

**Committee Report**  
**Planning Committee on 13 January, 2010**

**Case No.** 09/2362

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**RECEIVED:** 17 November, 2009

**WARD:** Preston

**PLANNING AREA:** Wembley Consultative Forum

**LOCATION:** The Coffee Shop, 11 The Broadway, Wembley, HA9 8JU

**PROPOSAL:** Change of use of ground-floor from retail (Use Class A1) to coffee shop (Use Class A3) and erection of a single storey rear extension and rear extraction vent

**APPLICANT:** The Lunch box Company

**CONTACT:** Studio V Architects

**PLAN NO'S:** Design & Access Statement; Jason Carbon filters; Environmental Noise Report  
0921/PL01; 0921/PL02RevA;0921/PL03, 0921/PL04RevC;  
0921/PL05RevB;

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**RECOMMENDATION**

Approve subject to conditions

**EXISTING**

The application site is located mid-way along a shopping parade on the western side of Preston Road, at the junction with East Lane. The shopfront faces east and there is a parking/servicing space to the rear. The application forms part of 1-20 Broadway "Local Centre," (within Brent Unitary Development Plan's Appendix SH1.) The existing shop is currently trading as the Coffee Shop within the limits of A1 use class. There is a service road located to the rear (west) of the site.

**PROPOSAL**

Change of use of ground-floor from retail (Use Class A1) to coffee shop (Use Class A3) and erection of a single storey rear extension and rear extraction vent

**HISTORY**

**14/10/09 09/2106 - Withdrawn**

Change of use of ground-floor from retail (Use Class A1) to coffee shop (Use Class A3) and erection of a single storey rear extension, as amended

**20/02/09- 08/2601 - Refused**

Change of use from retail to coffee shop (Use Class A3) with installation of extractor duct

This application was refused for the following reason:

The applicant has failed to demonstrate that the change of use would 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. As such, the proposal is contrary to policies BE2, SH9 SH10, SH19, EP2 and EP4 of Brent's Unitary Development Plan 2004.

#### **02/04/08 – 08/0352 - Refused**

Change of use to coffee shop (Use Class A3)

This application was refused for the following reason:

The applicants have failed to demonstrate that the proposal would not result in a loss of amenity for neighbouring occupiers, either above or adjoining the premises, by way of light, outlook, noise, vibration and smell from the extraction and ventilation equipment, including any ducting. As such, the proposal is contrary to policies BE2, SH9 SH10, SH19, EP2 and EP4 of the Unitary Development Plan 2004.

### **POLICY CONSIDERATIONS**

#### **Adopted Unitary Development Plan 2004**

- **STR11** Protection and enhancement of the built and natural environment
  - **STR29** Development should sustain and enhance the vitality and viability of the Borough's town and District Centres
  - **BE2** Townscape local context and character
  - **BE4** Access for Disabled People
  - **BE17** Building-Services Equipment
  - **EP2** Noise & Vibration
  - **EP4** Potentially polluting development
  - **H22** Protection of Residential Amenity
  - **TRN3** Environmental Impact of Traffic
  - **TRN11** The London Cycle Network
  - **TRN22** Parking Standards Non-Residential Development
  - **TRN34** Servicing in New Development
  - **TRN35** Transport Access for Disabled People
  - **SH4** Local 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
  - **SH16** Local Centres
  - **SH19** Rear Servicing
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- Specific nature and size of use
  - Character of the area and the concentration and existing level of disturbance from A3 and similar uses
  - Whether the proposed hours of opening would result in residential disturbance
  - Practicality of providing extract ducting, ventilation, grease traps and/or noise insulation.
  - Character and Appearance
  - Parking and Servicing

### **CONSULTATION**

#### **Internal**

**Highways-** The site has moderate access to public transport with a PTAL level 2.

No objection subject to conditions requiring the retention of the proposed servicing bays, that the rear access door shall be inward only opening and the provision of a cycle parking space.

