



**RECEIVED:** 21 October, 2011

**WARD:** Kenton

**PLANNING AREA:** Kingsbury & Kenton Consultative Forum

**LOCATION:** 493 Kenton Road, Harrow, HA3 0UN

**PROPOSAL:** Full planning permission sought for change of use of ground floor to a restaurant/shisha cafe (Use Class A3), installation of extract ventilation duct to western elevation, installation of bi-fold doors to frontage, erection of free-standing open sided Vergola roof cover to north and east elevation for covered shisha area and associated landscaping to forecourt including erection of low boundary wall.

**APPLICANT:** Mr Ahmed Mansour

**CONTACT:**

**PLAN NO'S:**

HA3 OUN/01

HA3 OUN/02

HA3 OUN/03

HA3 OUN/04

HA3 OUN/05

HA3 OUN/06

---

## **MEMBERS CALL-IN PROCEDURE**

In accordance with Part 5 of the Constitution and Section 10 of the Planning Code of Practice, the following information has been disclosed in relation to requests made by Councillors for applications to be considered by the Planning Committee rather than under Delegated Powers

### **Name of Councillor**

Councillor Suresh Kansagara

### **Date and Reason for Request**

14 November 2011

### **Details of any representations received**

1. This is purely a residential area including the Harrow side of the road and this would be the only commercial building in the vicinity
2. The building is near to a school and its proposed usage would not be appropriate in this area especially taking into account Brent's policy to discourage smoking
3. There is no provision for parking. This would be a major issue should this application go ahead which would be exacerbated by the close proximity to two places of worship in the Greek Orthodox Church and St Augustine's.
4. Impact on neighbours in the residential area. The proposed outdoor smoking area would have a detrimental effect on surrounding neighbours especially in the nearby flats.

**Name of Councillor**

Councillor Reg Colwill

**Date and Reason for Request**

14 November 2011

**Details of any representations received**

As above.

**Name of Councillor**

Councillor Bhiku Patel

**Date and Reason for Request**

14 November 2011

**Details of any representations received**

As above.

**RECOMMENDATION**

Refusal.

**EXISTING**

The subject property is a ground floor vacant unit within a detached 2-storey building located on Kenton Road, on the south-western corner of its junction with Cranleigh Gardens. The surrounding uses are predominantly residential. The site does not contain a listed building and is not located within a conservation area.

**PROPOSAL**

Full planning permission sought for change of use of ground floor to a restaurant/shisha cafe (Use Class A3), installation of extract ventilation duct to western elevation, installation of bi-fold doors to frontage, erection of free-standing open sided Vergola roof cover to north and east elevation for covered shisha area and associated landscaping to forecourt including erection of low boundary wall.

**HISTORY**

**97/2171** - Change of use to restaurant (Use Class A3) – refused 22/05/1998 and dismissed at appeal

**93/1829** – Use of ground floor of building as A1 (retail) and yard at rear as ancillary storage – refused 26/06/1995 but use allowed on appeal

**89/1828** – Erection of 2 storey side extension, provision of off-street parking and use of premises as public house – refused 24/04/1990 and dismissed at appeal

**POLICY CONSIDERATIONS**

**Adopted Brent Unitary Development plan 2004**

**BE2:** Townscape

Proposals should be designed with regard to their local context, making a positive contribution to the character of the area. Proposal should not cause harm to the character and/or appearance of an area

#### **BE7: Streetscape**

A high quality of design and materials will be required for the street environment. Within residential areas, the following will be resisted:

- (a) the excessive infilling of space between buildings and roads
- (b) the loss of paving, front walls, railings, or hedges of character to the street
- (c) hardstanding occupying more than half of a front garden area
- (d) forecourt parking where this would cause (b) or (c) and where such parking would detract from the streetscape or setting of the property, or create a road/pedestrian safety problem

#### **BE9: Architectural Quality**

Extensions and alterations to buildings should embody a creative and appropriate design solution, specific to their site's shape, size and location.

#### **BE17: Building-Services Equipment**

All air cooling, heating, ventilation, extraction and conditional systems, as well as any ancillary plant, ducting and equipment likely to be visually intrusive, should in the first instance, be accommodated within the internal envelope of proposed buildings.

