	2.54
Vacant	6.61

Paragraph d) considers whether the proposed non-retail use would enhance the range of services provided or enhance the specialist role of the centre. A Domino's pizza take-away outlet is proposed which would be similar to other A5 uses in Preston Road. It is therefore considered that an additional A5 use would not particularly enhance the range of services available within the centre.

The proposed change of use would still fail to accord with the criteria set out in paragraph, c) of UDP policy SH7. However the Council is mindful of the appeal decision **ref: APP/T5150/A/10/2140597** from February 2011 which relates to the 2010 refusal of planning permission for a change of use from A1 to A4. In his reasoning the Inspector makes a qualitative judgment about the retail offer, and the further loss of retail proposed by saying "*I have concluded, notwithstanding the modest increase in the proportion of the frontage which would be given over to non-retail uses, that the effect of the change of use on the vitality and viability of the local shopping centre would be broadly neutral*".

Clearly this is a very recent appeal decision, there has been no change in policy and no significant changes to the mix of uses within the primary frontage since that time. The conclusion of Officer's is that although the appeal decision related to a proposed wine bar (Use Class A4) the Inspectors decision is material to the determination of this application. For these reasons the qualitative judgement made by the Inspector is given significant weight, and the fact that there are two national retailers present and relatively low levels of vacancy indicates a centre that is not in decline. At this point in time the primary frontage appears to be in 'good health', and with the Inspectors conclusions material to this scheme the loss of a retail unit is considered to be acceptable in this instance where the proposal is for a hot food take-away (Use Class A5).

This view does not set a precedent for other proposals involving the loss of retail within this particular centre. Each case should be assessed on its individual merits, taking account of the conditions on site and within the primary frontage at that particular point in time.

Policy SH10 is specific to food and drink uses and in considering proposals for such uses these should not result in the creation of traffic congestion, car parking problems or a reduction in highway safety in surrounding areas and not adversely affect the amenity of residential occupiers.

### **Lower basement and ground floor rear extension;**

A 7.53 metre deep 2-storey rear extension is proposed, providing additional space for back office functions and storage. Number 220 Preston Road has a large workshop extension to the rear which is historical, therefore this property would be unaffected by the proposed extension. Number 216 Preston Road is un-extended, but as the proposed extension is confined to basement and ground floor it should not impact unreasonably on the amenities of the occupants of the upper floor flat.

A new rear exit with external staircase is proposed because of the level differences between ground floor and the ground level to the service yard.

### **Flue/extraction system and A/C compressor units;**

It is proposed to install an extraction flue which would be routed out of the roof of the extension, and would then rise vertically up against the rear wall, before turning through 90 degrees across the existing flat roof at 2<sup>nd</sup> floor level where it then rises up the vertical face of the rear dormer and terminates 1m above the eaves level. This system rises relatively close to first floor windows that relate to the upper floor flat. It was noted on site that one of these windows is obscurely glazed and would therefore be non-habitable.

Environmental Health does not generally support low level extraction systems as these often fail to adequately disperse smells and odours away from the nearest sensitive premises. As a minimum they will expect the flue to terminate at least 1 metre above the eaves, and in this case this has been achieved.

Once again there is a lack of information in general about the type extraction system, detail of how to guard against noise transmission, or details of the systems specification. These would normally be required 'upfront' in order to properly assess the potential harm to the amenities of the occupiers of the first floor flat, and safeguard such amenities.

In the absence of such information previously the Council refused an earlier application (10/2357) as Officer's had not been satisfied that the specification of the flue, its performance and the use would not have a detrimental impact on the amenities of residents above. When considering the reason as part of the appeal the Inspector concluded that such concerns could be dealt with through the imposition of conditions. This view, forms part of a recent appeal decision and is material to the outcome of this application.

Environmental Health officers are satisfied that such matters can be dealt with through the imposition of conditions. Accordingly further details of the arrangements for dealing with noise and odours will be required through condition prior to the commencement of the use. It is also relevant that Environmental Health officers have confirmed that no complaints have received which relate to noise or odour related problems from the existing food businesses along this section of the parade. And furthermore they have also advised that the proposal is for a pizza business which is less likely to generate odour related problems, due to the type of cooking practises that are involved.

