

COMMITTEE REPORT

Planning Committee on
Item No
Case Number

26 August, 2015
09
15/1709

SITE INFORMATION

RECEIVED: 21 May, 2015

WARD: Fryent

PLANNING AREA: Kingsbury & Kenton Consultative Forum

LOCATION: 429 & 431 Kingsbury Road, London, NW9 9DT

PROPOSAL: Change of use of existing hot food takeaway (Use class A5) at No 429 and existing retail shop (Use class A1) at No 431 into a single unit providing a mixed use as restaurant and hot food takeaway (Use class A3 & A5) with associated internal alterations

APPLICANT: Mr M Haider

CONTACT: Mr Saud Ahmad

PLAN NO'S: (See Condition 1)

SITE MAP



Planning Committee Map

Site address: 429 & 431 Kingsbury Road, London, NW9 9DT

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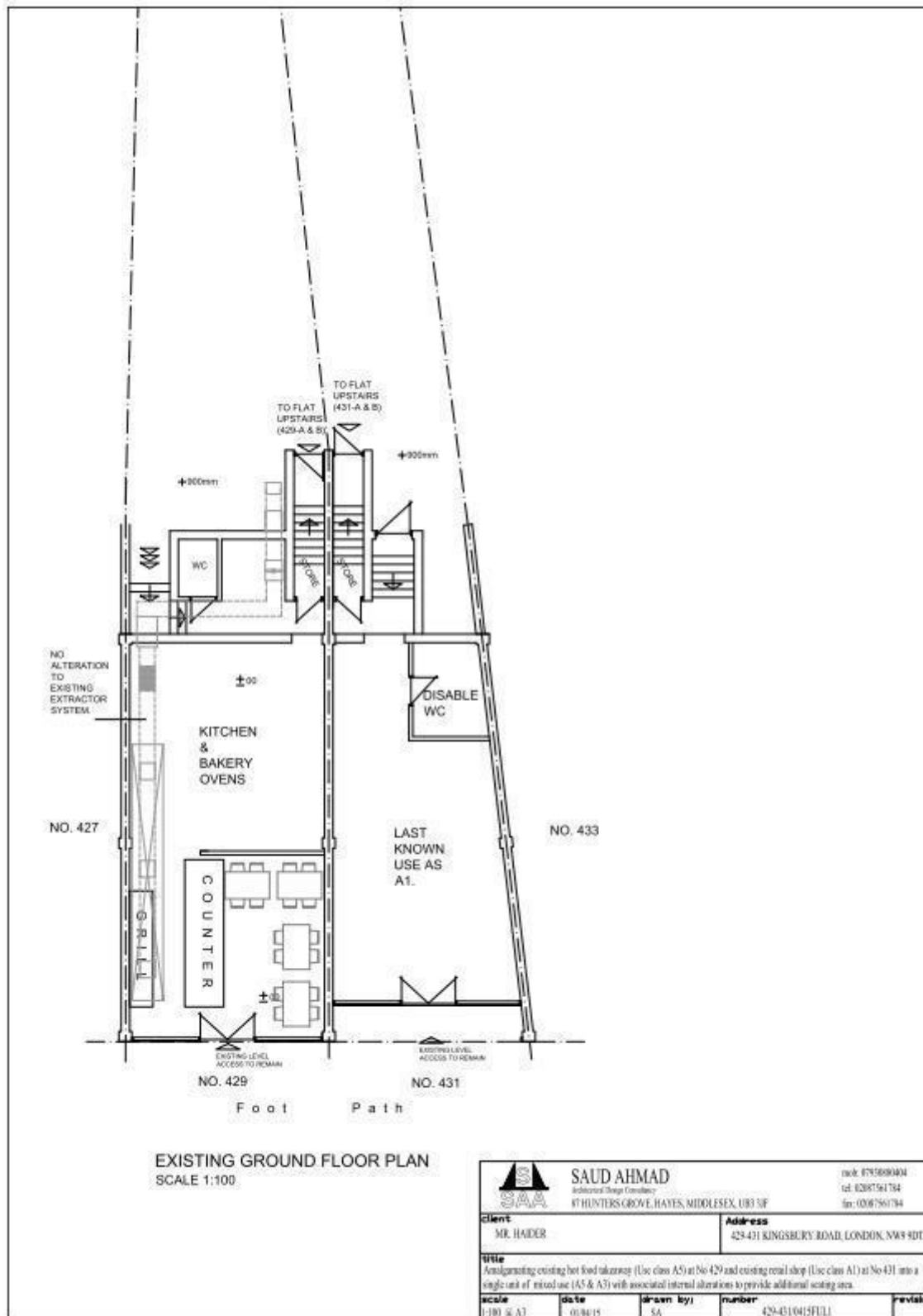