Where this is not possible they should be located in visually inconspicuous positions, with a minimal effect on the use, character and appearance of proposed and nearby buildings, and local amenity. Where building services equipment's cannot be satisfactorily relocated or 'designed-out' through the use of passive systems, then it should be considered as part of an overall integrated architectural design.

#### **H22: Protection of Residential Amenity**

The establishment of new incompatible non-residential uses in predominantly residential areas will not be permitted.

#### **TRN3: Environmental Impact of Traffic**

Where a planning application would cause or worsen an unacceptable environmental impact from traffic it will be refused.

#### **TRN22: Parking Standards - Non-Residential Developments**

Non-residential development should make provision for vehicular parking in accordance with the maximum standards set out in the UDP.

#### **TRN34: Servicing in New Development**

The provision of servicing is required in all development covered by the plan's standards and the loss of such facilities shall be resisted

#### **SH10: Food & Drink (A3) Uses**

Proposals for A3-A5 uses should not result in the creation of traffic congestion, car parking problems or a reduction in highway safety. In considering proposal, consideration must be given to the proximity of residential accommodation, the specific nature and size of use proposed, the character of the area and concentration of A3 units in locality, whether the proposed hours of operation would result in residential disturbance and the practicality of providing extract ducting, ventilation, grease traps &/or noise insulation.

#### **SH11: Conditions for A3 Uses**

Appropriate conditions may be applied relating to hours of use, scale and number of functions, noise and emissions of fumes, use of forecourts, the disposal of refuse, or restricting the sale of hot food to be consumed off the premises

#### **SH17: Isolated shops**

The change of use of isolated shops to non-retail use will not be permitted if there are no other protected retail frontages within 400m. Where an isolated shop has been vacant for over a year, appropriate alternative uses will be permitted.

#### **SH23: Forecourt Trading**

Planning permission for forecourt trading will be granted only where such development will not cause obstruction to pedestrians, prams and wheelchairs nor result in an adverse effect upon the character and appearance of the area in which it is to be located.

### **CONSULTATION**

Public consultation undertaken between 27/10/2011 and 18/11/2011. 43 letters of objection were received during the consultation period, in addition to a petition signed by 350 local residents. In summary, the following issues were raised in the objections and petition:

- increased traffic congestion and impact on highway safety and on-street parking;
- no details of parking;
- poor public transport accessibility;
- noise, odour and general disturbance from change of use on neighbouring residents;
- noise pollution from position of ducting adjacent to residential property;
- loss of privacy;
- lack of adequate bin storage;
- impact of security of neighbouring residents;
- inappropriate use for a residential area;
- litter;
- Close proximity to schools;
- proposed extension, ducting & change of use will have detrimental impact on appearance of area;
- concentration of A3-A5 uses in local area;
- Inaccurate plans;
- impact on health of users from use promoting smoking;
- Approving application would create precedent for future applications;
- loss of value of properties in local area;
- increase in anti-social behaviour & crime.

#### *Officer Comments*

All of the above issues are addressed within the assessment of the planning application within the remarks section, apart from the last four issues on the list which are discussed below:

*Impact on health and close proximity to schools:* The practice of shisha smoking is not illegal, providing the premises operating such a use complies with the requirements set out in Environmental Health legislation relating to smoking in non-enclosed environments.

*Creation of precedent for future applications:* Each planning application must be considered on the merits of the proposal and therefore the issue of whether approving the application would create a precedent for future applications, viewed in isolation, would not be considered to warrant refusal of the application.

*Impact on neighbouring property values:* The impact of a proposed planning application on nearby property values is not a material planning consideration.

*Increase anti-social behaviour and crime:* Such issues would be a police matter were they to occur. In determining the planning application, the Council cannot speculate as to whether or not crime and anti-social behaviour would result from a proposal and no evidence to substantiate this has been provided.

## **London Borough of Harrow**

No comments were received

### **Transportation**

The proposal can be supported on transportation grounds subject to conditions requiring details of on-site cycle parking provision and that the existing crossovers onto Cranleigh Gardens are reinstated to footway at the expense of the applicant.

### **Environmental Health**

Standard conditions relating to further details of the kitchen extract ventilation system being provided and approved prior to works commencing on site and a control on hours of operation and a restriction that no amplified music or sound be permitted in the smoking area.