It is proposed to install x 2 compressor units, these relate to the internal air conditioning system. These are to be floor mounted and located within the rear service yard. In this location they are no close to any habitable windows, and would not give rise to potential problems of noise or vibration to surrounding residential accommodation.

## **Transportation;**

The proposed depth of the extension to the rear means that adequate arrangements for rear servicing can be accommodated, in full compliance with policy SH19. As discussed above this overcomes a previous reason for refusal, and the sole reason that the earlier appeal was dismissed.

In addition the proposal makes adequate arrangements for the storage of waste and recycling material on site, in accordance with policy TRN34.

The only outstanding matter is for further details of rear motorcycle parking provision to be submitted and approved, and this can be dealt with through condition.

## **New shopfront;**

The existing shopfront is predominantly glazed, with an entrance door on the left hand side and an entrance to the other side which accessed the residential accommodation above. It is proposed to keep the entrance points in the same locations, but a new shopfront frame is to be installed that will be aluminium and powder coated in a light grey (RAL 9006). Stallrisers will be retained and parts of the glazing will be laminated. In design and appearance terms the new shopfront is very much of the same design as the existing, and would satisfy UDP policy and SPG7 'Shopfronts and shop signs'.

No details of signage are submitted, but these would need to be the subject of a separate advertisement consent application.

## **Hours of Operation;**

The applicants are proposing operating hours of 09:00am – Midnight (Mon-Sat) and 10:00am – Midnight on Sundays.

No objection to these hours has been raised by Environmental Health, nor by any of the third party representations that have been received.

The main consideration would be whether these hours would be harmful to the amenity of surrounding residential neighbours. At this point it has to be recognised that Preston Road is home to a number of A3, A4 and A5 establishments that contribute to the night time economy, and there would already be a level of activity associated with these that goes on up to and beyond midnight. Furthermore the nature of the business mean it unlikely that customers would congregate late at night, particularly as 80% of business is expected to be via home delivery. Therefore in this location it is not unreasonable that the business would want to operate until midnight, and Officer's do not consider this to be out of keeping with the surrounding area.

## **Comments on grounds for objection;**

***The change of use will result in increased traffic and congestion and will lead to further problems of illegal parking.***

No objection has been raised by Transportation on these grounds. It is stated that 80% of the orders are anticipated to be via home delivery, the nature of the business mean it is unlikely that large numbers of customers would travel by car. In any event there are parking restrictions in force along Preston Road to control any illegal parking.

***Pizza delivery drivers will pose a danger to pedestrians and road users alike.***

It is illegal for motorcycles to park or obstruct the footway. A condition is recommended that will require all motorcycles to be parked in the rear service area only.

***The use will cause harm to the amenities of the flat above through the dispersal of cooking smells and noise generated from customers late at night.***

Whilst the concerns/points raised above are relevant, it is a material consideration that in the recent appeal decision referred to above the Inspector considered that such matters could be resolved through the imposition of carefully worded conditions. Environmental Health Officers have considered the proposal are also satisfied that details by which noise and odour will be minimised can be controlled through condition. The approval of such details should ensure protection of the amenities of surrounding residential properties.

The nature of the business and the very fact that 80% of its custom comes from home deliveries mean that it is unlikely large groups of customers would congregate or generate excessive noise late at night. Customers visiting the premises would simply be there to pick up orders, and then leave.

***Will result in increased litter on the pavement.***

Sufficient refuse provision has been shown to the rear, and Preston Road has street bins which will be available for customers use. In any event it is anticipated that 80% of business will be via home deliveries, therefore reducing the potential for increased litter nearby.

***There is no need for additional food establishments in the area.***

There are already a range of food and drink establishments in Preston Road however it is not for the planning system to restrict business competition. For the reasons set out above it is not considered that a modest loss of retail frontage would significantly harm the vitality and viability of this centre.