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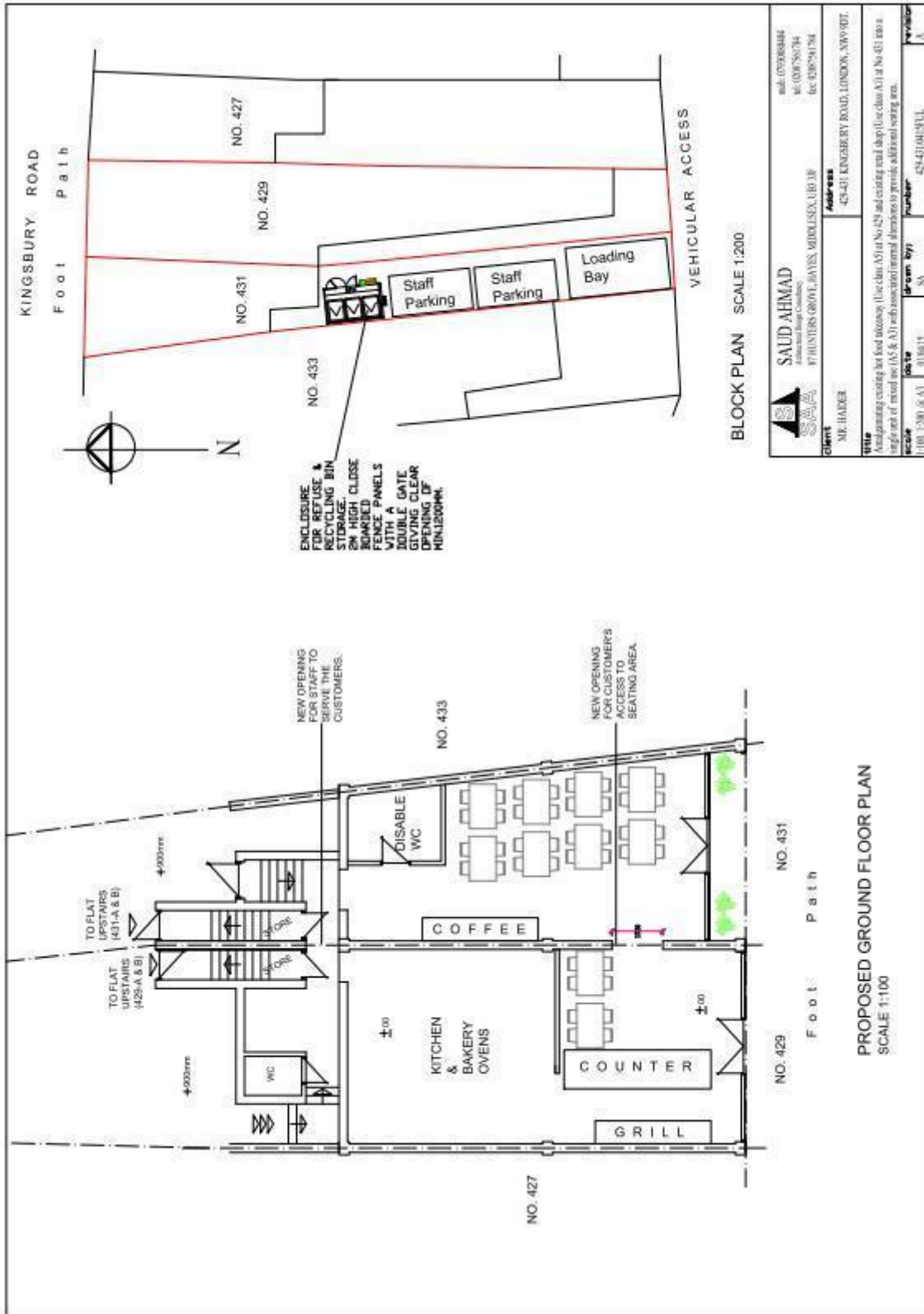
This map is indicative only.

