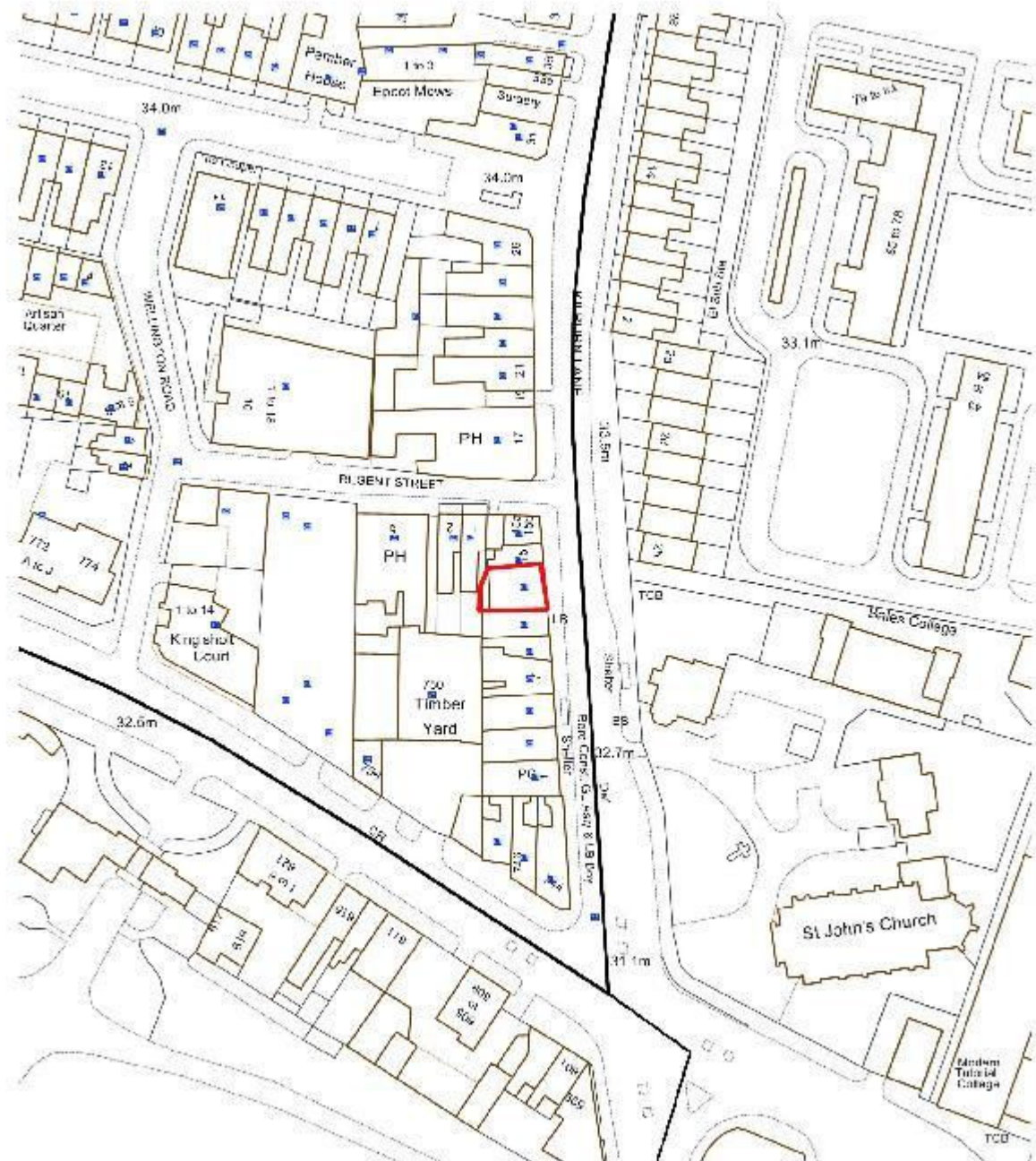




Planning Committee Map

Site address: Brookford, 13 Kilburn Lane, North Kensington, London, W10 4AE

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This map is indicative only.

RECEIVED: 30 December, 2011

WARD: Queen's Park

PLANNING AREA: Kilburn & Kensal Consultative Forum

LOCATION: Brookford, 13 Kilburn Lane, North Kensington, London, W10 4AE

PROPOSAL: Change of use of the ground floor from sui generis (launderette) to A5 (hot food take away)

APPLICANT: Mr Bernard McGowan

CONTACT: Build Plans

PLAN NO'S:
See Condition 2

RECOMMENDATION

Approval

EXISTING

The existing property is a ground floor commercial unit on Kilburn Lane, forming part of a two-storey terraced property with residential above. It is not listed and is not within a Conservation Area. It is currently vacant and its most recent use was as a launderette, which is a sui generis use.

PROPOSAL

See above.

HISTORY

11/2613. Full planning permission sought for change of use of ground floor and erection of extraction duct to the rear. Application withdrawn by the applicant.

