

 **Planning Committee Map**  
Site address: 210 Preston Road, Wembley, HA9 8PB  
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This map is indicative only.

**RECEIVED:** 4 December, 2009

**WARD:** Preston

**PLANNING AREA:** Wembley Consultative Forum

**LOCATION:** 210 Preston Road, Wembley, HA9 8PB

**PROPOSAL:** Erection of a smoking shelter and erection of a trellis around the site (retrospective application)

**APPLICANT:** Miss Natasha Bandali

**CONTACT:**

**PLAN NO'S:**  
(See Condition 2)

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## **RECOMMENDATION**

Grant Consent

## **EXISTING**

The application relates to a desert bar, currently trading as Flirtease. This is situated within the ground floor of a three-storey end of terrace building. The upper floors are in residential use.

Within the rear yard a smoking shelter with outside seating area has been erected without planning permission. This application seeks to regularise this.

The site is on the corner of Preston Road and Elmstead Avenue and is within Preston Road Primary Shopping Frontage.

## **PROPOSAL**

Retention of smoking shelter, and erection of trellis around the site.

## **HISTORY**

### **09/1324 – Refused 23/07/09**

Retention of smoking shelter and erection of trellis around the site.

Reasons;-

1. Excessive size, poor design and prominent location appear unattractive and an obtrusive addition to the streetscene. Detrimental to local amenities.
2. The shelters proximity to residential accommodation is likely to result in noise and siturbance and general nuisance to occupiers.
3. Results in the loss of the premises servicing area.

Between 1997 and 2006 various applications were submitted, relating to the installation of extraction equipment to support previous A3 occupiers.

Enforcement Notice served on 24/02/09.

## **POLICY CONSIDERATIONS**

PPS1 Sustainable Economic Development  
PPS4 Economic Development  
PPS6 Town Centres

### **Brent's Unitary Development Plan 2004**

*BE2 Townscape: Local Context & Character*  
*BE7 Public Realm: Streetscape*  
*BE9 Architectural Quality*  
*EP2 Noise & Vibration*  
*H22 Protection of Residential Amenity*  
*TRN22 Parking Standards – Non-Residential Developments*  
*TRN34 Servicing*  
*SH1 Network of Town Centres*  
*SH10 Food & Drink A3 Uses*  
*SH11 Conditions for A3 Uses*  
*SH19 Rear Servicing*

### **Brent's Core Strategy 2010**

*CP5 Placemaking*  
*CP16 Town centres and sequential approach to development*

### **Other relevant documents**

The Smoke-free (Exemptions and Vehicles) Regulations 2007

### **Main considerations**

Impact on amenity of nearby residential occupiers and surrounding area  
Visual impact  
Impact of use on traffic and highways safety  
Compliance with Smoking Legislation

## **SUSTAINABILITY ASSESSMENT**

n/a

## **CONSULTATION**

Consultation period started on **15 December 2009**, in which 31 properties were consulted. To date just one objection has been received, from a resident on Elmstead Avenue. The grounds for objection are summarised below;

- The structure is in breach of planning control and the Enforcement Notice (ref; E/07/0579) issued in Jan 2009 is farcical.*
- The structure is a "ramshackle shed" detrimental to the amenities of the surrounding residential area.*
- The outside space is used until the early hours creating noise and disturbance during the night.*
- Customers leaving the premises during the early hours also cause noise and disturbance.*

### **Transportation comments:-**

The servicing access is direct from Elmstead Avenue. The siting of the shelter does not impede the existing service access or pedestrian access, and for this reason no Highways and Transportation objection is raised.

### **Environmental Health:-**

A site visit was made on 22/12/09. It was confirmed that the smoking shelter complied with Smoking Legislation, as more than 50% consisted of an open walled area. It is recommended that the roof trusses at the far end be removed, to prevent the re-installation of roof covering to this end.

### **Health Safety & Licensing;-**

Officers have visited the site and confirm that the shelter complies with smoking legislation.

### **REMARKS**

This application proposes the retention of the existing smoking shelter, and trellis erected around the perimeter. The main issues for consideration are;

- (a) Impact on amenity of nearby residential occupiers and surrounding area*
- (b) Visual impact*
- (c) Impact of use on traffic and highways safety*
- (d) Compliance with Smoking Legislation*

#### *A. Impact on amenity;-*

The area surrounding the application site is mixed in character. Preston Road is commercial in nature, this Primary Frontage has a level of night time economy due to the presence of existing late night food outlets, A5 uses and late night shops. Flats exist above shops throughout the parade, and these would expect to experience a degree of night time activity given the location.

The application site includes residential accommodation above, which is common to all properties. It borders Elmstead Avenue which is a residential street, immediately to the rear of the site is a church building, and beyond this is a semi-detached dwelling on the northern side of Elmstead Avenue (No.3). This property is approximately 15m away. On the opposite of the road the closest dwelling is approximately 23m away.

The structure is built for the purpose of providing an outside smoking shelter for the business, this is required to comply with current smoking legislation. The shelter is sited in the rear yard, with a footprint of 5m x 5.8m (29sqm), taking up approximately 20% of the rear yard. As it was originally constructed, circa 2007 the shelter was enclosed on three sides, with an acrylic hipped roof. Seating for approximately 20 is provided.