SELECTED SITE PLANS SELECTED SITE PLANS

Existing Ground Floor Plan



Proposed Floor Plan and Block Plan



Client	MR. HADEEJ	Address	429-431 KINGSBURY ROAD, LINDOK, WYV. DT.
Scale	1:100, 1:200 & A3	Project No.	429-431/04/19/11
Author	SAUD AHMAD	Project Name	429-431 KINGSBURY ROAD, LINDOK, WYV. DT.
Checker	SAUD AHMAD	Project No.	429-431/04/19/11
Designer	SAUD AHMAD	Project Name	429-431 KINGSBURY ROAD, LINDOK, WYV. DT.
Project No.	429-431/04/19/11	Project Name	429-431 KINGSBURY ROAD, LINDOK, WYV. DT.

RECOMMENDATIONS

Grant consent, subject to the conditions set out in the Draft Decision Notice.

A) PROPOSAL

Change of use of existing hot food takeaway (Use class A5) at No 429 and retail shop (Use class A1) at No 431 into a single unit providing a mixed use as restaurant and hot food takeaway (Use class A3 & A5) with associated internal alterations.

B) EXISTING

Situated on Kingsbury Road, within a designated Secondary Shopping Frontage No 429 is a hot food takeaway (Use Class A5) and No 431 was up until very recently in retail use (Use Class A1). It was evident on site that the change of use sought for No.431, from A1 use has already been implemented. The application site is now operating as a mixed use A5/A3 use. The premises have two floors of residential use directly above, these flats are accessed at the rear of the property. A rear servicing road which is shared by all properties within the parade is accessed via Valley Drive.

This is not within a Conservation Area, nor does it relate to a Listed Building.

C) AMENDMENTS SINCE SUBMISSION

Since submission revisions have been made to address comments made by Transportation. A revised rear service yard layout has been submitted confirming the provision of two parking spaces and a transit sized loading bay.

D) SUMMARY OF KEY ISSUES

Principle of non-retail use - The application site is within a designated secondary frontage, policies SH9 and SH10 support A3/A5 uses subject to residential amenity, highway and traffic considerations (as discussed within the 'remarks' section).

Impact on residential amenity - An A5 hot food take-away use is long established on this site. There will be no additional extraction flue required to support the expansion, the business will continue to use existing cookers, grills and ovens for cooking. This proposal would enable the business to expand into the neighbouring unit in order to provide customer seating. Any approval would be subject to conditions to safeguard neighbouring residential amenity.

Impact on character of area - The premises are within a designated secondary shopping frontage. There is a high proportion of retail use along this stretch of frontage (as discussed in the 'remarks' section) and the proposed use would see the expansion of an existing A5 use into a neighbouring unit, last used for A1. This will continue to provide a service to visiting members of the public, and an active frontage will be maintained.

Parking and servicing - Provision should be made for off-street loading within the rear service yard, loading is not permitted from the shared service road which is adopted or from the frontage on Kingsbury Road.

E) MONITORING

The table(s) below indicate the existing and proposed uses at the site and their respective floorspace and a breakdown of any dwellings proposed at the site.