POLICY CONSIDERATIONS

Brent's Unitary Development Plan (2004)

BE2 - Townscape: Local Context & Character
BE3 - Urban Structure: Space & Movement
BE7 - Public Realm: Street scene
BE9 - Architectural Quality
BE17 - Building Services Equipment
SH10 - Food and Drink (A3) uses
SH11 - Conditions for A3 Uses
SH19 - Rear Servicing
EP2 - Noise & Vibration
H22- Protection of Residential Amenity
SH10 - Food and Drink (A3) Uses
SH11 - Conditions for A3 Uses

CONSULTATION

All neighbouring properties have been consulted as have Safer Streets, Transportation and City of Westminster.

3 objections have been received from local residents and business owners on the following grounds:

1. The proposal will result in increased competition for existing businesses as a result of over concentration.
2. The proposal will result in unacceptable smells and odours for neighbouring residents.
3. The proposal will have an unacceptable impact on highway conditions as a result of customers stopping to pick up food.
4. Late opening hours will create noise and disturbance for neighbouring residents.

Officer Comments on objections

1. In relation to competition for existing businesses the proposal will result in a vacant unit being used as a take away. It is noted that there are existing take away units however it is not the role of the planning service to restrict competition to protect existing businesses.
2. The proposed use will have an extractor fan and flue on the rear of the building. The environmental implications of this have been assessed by a Council officer from Safer Streets. They note that the proposed extractor will remove smells and odours and should not have an unduly impact on the amenity of the residential properties above provided appropriately worded conditions are attached.
3. The Council's Highways Officer has commented on the proposal and states that there will be no detrimental impact on highway conditions. Please see their comments below and the highways paragraph in the remarks section of this report.
4. The proposed opening hours are in line with those of neighbouring similar uses. It is not anticipated that the proposed change of use would create any additional noise and disturbance for neighbouring residents. A condition will be attached to ensure that appropriate internal insulation will be installed to ensure that noise disturbance to the flat above is limited.

City of Westminster have been consulted and have objected to the proposal on two grounds:

1. The loss of the retail unit would reduce local shopping opportunities for Westminster residents, reducing customer choice and competition between retailers contrary to Policies EC4 and EC13 of PPS4
2. The proposed hours of operation would cause an unacceptable increase in noise and disturbance for Westminster residents late into the night.

Officer Comments in relation to objection:

An application for the same change of use was withdrawn in November 2011. Westminster were consulted on this application and responded with no objections. Nothing has changed from the application as the original application was made by a prospective leaseholder while the current application has been made by the freeholder. However Westminster have made the representations set out above. Council officers have the following response to the points raised

1. The site is not within protected shopping frontage and is not within a defined shopping centre. There are a variety of shop types along this section of Kilburn Lane with convenience stores, public houses, electrical supply stores, estate agents and takeaways. It is not considered that the proposed change of use would result in a significant loss of choice for local residents, particularly given that the most recent use falls outside any use class, being a sui generis use. Policy EC4 of

PPS4 seeks to protect a range of uses for local residents within town centres and policy EC13 seeks to protect retail uses in local centres and villages. This site is not defined as a town centre or a local centre location but nevertheless the proposed development will not have a significant impact on the variety of commercial units on Kilburn Lane. Policy EC13 also states that LPA's should respond positively to conversion applications which are designed to improve viability of centres. In this instance the proposed change of use would bring a vacant commercial unit back into use to support the viability of the shopping parade.

2. The proposed hours of operation would be in line with and in some cases less than those of neighbouring takeaway uses. It is not anticipated that the proposed use would result in an increase in noise and disturbance for Westminster residents.

Highways Officers have commented on the proposal and have no objections to the proposal.

The Council's **Safer Streets** officer has assessed the environmental implications of the proposed development and has no objection to the proposal. They have recommended that the following conditions be attached:

The proposed fast food takeaway shall be insulated to minimise noise transmission between adjoining premises in accordance with details, which shall be submitted to and approved by the local planning authority.

Reason: To safeguard the amenity of the neighbours from the transmission of noise

Any extract ventilation fan shall be installed, together with any associated ducting, so as to prevent the transmission of noise and vibration into any neighbouring premises. The noise level from any extraction plant together with any associated ducting, shall be 10 dB(A) or greater below the measured background noise level at the nearest noise sensitive premises – a positive indication that complaints are unlikely. 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 of the extraction system exceed those specified in this condition, a scheme of insulation works to mitigate the noise shall be submitted to and approved by the Local Planning Authority prior to the commencement of use.

Reason: To ensure that users of the surrounding area do not suffer a loss of amenity by reason of noise nuisance

REMARKS

Principle of use.

The existing unit is vacant but the most recent use would appear to be as a launderette. The application is seeking to change the use of the unit to a pizza takeaway restaurant. The site is not within a protected shopping frontage therefore the main policy when considering a change of use is policy SH 10 - Food and Drink Uses. Such uses are considered acceptable if they will not result in the creation of traffic congestion, car parking problems or a reduction in highway safety in the local area and that they will not assess the amenity of neighbouring residential occupiers. For clarity, there is no loss of retail here as the historic use of the ground floor was as a launderette which is a sui generis use.

