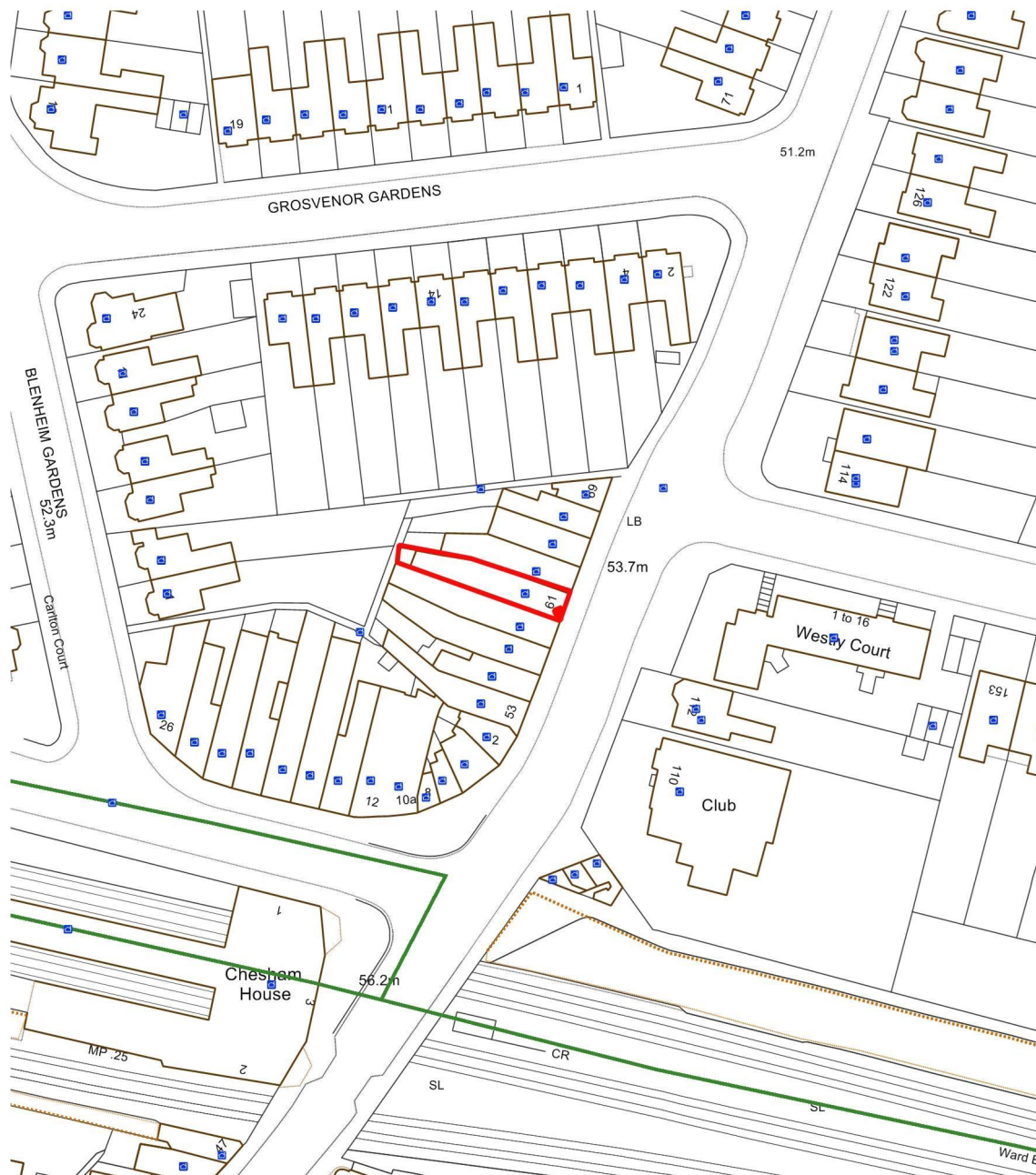




Planning Committee Map

Site address: 61 Walm Lane, London, NW2 4QR

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This map is indicative only.

RECEIVED: 12 September, 2012

WARD: Mapesbury

PLANNING AREA: Kilburn & Kensal Consultative Forum

LOCATION: 61 Walm Lane, London, NW2 4QR

PROPOSAL: Change of use from Wine Bar (A4) to Restaurant/Hot Food Take Away (A3/A5)

APPLICANT: Mr Mohammed Munir Chughtai

CONTACT: J & H Licensing Consultants

PLAN NO'S:
61 Walm Lane OS Plan, Plan of Premises (scale 1:100)

RECOMMENDATION

Refuse Consent

EXISTING

The application site comprises a 2 storey mid terraced property located within a parade along Walm Lane. It contains a wine bar (A4) at ground floor and residential at 1st and 2nd floor above. The other ground floor units of the parade are a mixture of commercial units with residential flats above which also run along Station Parade.

The parade is a designated secondary shopping frontage which abuts an area of distinctive residential character (ARDC) to the north of the application site and is opposite the Mapesbury Conservation Area to the east and the Grade II listed Willesden Green tube station to the south.