Floorspace Breakdown

Primary Use	Existing	Retained	Lost	New	Net Gain (sqm)
Hot food take away (2004)	77	77	0	0	0
Restaurants and cafes				55	55
Shops	55	0	55	0	0

Monitoring Residential Breakdown

Description	1Bed	2Bed	3Bed	4Bed	5Bed	6Bed	7Bed	8Bed	Unk	Total
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RELEVANT SITE HISTORY

429 Kingsbury Road

09/0005 - Granted

Change of use from retail shop (Use Class A1) to hot-food take-away (Use Class A5).

431 Kingsbury Road

No planning history.

CONSULTATIONS

Surrounding properties (18 total) were notified on 26/05/15. To date one objection (with 11 signature petition) has been received.

Grounds for objection	Response
The existing A5 use fails to manage its waste properly, this proposal will lead to this becoming worse.	The site layout plan proposes a dedicated bin storage area to improve existing arrangements at the rear of No. 431
Detrimental impact on residents above from smells associated with cooking of food on the premises.	No alterations to the existing flue are proposed. The cooking of food will continue from No.429 which is a lawful hot food take-away (Use Class A5). Regulatory Services (Environmental Health) have confirmed that no complaints have been received in relation to the existing take-away business.
Lack of adequate parking available to the rear.	The revised service yard layout complies with adopted parking and servicing standards. This is acceptable to Transportation.
Potential obstruction for residential access to flats above.	The pedestrian access will be maintained.
Increased opportunities for crime.	There is no identified issue in this regard.
Customers may use the rear for outside seating/smoking/drinking.	This would not be acceptable in planning terms, and a condition is recommended to restrict the use of the rear service yard for such purposes.

STATUTORY CONSULTEES

Transportation;-

This proposal can be supported on transportation grounds subject to a condition requiring the submission and approval of a revised site layout plan showing improvements to the rear yard in order to accommodate two off street parking spaces and one 'transit' sized loading bay in the rear yard.

(N.B. The revised site layout plan has been submitted, as discussed in the 'remarks' section).

Regulatory Services;-

Confirm that no nuisance complaints have been received about the existing A5 use. They are satisfied with the fact that there is no proposal to extend or increase the provision of plant equipment to serve the use. It is recommended that consideration be given to restricting opening hours, in the interests of neighbouring residential amenity.

POLICY CONSIDERATIONS

National Planning Policy Framework 2012

Brent Core Strategy 2010
Policy CP16

Brent UDP 2004

BE2 - Townscape

BE9 - Architectural Quality

BE17 - Building Services Equipment

EP2 - Noise & Vibration

TRN23 - Parking Standards Non Residential Development

TRN34 - Servicing in New Development

PS9 - Parking Standards Use Class A3

PS16 - Cycle Parking Standards

PS20 - Servicing Standards Food & Drink (Use Class A3)

SH9 - Secondary Shopping Frontage

Non-retail uses that provide a service to visiting members of the public will be permitted subject to residential amenity, highway and traffic considerations.

(Secondary Frontage here applies to no's 419 -447 and 510-530 Kingsbury Road)

SH10 - Food and & Drink Uses

A3 uses are acceptable subject to requirements of policy SH9.

A3 uses should not result in the creation of traffic congestion, car parking problems or a reduction in highway safety in surrounding areas and should not adversely affect the amenity of residential occupiers.

In considering proposals account will be taken of:-

- (a) The proximity to residential accommodation.
- (b) The specific nature and size of the proposed use.
- (c) Character of the area and concentration and existing level of disturbance from A3 and similar uses.
- (d) Whether the proposed hours of use would result in residential disturbance.
- (e) The practicality of providing extract ducting.

SH11 - Conditions for A3 uses

SH19 - Rear Servicing

DETAILED CONSIDERATIONS

1. A site visit was carried out on 24 July 2015. It was evident that the use applied for has commenced on site. Notwithstanding this the proposed change of use is assessed against planning policy in the same way as it would be were the use not already operating on site.