***The change of use will affect the value and letting potential of the flat above (not a material planning consideration).***

**Summary;**

With reference to Policy SH7 of the **Adopted Unitary Development Plan 2004**, the change of use from Use Class A1 to Use Class A5 doesn't fully satisfy policy SH7(e). Members are requested to note that the Council was not supported in its efforts to refuse permission for this reason on a previous application (10/2357), and a recent appeal decision from February 2011 in relation to this has been material to the recommendation of this application. The same appeal decision is also the reason why a qualitative judgement is applied to the current 'health' of the primary frontage, as evidenced by the presence of two major national retailers in the form of Tesco and CO-op, and the low vacancy rates. So despite the proposal failing to fully satisfy SH7 in terms of the proportion of non-retail uses it is found that a further loss of retail frontage, which would be modest, would not by itself significantly harm the vitality and viability of the centre. Further details of the proposed means of dealing with odours and noise will be dealt with through condition, in order to safeguard the amenity of neighbouring occupiers.

**RECOMMENDATION:** Grant Consent

**REASON FOR GRANTING**

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

Brent Unitary Development Plan 2004  
Central Government Guidance  
Council's Supplementary Planning Guidance

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  
Environmental Protection: in terms of protecting specific features of the environment and protecting the public  
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 drawing(s) and/or document(s):

OS Sitemap (1:1250)  
Drg 4722-A5-01 (1:50)  
Drg 4722-A5-02 (1:50)  
Drg 4722-BP08 (1:200)

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

- (3) All new external work shall be carried out in materials that match, in colour, texture and design detail those of the existing building.

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

- (4) The premises shall only be open and used for the preparation or sale of hot food on the premises, and accept deliveries to the premises between the hours of:

0900 to 2400 Monday to Saturday (Excluding Bank Holidays)  
1000 to 2400 Sundays & Bank Holidays

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

- (5) The emergency exit doors shall be used only in genuine emergencies, and at all other times shall be kept shut. The front entrance door(s) shall be made self-closing to minimise emission of odours and/or noise to the neighbouring area.

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

- (6) The rear service yard of the premises shall not be used as an area for outside storage or as a customer seating area in connection with the uses, hereby approved, unless prior written approval is first obtained from the Local Planning Authority.

Reason: In the interests of residential amenity

- (7) Prior to the commencement of the use hereby approved, full details of fume extraction and odour control equipment including any external 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.

Reason; To protect the amenity of nearby residents.

- (8) Prior to commencement of use and to installation the applicant shall provide detailed designs of the extract equipment for approval, this should include details of the following;

(i) Specification of the fan and any silencers

(ii) All fittings intended to reduce the transmission of noise and vibration to neighbouring properties.

(iii) Predicted noise levels at the nearest point to the window, demonstrating that the selected equipment will not cause a nuisance to the property.

The noise level from any plant (e.g. refrigeration, air-conditioning), together with any associated ducting, shall be maintained at a level 10 dB (A) or greater below the measured background-noise level at the nearest noise-sensitive premises. The method of assessment should be carried out in accordance with BS4142:1997 "Rating industrial noise affecting mixed residential and industrial areas".

Should the predicted noise levels exceed those specified in this condition, a scheme of insulation works to mitigate the noise shall be submitted to and approved in writing by the Local Planning Authority and shall then be fully implemented.

Reason: To protect the amenity of nearby residents.

- (9) Further details of motorcycle parking provision within the rear service yard area shall be submitted to and approved in writing by the local planning authority prior to the commencement of the use.

Reason; To ensure the use is not harmful to pedestrian or highway safety.

#### **INFORMATIVES:**

- (1) The applicant is reminded that it is illegal to park/store delivery motorcycles or mopeds on the public footway, and all such vehicles shall only be parked in the dedicated rear service yard only.
- (2) Prior consent may be required under the Town & Country Planning (Control of Advertisements) Regulations 1992 for the erection of any advertising signs and/or hoardings on the subject site.

**REFERENCE DOCUMENTS:**

London Borough of Brent, UDP 2004  
Brent Core Strategy 2010

Any person wishing to inspect the above papers should contact Gary Murphy, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5227