PROPOSAL

The application proposes to change the use of the ground floor unit from a Wine Bar (A4) to Restaurant/Hot Food Take Away (A3/A5)

HISTORY

E/12/0278 - *Case opened 27/06/2012*

The change of use of the premises to a restaurant

91/0957 - CON 1289 *Allowed on Appeal ; APP/C/91/T5150/615588/p6*

Retention of Change of Use to Wine Bar

90/1907 - *Refused, 08/05/1991*

Change of Use from retail to wine bar

84/1728 - *Refused, 28/11/1984*

Change of Use to restaurant

83/1328 - *Granted, 04/10/1983*

Erection of single storey rear extension to shop & external staircase to 1st floor

POLICY CONSIDERATIONS

National Planning Policy Framework

The NPPF was published on 27 March and replaced Planning Policy Guidance and Planning Policy Statements with immediate effect. Its intention is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. It includes a presumption in favour of sustainable development in both plan making and decision making and its publication.

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

PS9 - Parking standards for A3

PS20 - Parking Standards for A3 servicing

SH9 - Secondary Shopping Frontage

SH10 – Food and Drink (A3) uses

SH11 – Conditions for A3 Uses

SH19 – Rear Servicing

EP2 - Noise & Vibration

H22- Protection of Residential Amenity

CONSULTATION

Consultation Start Date: 26 Sept 2012 - 17 Oct 2012

A total of 34 neighbouring properties & Mapesbury Conservation Area Resident Association were consulted regarding the application. The following objections were received:

Two objections from residents raising the following concerns:

- History of associated disturbance including evidence of noise, disturbance and criminal activity;
- Noise and disturbance from people entering and leaving the premises - particular concern due to opening hours to 2am;
- Too many takeaways which have roller shutters and do not contribute positively to the high street appearance particularly during the day time;
- Concern regarding litter from take-away.

A letter from Sarah Teather MP on behalf of a constituent who has raised concerns regarding the use of the first floor (61A) as a brothel. As this is a separate unit to the application property, this does not prevent the determination of this planning application. Notwithstanding this, Planning Enforcement have been notified and will investigate this matter.

Metropolitan Police (Licensing)

Police representations primarily deal with noise nuisance, anti-social behaviour and crime. Comments state the premises is associated with alcohol related anti-social behaviour; its customers with drunkenness and drug abuse; and, the owner with general mismanagement of the wine bar and its clientele. There is concern that a 2am restaurant/takeaway venue would allow a repeat of these issues and have a negative impact to local residents who have suffered vast amounts of anxiety in the past as a result of the wine bar. An earlier closing time of 11pm may alleviate concerns about anti-social behaviours.

Internal:

Environmental Health: The applicant has not submitted sufficient information regarding the proposed kitchen ventilation/extraction system with associated ducting. There is an absence of information about sound insulation to mitigate noise. This information must be supplied prior to any permission being granted.

Transportation: No objection in principle. The proposal will comply with parking standards. There are on street parking bays along the frontage of 55-69 Walm Lane which are pay & display and as such for short-term parking use in line with food collection from the takeaway (A5) element of this proposal.

REMARKS

Background & Context

The premises has operated as a wine bar since 1992. The premises has recently been refurbished and a new sign displayed to the front of shop unit naming it as "BBQ 2 NITE". An enforcement case was opened and site investigation carried out in March 2011; at the time of the site visit, the sign outside the unit was 'Sparkles Wine Bar' and it was found that no change of use to the premises was apparent. This planning application was submitted in September 2012.

The key issues for this proposal are:

1. Principle
2. Residential Amenity:
3. Transport
4. Character and Appearance

1. Principle - Change of Use

Planning permission is not needed when both the present and proposed uses fall within the same 'class', or if the Town and Country Planning (Use Classes) Order says that a change of class is permitted to another specified class. Planning permission is not required for the A4 unit (wine bar) to become an A3 unit (restaurant) however as the proposal also incorporates an A5 use (hot food take away), planning permission is required.

The unit is located in a secondary shopping frontage where the change of use unit should comply with UDP(2004) policy SH9. The parade has a range of businesses where no specific type of use dominates. This policy states that non-retail uses that provide a service to visiting member of the general public will be permitted subject to residential amenity, highway and traffic considerations. As such, the principle of the change of use can be accepted subject to consideration of these matters.

2. Residential Amenity

(a) Extraction system for kitchen

No information has been provided with the planning application regarding the proposed extraction flue. An appropriate extraction system would be required to disperse fumes from cooking associated with the restaurant and the proposed take away. This is of particular concern due to the proximity of the residential premises above the parade and the potential impact of an extractor duct on nearby residents, particularly no. 61A, which is most likely to be in closest proximity to any extraction system. An extraction flue/duct, if inappropriately positioned or of an unacceptable specification, can block outlook to habitable room windows and create smells, noise and disturbance when in use. As such, full details of the extraction system are fundamental to the acceptability of the proposal and it would not be appropriate to require this information by condition. It is noted that the applicant has set out in supporting documents that the existing extraction system will be used; this does not benefit from planning permission and given the termination height and its position obstructing a residential window, it would not be of an acceptable standard. In addition, further information regarding this extraction system has not been submitted for assessment. As such, the proposal is contrary to UDP(2004) policy SH10(e) which requires appropriate extract duct and ventilation that does not have an adverse impact on residential amenity.