Policy Context and Principle of Change of Use to mixed use A5/A3:

2. The borough's main network of town centres, consisting of Major Town, Main District and Other District Centres, is generally formed through the designation of Primary and Secondary Shopping Frontages. Within these designated frontages the Council's planning policies, set out in the adopted Unitary Development Plan 2004 (UDP), seek to promote a diverse and appropriate mix of both retail and non-retail uses which can add vitality to the town centre.
3. The premises in question are situated within a secondary shopping frontage. Kingsbury town centre is a very vibrant shopping area which spans both sides of Kingsbury Road and comprises over 100 different shops and commercial services. Policy SH9 of Brent's Unitary Development Plan, 2004 sets out that non-retail uses that provide a service to visiting members of the public will be permitted, subject to residential amenity, highway and traffic considerations. The policy does not require an assessment of the concentration of non-retail uses within the frontage, nor an assessment of the proportion of non-retail uses within the designated frontage.
4. Policy SH10 is specific to A5/A3 uses and states that such uses should not result in the creation of traffic congestion, car parking problems or a reduction in highway safety in surrounding areas and not adversely affect the amenity of residential occupiers. In considering such proposals account should be taken of:-

- (a) The proximity of residential accommodation;
 - (b) The specific nature and size of the use proposed;
 - (c) The character of the area and concentration and existing level of disturbance from A3 and similar uses;
 - (d) Whether the proposed hours of operation would result in residential disturbance; and
 - (e) The practicality of providing extract ducting, ventilation, grease traps and/or noise insulation.
5. Overall it is considered that, in principle, the proposed change of use would comply with the policy SH9 contained in the UDP in terms of the appropriateness of the A5/A3 use. No 429 Kingsbury Road is an established A5 use so this would not change, and the loss of retail unit at 431 results in a replacement use that still provides a service to visiting members of the public. In addition the change of use sought would not result in an over concentration of non-retail uses within this part of the secondary frontage, it was observed on site there is a high proportion of existing retail use towards the eastern end of the frontage. From 419 through to 447 Kingsbury Road there is only one other non-retail food related use, this is found at No 437 Kingsbury Road.
 6. Planning permission 14/4504 was granted for the neighbouring unit No.433 to change from A1 to a mixed use A1 and A5 (hot food take-away). This demonstrates that the introduction of A3/A5 uses within this stretch of secondary frontage is acceptable due to the high proportion of existing retail use.
 7. Before the proposed change of use can be considered acceptable in all respects the other, more direct, impacts of the proposed development must first be duly considered.

Impacts of the Proposed Use on Residential Amenities

8. Policy SH10 of the UDP sets out the specific issues associated with food and drink uses which must be considered if the proposal is acceptable. These issues generally include the impact of the proposal on residential amenity and local highway conditions. Policy SH11 suggests that conditions may be imposed on any new A3 use to ensure a satisfactory standard of development.
9. There are residential units located above the building and adjacent, this is the case throughout the Kingsbury Road town centre. No 429 Kingsbury Road, which is operating lawfully as an A5 hot food takeaway has flats directly above so there would be no change in circumstances as far as this property or the flats directly above are concerned. No 431 which has previously been in A1 (retail) would become part of a combined mixed A5/A3 use, the expansion into this unit will provide additional customer seating primarily and based on the layout provided capacity for 32 customers, with WC and a counter serving hot and cold drinks. The cooking of hot food will continue to take place from No 429 where the grills, fryers, ovens and means of extraction are all situated. There is to be no change in this regard.
10. The impacts associated with this mixed use and the cooking of hot food on adjoining residential units would be not be materially different to the long standing relationship created between No 429 and the flats above. There are no proposals to extend or increase the provision of extraction/flue equipment, the business will continue to make use of the existing flue which rises vertically up at the rear of No 429. The installation of additional plant equipment would in any event require planning permission, and a condition is recommended to this effect.
11. The subject site is located within a busy frontage, fronting a busy London Distributor Road and therefore some level of background noise and disturbance arising from the general activities of commercial night time economy operations is to be expected. In order to preserve the residential amenities of neighbouring occupiers from potential late night noise and disturbance a condition is recommended to control the hours of use.
12. Customer seating and tables are currently provided to the frontage. As confirmed by Transportation this is all public footway, and it is very wide along this stretch measuring 10m. As this is public footway then a street trading license is required for outside tables and chairs. Officers in Regulatory Services (Licensing) have confirmed that an application for this was received on 23/07/15, and although not currently decided advise that it is likely that this will be granted subject to conditions to control the hours of use, storage arrangements out of hours and refuse arrangements. The hours applied for in the License application in respect of the use of outdoor tables and chairs on the frontage are 08:00 to 20:00. In the event that planning permission is granted this would be subject to a planning condition to restrict the hours of use of this seating area in order to safeguard neighbouring residential amenity.
13. A condition is also recommended to restrict use of the rear yard for any form of outside seating, smoking or drinking area for customers.