**Policy -** On a strict application of Policy SH16 of the Unitary Development Plan, the centre is already operating at 36% non-retail, and therefore exceeds the non-retail limit, particularly as the

level of vacancy is not at 10%. However as this only marginally exceeds the acceptable level of non-retail uses normally permitted in a designated Local Centre and given the current difficult economic situation this proposal may be allowed as an exception to policy SH16.

**Environmental Health** – no objections subject to further information regarding the extraction system, which may be conditioned.

### External

40 letters sent to neighbouring occupiers of the shops, residential units above the shops, and church to the rear. These properties have been notified on 23/11/09.

A petition from 8 properties was received, raising the following objections to the application:

- There are already a number of A3 uses on the parade causing traffic and congestion
- The proposed use will cause competition (officer note- not material planning consideration)
- There are already parking and loading problems in the area, which an A3 use will worsen
- People living upstairs in the parade already suffer noise, smell and pollution and the proposed extraction vent will worsen this

### REMARKS

The application proposes to change the use of a unit that was previously retail, (use class A1.) It has been occupied by The Coffee Shop since 10<sup>th</sup> August 2001 and operating within use class A1 since this time. The applicant now seeks an A3 consent. The application also includes a single storey rear extension with an associated extractor duct. The existing shop has a floorspace of 75.3sqm, and the proposed extension incorporating an office, staff room, food preparation areas and refuse store totals 62.2sqm.

### Loss of A1

Policy SH16 states that within Local Centres non-retail uses will generally only be acceptable if the application will result in no more than 35% of the shop units being within non-retail use unless there is a vacancy rate of at least 10%. The parade currently consists of 20 units, which were surveyed by your officer as:

PROPERTY NAME	DESCRIPTION	USE CLASS	No.
VACANT - was CHINA PRESENTATIONS	GIFT SHOP	vacant was A1, vacant since 20/05/08 (VACANT)	1
was CHINA PRESENTATIONS, now Astrologer operating 9am-9pm 7 days a week	GIFT SHOP	unauthorised B1; authorised A1, (VACANT)	2
CLEAN	DRY CLEANERS	A1	3
WEMBLEY SAUNA/ MASSAGE	SAUNA	SUI GENERIS	4
KUTTING PROFESSIONALS	HAIR DRESSERS	A1	5
MALIK LAW CHAMBERS	SOLICITORS	A2	6
RAEI & CO - ACCOUNTANTS	ACCOUNTANTS	A2	7
SUNRISE CAFÉ	CAFÉ / TAKEAWAY	A3	8
AQUA MARINE	AQUARIUM SALES	A1	9
SIMINS HAIR SALON	HAIRDRESSERS	A1	9C

THE COPPER'S JUG	PUBLIC HOUSE	was A4	10A
COFFEE SHOP	COFFEE SHOP	A1 (applic in for A3 but not yet permitted)	11
LESLIES HAIR SALON	HAIRDRESSERS	A1	12
OAKLEY TRAINING CENTRE	TRAINING CENTRE	D1	12b
BARISH - BAR & EATERY	RESTAURANT	A4	13
PEACE PHARMACY	CHEMIST	A1	14
DAY 1 - LOCAL EXPRESS	OFF LICENSE/ SHOP	A1	15
ELISSA CAFÉ	CAFE	A1 (applic for A3 but not yet permitted)	16
STYLING CORNER HAIR SALON	HAIRDRESSERS	A1	16A
TAYYAB HALAL MEAT 17	BUTCHER	A1	17
VARSANI & CO- Solicitors	SOLICITORS	A2	18
INSTANT SECURITY SYSTEMS	LOCKSMITH'S SHOP	A1	19-20

The Local Centre currently has 14 operational retail units, which, (including unit 11,) consists of 64% of the Centre's units. If number 11 is permitted as a change of use from retail, the proportion of A1 units within the Local Centre will fall to 59%. This will result in 41% non-retail units, which breaches the 35% non-retail use (as stated within Policy SH16). 2 units are currently vacant within the parade (this includes the use occupied by the Astrologer given the unauthorised and temporary nature of this use). As a result the vacancy rate of the parade is 9%. A vacancy rate of 10% is required in order to justify any further loss of retail.