On a second visit to the site on 09/06/10 it was evident that alterations had been made. These alterations see the removal of the hipped roof, and replacing this with a flat roof 2.6m high. This significantly reduces the bulk of the shelter, and lessens its impact on the streetscene. So from a visual amenity point of view the structure is considered to be acceptable.

The rear end to the shelter has been pulled away from the boundary by 1.25m. The shelter is enclosed along the Elmstead Avenue elevation through a combination of standard shiplap timber boarded fence, with a trellis fitted on top. The roof structure is supported by brick piers. The shelter, as altered is now open on three sides, to comply with smoking legislation.

The shelter is used by patrons as an outside smoking area, the seating provided can accommodate approximately 20 patrons.

The proximity to residential properties is a material planning consideration. The shelter has the potential to cause noise and disturbance to surrounding residents, particularly late at night. The main premises has a licence until 3.30am seven days a week, but the business operates until 1am Fridays and Saturdays.

Environmental Health Officers' have confirmed that their records show the last noise related complaint made against this property was back in 2000. When it was in use as an A3 restaurant, no complaints have been received against the current operators, or against the use of the outside smoking shelter.

Clearly there is a business need for an outdoor smoking shelter, this is required to comply with current smoking legislation. The character of the area is very mixed, there is an established level of night time economy along Preston Road. In the context of this environment the smoking shelter is considered to be acceptable, subject to strict control over its use in order to minimise the potential impact on surrounding occupiers. Conditions relating to the hours of use, a maximum number of persons, no amplified music and controls over lighting are all recommended.

*B. Visual Impact;-*

As discussed above the alterations that were observed on the last site visit in June 2010 lessen the visual impact of the structure. The removal of the roof significantly reduces its visual impact within the streetscene. The roof is now much lower, and is not that prominent above the pre-existing timber fence.

In doing these works for some reason roof trusses have been left towards the eastern end of the structure. These are unnecessary and appear unsightly. Their removal is required, and a condition will be attached to any planning permission requiring their removal within 2 months of a decision. This will further reduce the structures visual impact.

Being situated on a corner plot the shelter does have prominence. On balance it is considered the roof alterations go a long way to reducing its harmful impact within the streetscene. The lowered roof certainly reduces its visual impact, and subject to the remaining roof trusses being removed Officer's consider the visual impact to be acceptable.

*C. Impact of Use on Highways & Pedestrian Safety*

Transportation Officer's have confirmed that the siting of the shelter does not impede existing servicing and pedestrian access. Both are gained as a side access direct from Elmstead Avenue.

Pedestrian access to the first floor flat is not impeded, nor is access to the shared service road running to the rear of the site.

For these reasons there are no highways objections to the retention of this shelter.

*D. Compliance With Smoking Legislation;-*

The shelter as altered is open on three sides, this complies with smoking legislation (The Smoke-free (Exemptions and Vehicles) Regulations 2007) which requires as a minimum 50% of the structure to be open sided. Health, Safety & Licensing have confirmed that the structure complies and this is reinforced with a site visit made by Environmental Health Officer's.

*Comments on Objections;-*

The objector refers to noise and disturbance, particularly late at night.

Officers' have checked Environmental Health records for any recent noise related complaints, and none have been made against this property since 2000. That is not to say there isn't the potential for them to occur in the future though. Given the mixed character of the area, and proximity to residential accommodation Officers are recommending approval for the retention but with conditions to control its use. These conditions are intended to minimise its impact, and reduce the potential for noise and disturbance.

It is recommended that conditions restricting the hours of use, the maximum number of patrons permitted in the outside area, prohibiting amplified music and control over outside lighting should be attached.

Furthermore it is recommended that permission be granted initially on a temporary 1 year basis. This will allow the Council to monitor the situation, and a review of the operation of the site and the use of the shelter with conditions can then be carried out in 12 months time.

### *Summary*

With reference to Council's UDP policies it is considered the proposal would be appropriate for this town centre location. It is accordingly recommended for planning approval on a temporary 1 year permission, subject to the attached conditions.

**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  
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) This permission shall be for a limited period of 1 year only expiring 12 months from the date of the decision when (unless a further application has been submitted to and approved in writing by the Local Planning Authority) the use hereby approved shall be discontinued and the building(s) and/or works hereby approved shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to review the position in the light of the impact of this use.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

Plan 01  
Location plan

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

- (3) The smoking shelter shall only be used by customers until the following times:-  
Fri & Sat until 12:00am  
Mon-Sun until 11:00am  
and shall be cleared, with all ancillary activity completed, by these times.

Reason: To protect the amenities of nearby residential occupiers.

- (4) No music, public address system or any other amplified sound shall be installed within the rear yard or the smoking shelter.

Reason: To safeguard the amenities of the adjoining occupiers.

- (5) The affected area within the site, directly accessible from the existing servicing access from Elmstead Avenue shall not be used for storage purposes (whether temporary or permanent) unless prior written approval has been obtained from the Local Planning Authority.

Reason: To ensure suitable loading and unloading arrangements so as not to interfere with the free passage of vehicles or pedestrians within the site and along the public highway.

- (6) The remaining roof trusses shall be fully removed within 2 months of the date of this permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of preserving the visual amenities of the surrounding area.

- (7) No additional outdoor lighting shall be installed unless further details have been submitted to and approved in writing by the Local Planning Authority prior to installation.

Reason: In the interests of safety, amenity and convenience.

**INFORMATIVES:**

None Specified

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