### **REMARKS**

#### Background

The existing ground floor unit is currently vacant; in 1993 its lawful use as a retail unit (Use Class A1) was established although it appears the last use of the site was an estate agent (Use Class A2). There is a residential unit located above the premises which is accessed from a door on the Cranleigh Gardens elevation.

The site has a history of previous planning applications to change the use of the unit into an restaurant and public house. Planning permission was refused for a 2-storey side extension and change of use of the premises to a public house in 1989 under planning reference 89/1828. The application was refused on the basis that the use of the premises as a public house would result in inadequate provision of parking, generation of traffic and loss of amenity to neighbouring residents through noise and other disturbance.

A further application for a change of use of the premises from retail use to a restaurant was refused and dismissed on appeal under planning reference 97/2171. The Inspector agreed with the Council's decision that the proposed change of use would be likely to result in unacceptable noise and general disturbance to the amenities of neighbouring residential occupants and would exacerbate car-parking and traffic congestion problems in the locality.

## Proposal:

The proposal involves changing the use of the premises to a restaurant/shisha cafe (Use Class A3). As part of the conversion, an extract ventilation duct would be positioned on the western flank wall of the property. External alterations would be made to the frontage of the property, with bi-fold doors inserted on the Kenton Road frontage and free-standing canopies projecting 3.6m from the external elevations installed along the eastern and northern flanks of the building within the forecourt of the property. The canopy would facilitate the creation of a covered area for the shisha use within the existing forecourt of the property which is estimated to accommodate approximately 30 people. The submitted layout indicates a boundary wall would be erected around the forecourt addressing the Kenton Road frontage 0.4 metres high with indicative planting shown.

The internal layout of the unit would be altered to create a restaurant area in the front of the unit capable of accommodating an additional 30 people, with a kitchen located to the rear of the unit. The proposed hours of opening would be 09:00 - 23:00 on weekdays, 10:00 -24:00 on Saturdays and 09:00 - 23:00 on Sunday & bank holidays. The proposed internal seated area combined with the covered external area would allow space for approximately 60 patrons. 4-5 full-time would be employed.

### **Key planning considerations:**

It is noted that the plans submitted do not accurately depict the existing building on site; inaccuracies range from the detailing of fenestration and elevational treatments, roof design, dimensions and scale of the building, positioning and number of chimneys and omission of part of the building to the rear (although this does not appear to form part of the site, and is linked to the access to the upper floor flats). However, as the proposal seeks to change the use of the premises, it is considered that an assessment can be made of the principles of the proposed change of use and consideration of the external changes as shown. Your officers consider the following to be the key planning considerations in relation to the proposal:

- (1) Whether the principle of the change of use can be accepted;
- (2) Whether the proposal will have an acceptable impact upon the character of the building and the character of the wider locality;
- (3) Whether the proposal will have an unacceptable impact upon neighbouring residential amenity;
- (4) Whether there will be unacceptable impacts on traffic movements, highway & pedestrian safety and parking capacity within the locality.

#### **(1) Whether the principle of the change of use can be accepted**

The lawful use of the unit in planning terms is an A1 retail unit. Policy SH17 in the Unitary Development Plan 2004 (UDP) set out that the principle of the change of use to a non-retail use can be accepted if there are other protected retail frontages within 400m or if the unit has been vacant. In the case of this site, there is the Gooseacre Local Centre (on Kenton Road) within 400m and the existing shop is currently vacant. As such, the principle of the change of use can be accepted however consideration must be given to the impacts if the change of use, in particular on residential amenity.

#### **(2) Whether the proposal will have an acceptable impact upon the character of the building and the character of the wider locality.**

As stated above, due to the inaccuracies within the submitted plans, it is not possible to make a full assessment of the design merits of the proposal. Notwithstanding this, it is considered that the introduction of two large canopies on both the eastern and northern flank elevation projecting 3.6m

from the walls will be out of character in this residential area. Due to inaccuracies in the plans, it is not clear whether the height of the canopies will be 3m or 2.5m however the expense of these additions would appear prominent in the streetscene and detract from the character of the existing building.

In terms of the proposed extraction flue, Policy BE17 outlines that extraction equipment should be located within the internal envelope of the building however this would not be possible in this instance given the corner location of the site. Where this is not possible, the policy states that the duct should be located within a visually inconspicuous position, with minimal effect on the use, character and appearance of nearby buildings and local amenity.