It should also be noted that the Local Planning Authority is also considering an application at 16 the Broadway for a change of use to A3 from A1. If this was to be allowed, the proportion of A1 units would decrease to 55% and non-retail units would increase to 45%.

The advice from the Council's Policy Team is that the limits set out within Policy SH16 are not absolute, other factors can be taken into account in determining an application. For example the policy allows for expansion of existing businesses as an exception to the normal policy. This proposal at 11 is seeking to expand an established business within the parade, to offer a wider range of food products using more intensive cooking processes. Likewise, the proposal to number 16 enables the expansion of food offer at an existing business.

The overall size of the centre should be considered in order to determine whether a higher proportion of non-retail would affect the potential range of shops that could be provided in the units that are left available as retail shops. The policy intends to retain retail uses and essential services within Local Centres. If a change of use resulting in a loss of A1 at 11 is permitted, there will still be a range of retail offer within the parade. The proposed loss of A1 will not necessarily harm the vitality and viability of the centre.

#### **Proposed A3 use**

The proposed enlarged café with an A3 use at number 11 complies with Policy SH6 that defines in principle appropriate town centre uses. Policy SH10 sets out guidelines that can be used to assess the appropriateness of a site for A3 use.

#### **i) Proximity of residential accommodation:**

Number 11 The Broadway has residential flats above the main ground floor unit. There is also a rear elevated walkway running along the back of the units, above the existing ground-floor unit. This type of relationship is common within local centres and does not necessarily represent harm

to neighbouring occupiers. The proposal will entail the erection of a single storey rear extension. This results in the external door to the ground-floor unit at a further distance to the upstairs units. It also results in the enclosure of a bin store, whereas currently bins are stored externally.

ii) **Nature and size of the use proposed**

The existing Coffee Shop has been operating since 2001 without any complaints. It currently operates within the limits of A1 use class. The proposal seeks to extend the range of food on offer and allows an expansion to the existing seating area. The unit currently has a 75sqm footprint incorporating a shopfront, with seating area, kitchen, office and w.c. The proposal creates an L-shaped 62sqm extension to the rear allowing space for a transit-sized servicing bay to the rear. The proposed extension incorporates food preparation areas, a replacement office, replacement w.c, new staff room and enclosed refuse and cycle store.

iii) **Character of the area, concentration of similar uses and disturbance from such uses.**

It should be noted that both units 11&16 The Broadway have made applications to change their use from A1 to A3. The Broadway currently consists of 20 units, the range of units is set out in the table above. The objector's comments are noted but there is only one existing A3 unit within The Broadway, number 8, Sunrise café. The rest of the units within the parade are within use classes A1, A2 or A4. It is therefore considered that there is not an over-concentration of A3 type uses in this area.

iv) **Proposed hours of opening causing residential disturbance.**

The applicant has confirmed that they only intend to open 8:00 to 16:00 Monday to Friday and 9:00 to 14:00 on Saturdays. They have also agreed that these hours may be limited by condition. It is considered that these hours are reasonable and are not expected to cause nuisance to adjoining residential amenities.

v) **Practicality of providing extract ducting, ventilation, etc.**

The applicant has provided details of a low-level extraction system in land within their ownership. Low-level extraction systems are not always considered acceptable where there are residential properties at higher levels. Indeed, inadequate information regarding a proposed extraction system has resulted in past refusals of planning permission on this site. However, within this current submission the applicants have provided significantly improved details of proposed filters of the extraction system and an acoustic report. The extraction system will vent to the rear and is located at least 6m from the rear of the main building with residential flats above. The information provided has been sufficient to satisfy Environmental Health subject to conditions requiring the submission of more technical specifications regarding the extraction system.