Residential Amenity

When considering the impact of a food and drink use on residential properties there are a number of issues identified within Policy SH 10 which need to be considered. These are the proximity of residential accommodation, the nature and size of the proposed use, the character of the area and concentration of and disturbance from existing similar uses and whether the proposed hours of operation would cause disturbance for local residents.

The nearest residential accommodation to the property is directly above the unit where there is a self-contained flat and on the opposite side of the road. The proposed takeaway unit will have floor area of 86sqm and would be used a pizza takeaway. This size and type of use on its own is not something that is considered to have an adverse effect on amenity of neighbouring residents.

From the corner of Kilburn Lane with Harrow Road to Pember Road there is a continuous row of shopping frontage which is not classified as a town or local shopping centre and which is not protected shopping frontage. The commercial units on this part of Kilburn Lane are all located on the west side of the road and there are 17 commercial units between Harrow Road and Pember Road. Of these 17 units there are three existing takeaway units (Chinese, Kebab and Fried Chicken). These are predominantly located at the south end of the street at units 3, 5 and 9.

There are a range of opening hours for nearby A5 uses. The Chinese Takeway is open between 12pm-11pm six days a week Tuesday to Sunday. The kebab takeaway is open 12pm-1am Sunday to Thursday and 12pm-4am on Fridays and Saturdays. Officers have confirmed that there have been no environmental health records of nuisance and disturbance arising from the existing uses. Although each case does need to be considered on its own individual merits it is not anticipated that the additional unit proposed would cause any significant increase in disturbance. The proposed opening hours for the unit are 11am-1am Monday to Saturday and 11am-12am on Sundays and Bank Holidays. These hours of use are considered to be appropriate for the proposed use, given its location.

As such the proposed change of use from launderette to pizza takeaway service is not considered to create an unacceptable impact on residential amenity of neighbouring occupiers.

Design of an Extractor Fan

An extractor flue duct is proposed to the rear elevation. It is to be attached to an existing drain pipe and have a width of 0.5m. The top of the flue finishes 0.5m above the ridgeline and 2.3m above the nearest window. Specifications of the proposed extract duct and fan have been provided and the Council's Environmental Health Officer is satisfied that providing the conditions set out above are complied with there will be no unacceptable impact on the amenity of the residents in the flats above. It is positioned on the rear elevation of the property and although it will be partially visible from the neighbouring Regent Street it is not considered to be unduly prominent and therefore should have a minimal impact on the character and appearance of the building.

Accordingly the proposed extractor fan is considered to be acceptable and in keeping with policies BE17 and EP2 of Brent's UDP 2004.

Highways

Although the most recent use is as a launderette it would be useful to consider how a retail use would compare with the proposed take away use in highway terms. The parking standards set out for an A1 retail premises and an A5 food & drink premises are the same up to a floor area of 400sqm, as set out in PS7 and PS9 of the UDP-2004 respectively. As a result, the proposed change of use will have no impact on the single car space permissible for the premises. The servicing standards are also the same and therefore there will be no additional impact in terms of parking and servicing.

With takeaway uses there is the risk of motorists stopping and parking in front of the unit to pick up food. However there are no restrictions on stopping directly in front of the premises and the location is not close to a signalised junction, so any injudicious short-term parking should not lead to a road safety hazard or undue obstruction to bus services. As such the proposed change of use will not have an unacceptable impact on local highway conditions and road safety.

Conclusion

The proposed change of use of the unit from launderette to pizza takeaway use is considered to be in accordance with the relevant policies and guidelines and as such will not have a detrimental impact on the amenity of neighbouring residents. Accordingly approval is recommended subject to the conditions set out below.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

- (1) The proposed development is in general accordance with policies contained in the:-
Brent Unitary Development Plan 2004

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
Town Centres and Shopping: in terms of the range and accessibility of services and their attractiveness

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 and documents:

4209/1
4209/2
Extract Fan and Flue Specifications

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

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

1100 to 0100	Monday to Saturday
1100 to 0000	Sunday and Bank Holidays

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

- (4) Within three months of installation, the extraction system shall be painted black and

shall be permanently maintained in that condition thereafter unless prior written consent of the Local Planning Authority is obtained.

Reason: In the interest of visual amenity of the locality.

- (5) Any extract ventilation fan shall be installed, together with any associated ducting, so as to prevent the transmission of noise and vibration into any neighbouring premises. The noise level from any extraction plant together with any associated ducting, shall be 10 dB(A) or greater below the measured background noise level at the nearest noise sensitive premises – a positive indication that complaints are unlikely. 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 of the extraction system exceed those specified in this condition, a scheme of insulation works to mitigate the noise shall be submitted to and approved by the Local Planning Authority prior to the commencement of use.

Reason: To ensure that users of the surrounding area do not suffer a loss of amenity by reason of noise nuisance

- (6) The proposed fast food takeaway shall be insulated to minimise noise transmission between adjoining premises in accordance with details, which shall be submitted to and approved in writing by the local planning authority. The insulation shall be installed in accordance with the approved details.

Reason: To safeguard the amenity of the neighbours from the transmission of noise

INFORMATIVES:

None Specified

Any person wishing to inspect the above papers should contact Robin Sedgwick, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5229