The proposed extraction duct is located on the western elevation of the building, adjacent to the boundary shared with the dwelling house 491 Kenton Road. It is shown in submitted plans to be a steel duct 0.3 metres wide, terminating 2 metres above the eaves of the roof of the building. The position, size of the flue and projection above the eaves level of the roof will mean the extract flue will be visually prominent when viewed from Kenton Road, constituting an unsightly addition to the property that would be out of character with the suburban surroundings. This would be detrimental to the character of the building, the visual amenities of neighbouring residential occupants and the character of the streetscene, contrary to policies BE2, BE9 and BE17 of the adopted Unitary Development Plan 2004.

Other alterations to the frontage, in particular to the shopfront, do not appear to have a significant impact on the character of the property and if planning permission were to be granted, full details could be secured by condition.

### **(3) Whether the proposal will have an unacceptable impact upon neighbouring residential amenity.**

The site is within a predominantly residential location and is located immediately adjacent to dwelling house No. 491 Kenton Road on its western boundary and No. 1 Cranleigh Gardens on its southern boundary. Historical plans show that the residential unit above is accessed from the Cranleigh Gardens elevation however there is an additional door on this elevation which does not provide access to the commercial units. It is not clear whether this serves further residential units as this has not been shown on the submitted plans and there does not appear to be any planning history relating to this.

Policy SH10 of the UDP sets out that consideration must be given to the close proximity of residential accommodation, the nature and scale of the proposed use, the impact of the proposed hours of operation and positioning of any extract ventilation ducting on residential amenity in proposals for A3-A5 uses. Policy H22 UDP sets out that the establishment of incompatible uses in predominantly residential areas will not be permitted.

It is considered that the proposed A3 use of the premises, including the outdoor shisha area, would give rise to unacceptable noise, odour and general disturbance for neighbouring residential occupants. The use of the forecourt area for external seating and the potential to fully open the frontage of the unit with bi-fold doors would mean that noise from the proposed unit could not be contained within the building. The noise and disturbance to the neighbouring residential occupiers would be unacceptable, particularly in the evenings when the ambient noise level is likely to be low. In addition, the odour as a result of the intensity of smoking is likely to have an impact on not only the amenities of the residential unit above but also neighbouring properties.

Consideration must also be given to the associated noise and disturbance of people entering and leaving the premises. The issue of the use on the adjoining residents is allied to the lack of parking provision and the accessibility of the site (this is discussed in the transportation section below). Parking is likely to take place in Cranleigh Gardens, Oakdale Avenue, Hillview Avenue and other adjoining streets and the associated increase in activity is considered unacceptable. The parking of



vehicles within the residential area, the consequent revving engines, slamming of car doors, manoeuvring of vehicles and general noise from customers would be unduly intrusive and cause increased noise and disturbance to residents.

The extract ventilation duct is proposed on the western elevation of the building adjacent to 491 Kenton Road. The duct is indicated to terminate 2 metres above the eaves of the roof. There is residential accommodation on the upper floor flat above. The eaves level of neighbouring No. 491 Kenton Road is set below that of the subject property. In terms of the proposed level at which the duct terminates above the eaves, it is considered to be sufficient for odours and fumes to disperse so as not to have an unacceptable impact on neighbouring amenity, subject to a satisfactory extract system being installed. Environmental Health have outlined that if the application was to be recommended for approval, a condition requiring further details in relation to the extract ventilation system should be applied to ensure the amenity of nearby residents would be protected. Such a condition could be applied if the proposal was to be recommended for approval.

Concern has also been raised with regard to the loss of privacy as a result of the proposal. Given that the unit is located on the ground floor, it is not considered that there will be significant impacts on the existing levels of privacy enjoyed by neighbouring residents though it is acknowledged above that pedestrian movements are likely to be intensified.

The impact upon the security of neighbouring properties was also raised as a concern within the objections received in relation to the proposal. Given the relationship of the building to neighbouring properties, the proposal does not reduce the existing level of enclosure or alter the relationship with the neighbouring properties. Whilst it is noted that it is likely that the proposal will intensify the use of the site, it is not considered that the proposal would compromise the security for neighbouring residential occupants.