### **Impact on residential amenities**

The extract duct is sited over 6m away from the nearest openable windows. Appropriate filters will ensure that the proposed extraction system will not lead to excessive smell/ fumes harmful to local amenities. The acoustic information submitted demonstrates that there will be no noise nuisance as a result of the extraction unit, which has a 29LpdBA decibel output, which is less than 10dB below the existing background noise level of 40dBLa90, which is a level that is not considered to generate complaints. In addition, the limited hours of operation of the unit, will limit any impacts of the extractor system, which is will be used less intensively. For example, there will be no evening service. The applicant has agreed to a condition limiting the opening hours of the unit. This means that should they wish to extend the opening hours in the future, they will need to make a further application, which may then be reassessed.

### **Character and appearance**

The proposal makes no change to the existing shop front. It proposes the single storey rear extension with flat roof and extract duct, and internal alterations to the layout of the unit. Many of the other units along the parade have been extended to the rear, and therefore the rear extension

is not out of keeping with the character of the area. The extension is to be rendered, which will be conditioned to match the original building. The extension does not impinge on the functionality of either of the adjoining commercial units and will not obstruct access to the service road to the rear. The extension allows space for a transit-sized vehicle to service the premises. The extension is set below the residential properties at upper floors and is not considered to materially affect their outlook.

The extraction vent system is also not out of keeping with the character of the area. There are a number of other extraction systems to the rear of the western side of the parade. Given this character, the modest sized proposed extraction vent is not considered harmful to local visual amenity in compliance with Policy BE17. Only the extraction system serving number 13, Barish Bar & Eatery has been formally considered by the Local Planning Authority and approved. However, Environmental Health has confirmed that there have not been regular complaints as a result of this relationship to the residential properties above the ground floor parade commercial units. The applicant has provided an acoustic report that demonstrates that the proposed extraction system at number 11 will not cause noise nuisance as the acoustic output will be less than 10dB below the existing background noise level. This complies with policy EP2 of Brent's Unitary Development Plan.

### **Parking/ servicing**

The proposed extension is to be constructed over the only land within solely the applicant's ownership that they may have parked upon. The proposal will not increase the parking requirement for the unit. Policy TRN22 guides that up to one parking space could be required. However, a servicing bay is considered more important. Brent's Unitary Development Plan guides that a servicing bay capable of housing a 6m by 3m transit-sized vehicle should be provided. The applicants have demonstrated this provision, and a condition will require that this space is retained clear from obstruction. A secure cycle store is provided, which enhances the accessibility of the unit, and complies with Policy TRN11.

The proposal also entails a bin store and secure cycle store immediately adjacent to the rear service road. As the doors to these stores could lead to obstructions to the service road, these will be conditioned to only be inward-opening/sliding to prevent obstructions to the access. Likewise, the rear door serving the unit will be required to be retained as inward-opening to prevent obstructions to the servicing bay. The servicing bay will prevent the displacement of vehicles onto a public highway, which would not be supported. The objectors concerns are noted, however the applicant has demonstrated compliance with Policy TRN22 and TRN34 regarding on-site parking and servicing.

The site is at a busy road junction between two local distributor roads. The proposed use is for A3 café/ restaurant rather than a takeaway. The objectors concerns about traffic congestion are noted however, it is not considered that the proposal will make a significant difference to the traffic and congestion around the parade, compared with an existing busy retail unit.

### **Summary**

In summary, the proposed A3 use at 11 The Broadway has been carefully considered. On balance, Environmental Health have found that the proposed extraction system will not cause harm to local amenities on the grounds of noise/ smell subject to the submission of further details. The nature of the proposed extension and the proposed extraction system is not considered out of keeping with the character of the area. The applicant has demonstrated that the unit may be satisfactorily serviced. A3 uses are acceptable within Local Centres subject to the retention of appropriate levels of retail units. In this instance the balance of uses within The Broadway is at the limits of acceptability in planning policy terms. However the proposal is for the expansion of an existing business and the applicant has demonstrated that there will be no harm to local amenities as a result of the nature of the proposal. Accordingly, the proposal is recommended for approval subject to conditions



**RECOMMENDATION:** Grant Consent

**REASON FOR GRANTING**

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

**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 extension shall be finished in white render with a felt roof unless otherwise agreed in writing by the Local Planning Authority through the submission of further details

Reason: In order to safeguard the character and appearance of the area

- (3) The use hereby approved shall not commence until the transit-sized servicing bays indicated on the approved plan 0921/PL04RevC is provided. This servicing area shall be maintained free from obstruction and used solely for servicing vehicles and shall not be used for any other purpose (whether temporary or permanent), unless the prior written approval has been obtained from the Local Planning Authority.