(b) Proposed Restaurant Use and Hot Food Take Away

The existing use of the premises is as a wine bar; there are no planning controls in terms of the hours of operation. The proposed change of use, which incorporates a take away, is likely to result in a greater number of customers coming and going from the premises; this type of use is characterised by people spending a short time at the premises collecting their order and has the potential for people to congregate outside the establishment if not properly controlled. Given the proposed hours of use from 12pm to 2am everyday; the problems cited by the Metropolitan Police for the existing business which is under the same management as the proposal; and, the increase in coming and going of customers associated with a take away use and possible overspill onto the street, it is considered the proposal will have an unacceptable impact in terms of noise and disturbance to the residential occupiers above and opposite the parade.

In the comments received from the Licensing Constable (Metropolitan Police), Nicola McDonald, it is suggested that related anti-social behaviour could be alleviated by a closing time of 11pm. In addition, further information would be required regarding the management of premises to demonstrate that the above matters could be addressed. However, as submitted, the proposal would fail to comply with policies SH9 and SH10 of the UDP(2004).

3. Transport & Servicing

Parking standards and servicing requirements for an A3 and A5 use are set out in PS9 and PS20 in the UDP(2004) which states that 1 car space can be permitted per up to 400sqm of floor area, whilst a servicing bay from a "transit" sized vehicle will be necessary. Additionally, with A5 takeaway uses, there is often an

association with increase on-street parking and stopping as drivers attempt to get as close as possible to the A5 in order to collect their food order.

In this location, on-street car parking bays operate along the front of 55-69 Walm Lane, which provide pay & display spaces. As such, these bays are suitable for short-term parking while collecting food. There is no highways concern to pedestrian and road safety as a result of this change of use. It is noteworthy to add that the Council has a rotatable CCTV camera within 40m of the site which will allow any offenders to be caught and issued with a Fixed Penalty Notice (FPN) if caught parking/stopping on the highway illegally. The existing unit is serviced from the street as there is no vehicular access to the rear of the premises; this will remain unchanged and is considered acceptable

For waste disposal, the shop unit will already have in existence a waste storage system. However, given the increased use of food on site, plans for bin storage at the rear of the premises will be required. Disposal of waste occurs by bringing the waste bags to the front of the shop for collection. Further information as to how this will be managed would be required.

4. Character & Appearance

Plans showing the front elevation of the new premises have not been submitted. It is thought that the frontage will be as existing with closed shutters. If the premises is not open until 12pm daily, the frontage of no. 61 will appear as a shuttered frontage during the day time, considered detrimental to the vitality and vibrancy of this small secondary frontage. A new frontage design can be requested without a shutter in order to provide a more active appearance to its frontage .

Conclusion

The proposed change of use is not considered acceptable by reason of the absence of details regarding and extractor flue/duct considered the detrimental impact on the amenity of neighbouring residents above and will not comply with relevant planning policy. As such the proposal is recommended for refusal.

REASONS FOR CONDITIONS

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) No information has been provided regarding the proposed kitchen extraction/ ventilation system to ensure that the proposal does not have an unacceptable impact in terms of noise from equipment and cooking fumes to nearby residential occupiers. Additionally, it has not been demonstrated that a flue can be acceptably located without impacting on the outlook of residents to the first floor flat, no. 61A. As such, the proposal is contrary to policies EP2, H22, SH9 and SH10 of Brent's Unitary Development Plan (2004) which seek to protect residential amenity.
- (2) In the absence of information about noise insulation to the premises for use as a restaurant and hot food take away (A3/A5), the proposal is considered detrimental to the amenity of occupiers in the residential premises above the parade and those in the locality contrary to policy EP2, H22, SH10 of the Unitary Development Plan (2004).
- (3) The proposed change of use incorporating a hot food take away is likely to result in an intensification of customers entering and leaving the premises, the potential for people to congregate outside the establishment if not properly controlled and given the proposed late night opening, is likely to have an unacceptable impact on nearby residents in terms of noise and disturbance. As such, the proposal is contrary to Policies EP2, H22, SH9 and SH10 of the Unitary Development Plan (2004).

INFORMATIVES:

- (1) With resubmission of this application, further details for a kitchen extraction system should be submitted, and details for sound insulation to the shop unit to prevent noise disturbance to residential above. It is also requested that the shop front be kept open without fully closed shutters in order to prevent dead frontage to the unit.

- (2) A management plan for clientele congregation should be submitted with any re-submission of this proposal which has been prepared in discussion with the local police.

REFERENCE DOCUMENTS:

Any person wishing to inspect the above papers should contact Harini Boteju, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5015