#### **Parking, highways and transportation:**

The site is located at the junction of Kenton Road (which is a London Distributor Road), with Cranleigh Gardens which is a local access road. It benefits from a 4.2 metre crossover from Cranleigh Gardens which serves the forecourt to the front of the building. There is a further redundant 4.2 metre crossover on Cranleigh Gardens towards the rear of the site. The property also benefits from a rear access to a service yard via a shared driveway, but the shared driveway does not appear to form part of the site.

The site has poor access to public transport accessibility, with a Public Transport Accessibility rating (PTAL) of 1 (very low) as defined by Transport for London, with only the 183 bus passing within 640 metres of the site. As such, it is likely that a high proportion of patrons and staff will travel by car. At present, there is a forecourt which can accommodate at least four cars off-street. The introduction of the roof canopy in the forecourt would remove all the existing off-street parking provision to the front of the site.

The adopted Unitary Development Plan (UDP) sets out parking standards for new development. It outlines that the existing lawful use as a retail (A1) unit would be a maximum of 1 space for any unit below 400m<sup>2</sup>. This is the same allowance for an A3 use, meaning the parking allowance for the site would not be altered by the proposal in terms of the adopted parking standards.

The refusal of the previous application in 1997 on parking is acknowledged by Transportation however since that time parking standard have changed and they raise no objection to the loss of on-site parking subject to the reinstatement of the existing crossover. In addition, surrounding streets such as Cranleigh Gardens are not classed as heavily parked and as such, the overspill parking as a result of the proposed use could be readily absorbed. The associated noise and disturbance of the use of on street parking on the surrounding residential streets is discussed in the section on residential amenity above.

In terms of servicing, there is a requirement for a transit sized loading bay. Given the inaccuracies in the plans, it is not clear how this can be accommodated to the rear of the site though it may be possible that this could be provided however further details would need to be submitted.

**Cycle/refuse storage:**

Bin storage would be located within the back yard of the unit which could be accessed by the shared driveway to the rear of the unit. The yard is of adequate size to accommodate refuse and can be considered acceptable.

No means of cycle storage have been provided within the site. Parking standards as set out within the UDP would require 1 cycle space per 20 seats to be provided which would mean 3 spaces should be provided. The lack of provision would therefore be contrary to policy TRN22 of the UDP however if planning permission were granted, this could be secured by condition.

Conclusion:

It is considered that whilst the loss of a A1 use is not resisted, the impacts of the change of use on the amenities of neighbouring residents is considered unacceptable, in particular with regard to the external use of the premises and the associated noise and disturbance in addition to the impacts on the surrounding streets through patrons leaving the site. In addition, the proposal is considered unacceptable in terms of the impacts of the physical works on the character of the area. As such, refusal is recommended.

**REASONS FOR CONDITIONS**

**RECOMMENDATION:** Refuse Consent

**CONDITIONS/REASONS:**

- (1) The proposed change of use of the unit to a restaurant/shisha cafe (Use Class A3) in a residential area, would give rise to the unacceptable noise, odour and general disturbance which would have an unacceptable impact on the amenities of neighbouring residential occupants both adjoining the site and those in the surrounding residential street. The proposal would therefore be contrary to policies H22, SH10, SH17 and SH23 of the adopted Brent Unitary Development Plan 2004.
- (2) The proposed change of use, by reason of inadequate information regarding servicing of the unit and lack of provision of secure cycle parking, would be prejudicial to the free flow of traffic and highway safety in the locality and fail to comply with policy objectives. The proposal would therefore be contrary to policies TRN3, TRN22, TRN34 and SH10 of the adopted Brent Unitary Development Plan 2004.
- (3) Notwithstanding the inaccuracies on the proposed plans, the positioning, design, size and visual prominence of the proposed extract ventilation duct and proposed roof canopies within the forecourt would represent unsightly additions to the building that would be out of character with the building and the suburban character of the locality, to the detriment of the character of the building, the wider streetscene and neighbouring residential occupants. The proposal would therefore be contrary to policies BE2, BE7, BE9, BE17 and SH23 of the adopted Brent Unitary Development Plan 2004.

- (4) Insufficient information has been submitted to demonstrate that the proposed extraction flue will not have an adverse impact on the amenities of surrounding residential occupiers as a result of cooking smells and odour. This would be contrary to policies H22, BE17 and SH10 of Brent's Unitary Development Plan 2004.

**INFORMATIVES:**

None Specified

**REFERENCE DOCUMENTS:**

Any person wishing to inspect the above papers should contact Roland Sheldon, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5232