Reason: To ensure that vehicles being loaded or unloaded are parked in the designated loading areas so as not to interfere with the free passage of vehicles or pedestrians along the public highways.

- (4) a) The doors servicing the bin store and secure cycle store shall be sliding or inward-opening in accordance with the approved drawings and thereafter maintained  
b) The rear pedestrian door to the proposed extension shall be installed inward-opening only in accordance with the approved drawing, and retained as approved unless otherwise agreed in writing by the Local Planning Authority

Reason: To prevent obstructions to the servicing yard and rear service road in the interests of highway safety

- (5) The use hereby approved shall not commence until the secure cycle store and bin stores are provided in accordance with the approved plan 0921/PL04RevC and thereafter the stores shall shall be maintained

Reason: these details are considered necessary in order to create a satisfactory development

- (6) The premises shall only be open and used for purposes within use class A3 between the hours of:

8:00 to 16:00 Monday to Friday

9:00 to 14:00 on Saturdays and at no other time unless otherwise agreed in writing by the Local Planning Authority

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

- (7) Notwithstanding the submitted drawings prior to the commencement of development further drawings at a scale of 1:50, detailing the external appearance and orientation of the proposed extraction duct, materials, colour and direction of the vent shall be submitted to and approved in writing by the Local Planning Authority and thereafter installed in accordance with the details so approved

Reason: In order to safeguard the character and appearance of the area

- (8) Notwithstanding the submitted plans and documents prior to the commencement of development further details of the proposed extraction system be submitted to and approved in writing by the Local Planning Authority and thereafter the extraction system shall be implemented and maintained in accordance with the approved details prior to the commencement of the use. Unless otherwise agreed in writing by the Local Planning Authority such details shall include:

- a) the specification of filters
- b) demonstrate that the specification of the system will comply with 'The Guide to Good Practice – Cleanliness of Ventilation Systems' (TR/17)
- c) demonstrate the system has capacity to incorporate an additional odour neutralization unit to further eliminate odour particles
- d) a detailed schedule of maintenance that outlines all measures the applicant will take to regularly clean and maintain the equipment throughout its operation
- e) further details of the extract system components including canopy, air flow, primary grease filters, air input, secondary filters

Reason: To safeguard the amenities of the adjoining occupiers.

#### **INFORMATIVES:**

- (1) The applicant is advised that the extract system installed must sufficiently deal with all effluvia generated from the cooking process and should comprise:
- **Canopies** - A suitable canopy (or canopies) should be located above all cooking appliances that includes protected lighting and a cleansable channel around the lower edge to collect condensate
  - **Air Flow** - The canopy face velocity shall be not less than 0.5m/s.
  - **Primary Grease Filtration** - Labyrinth (baffle) grease filters should be installed within the canopy or canopies.
  - **Air Input** - A suitable air input system shall be provided by means of a pleated inlet filter, supplying clean filtered air equivalent to at least 80% "make up" of the extracted air.
  - **Secondary Filtration** - an open fibre disposable filter and a pleated non-woven felt type filter and a non-woven bag type filter shall be installed in the system in that order. The filtration system should be capable of preventing the discharge of grease and activated carbon filtration should be employed to reduce odour.



(2) The applicant is advised to liaise with Environmental Health prior to submitting further details of the extraction system

**REFERENCE DOCUMENTS:**

Brent's Unitary Development Plan 2004

Any person wishing to inspect the above papers should contact Amy Collins, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5222



# Planning Committee Map

Site address: The Coffee Shop, 11 The Broadway, Wembley, HA9 8JU

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