Alterations to the Building & Impact on Character of Area:

14. No external physical alterations are proposed to the application site. Some minor internal works are proposed, including a new opening at ground floor between the shared wall to link the units with one another.
15. The change of use would not adversely affect the character of the area. This is located within a designated frontage, fronting a busy route. A5/A3 uses contribute to the vitality and viability of the Borough's designated centres, and play an important part in the night time economy. The Kingsbury town centre consists of other similar uses, however this particular stretch of the secondary frontage is not all that well served by A5/A3 uses so it will not lead to an over concentration. On balance the expansion into No 431 and loss of a retail unit would not be detrimental to the character of the area, an active frontage would continue to be maintained.

Parking, Traffic and Servicing:

16. There is a rear yard area measuring an approx. 3m width x 20m deep and can be accessed by vehicles from the adopted rear service road.
17. This application is to combine the unit with the vacant unit next door (use class A1) and change of use to a hot food restaurant and take away (use class A3). The 2 flats above number 431 and the two flats above 429 will remain as they are.
18. The Public Footway on Kingsbury Road extends to the building line and the site does not have a private forecourt. This service road, which runs along the rear of the property, is part of the Public Highway maintainable at public expense.
19. Kingsbury Road is a London Distributor Road. The site lies within controlled parking zone 'Y' which operated 08.00-18.30 Mon-Sat.
20. The site has good access to public transport with PTAL 4. There are 4 bus routes available locally and there is Kingsbury Station, within walking distance.
21. The existing parking allowance for the take away shop (90m²) and the neighbouring retail unit (66m²) is 1 space for the first 400m². Therefore the parking allowance permitted for both units is a total of 2 spaces. The parking allowance for the combined units as use class A3 restaurant/takeaway will reduce the parking allowance to 1 space for the proposed site.
22. The servicing standards are set out in PS20 whereby one 'transit' sized loading bay should be provided. Both units have rear yards where servicing can take place however, both rear yards are not currently in a condition where this is possible and transportation would request that hard standing is provided for 2 parking spaces and a servicing bay, and that revised plan is submitted showing this.
23. It has been observed that the shops in this area use the rear service road for servicing and obstruct access for other vehicles whilst unloading is being carried out. In addition to this, unloading also occurs from the main Kingsbury Road which is not acceptable. Therefore improvements to the rear service yard to allow parking and servicing should be provided.
24. To address this a revised rear servicing layout plan has been submitted, this demonstrates a layout that will include two parking spaces, a transit sized loading bay and dedicated area for bin storage at the rear of No.431. The applicants also confirmed in writing that they will ensure the removal of an existing (partially completed) unauthorised rear extension that extends over much of the rear service yard for No.431. This extension does not benefit from permission, and would not be supported in any event due to the loss of rear servicing facilities for the building. In the event that permission is granted for this change of use a planning condition is recommended requiring the removal of the unauthorised rear extension in its entirety and to implement the approved parking and servicing layout within a specified timescale. This is considered to be necessary to ensure the removal of an unacceptable rear extension and to provide satisfactory parking and servicing for the use, in the interests of highway safety.
25. Whilst the general parking standard is met, standard PS9 also refers to the impact on highway and pedestrian safety of vehicles stopping/waiting in the vicinity of take-away sites. On street parking is available on Kingsbury Road and there is also a public car park nearby allowing vehicles to park safely

and not obstruct the main road whilst visiting the take away element.

26. A minimum of 2 cycle parking space should be provided to comply with PS16 however, there is sufficient cycle parking on Kingsbury Road.
27. The proposed service yard layout makes provision for a dedicated bin storage area which may help address the related problems with the storage of waste, eluded to by the objections.
28. This proposal can be supported on transportation grounds subject to the aforementioned conditions requiring (i) the removal of the unauthorised rear extension in its entirety and (ii) implementation of the approved rear parking and servicing, both within a specified timescale.

Conclusion

29. The proposed change of use is acceptable in policy terms, is considered to an appropriate non-retail use within a designated secondary shopping frontage that will not have an unacceptable impact on the general amenities of the area. Approval is accordingly recommended with conditions attached.

DRAFT DECISION NOTICE



Brent

DRAFT NOTICE

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

DECISION NOTICE – APPROVAL

Application No: 15/1709

To: Mr Saud Ahmad
87 Hunters Grove
Hayes
Middlesex
UB3 3JF

I refer to your application dated 21/04/2015 proposing the following:
Change of use of existing hot food takeaway (Use class A5) at No 429 and existing retail shop (Use class A1) at No 431 into a single unit providing a mixed use as restaurant and hot food takeaway (Use class A3 & A5) with associated internal alterations
and accompanied by plans or documents listed here:
(See Condition 1)
at 429 & 431 Kingsbury Road, London, NW9 9DT

The Council of the London Borough of Brent, the Local Planning Authority, hereby GRANT permission for the reasons and subject to the conditions set out on the attached Schedule B.

Date:

Signature:

Head of Planning, Planning and Regeneration

Notes

1. Your attention is drawn to Schedule A of this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
2. This decision does not purport to convey any approval or consent which may be required under the Building Regulations or under any enactment other than the Town and Country Planning Act 1990.

DnStdG

SUMMARY OF REASONS FOR APPROVAL

- 1 The proposed development is in general accordance with policies contained in the:-

National Planning Policy Framework 2012
Brent Core Strategy 2010
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
Transport: in terms of sustainability, safety and servicing needs

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

Site Location Plan
429-431/0415FUL1
429-431/0415FUL revA

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

- 2 No music, public address system or any other amplified sound shall be audible within any noise sensitive premises either attached to or in the vicinity of the subject premises.

Reason: To safeguard the amenities of the nearby occupiers.

- 3 The rear service yard to both 429 and 431 Kingsbury Road shall not be used as an area for outside customer seating or smoking in connection with the ground floor use hereby approved.

Reason: In the interests of safeguarding residential amenity.

- 4 The ground floor of 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:

0800 to 2300	Monday to Saturday
0800 to 2000	Sunday and Bank Holidays

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

- 5 Any outside customer seating and/or tables to the frontage of the premises is only permitted between the hours of 08:00 to 20:00 (Mon to Sun) and shall be cleared away at all other times, unless otherwise agreed in writing by the Local Planning Authority.

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

- 6 No alterations to existing or the installation of any additional plant, fume extraction and odour control equipment is permitted unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the any changes to the extract equipment would not harm the amenity of residential occupiers.

- 7 The existing unauthorised rear extension over the rear service yard shall be fully removed (including all associated materials) within 1 month of the date of decision, and the approved parking and servicing layout implemented in full within this time period.

Reason; To ensure adequate servicing facilities in accordance with adopted UDP standards.

- 8 Pedestrian access to the first floor flats shall be maintained free from obstruction at all times.

Reason; To safeguard neighbouring residential amenity.

INFORMATIVES

- 1 The applicant is advised that advertisement consent is required for the recently installed fascia sign and the relevant application should be submitted for this.

Any person wishing to inspect the above papers should contact Gary Murphy, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5227