

**Committee Report  
Planning Committee on 16 March, 2011**

**Item No. 8  
Case No. 10/2822**

---

**RECEIVED:** 1 December, 2010

**WARD:** Kilburn

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** 325-327 Kilburn High Road, London, NW6 7PY

**PROPOSAL:** Change of use from hairdressing salon (Use Class A1) to restaurant and take away (combined Use Classes A3 and A5) and installation of extract duct at rear of property

**APPLICANT:** Viceroy Properties Ltd

**CONTACT:** F J Thompson & Co.

**PLAN NO'S:**  
3192/1  
3192/2D

---

**RECOMMENDATION**

Grant consent

**EXISTING**

The site is occupied by a four storey property on Kilburn High Road. The property is not located within a Conservation Area nor is any part of the property listed. It is located within a Secondary Shopping frontage.

The ground floor is in use as a shop whilst the upper floors are in use as residential units. A number of the residential properties at upper floor levels gain access via an adjacent alleyway to the north of the site (Albion Alley).

**PROPOSAL**

Please See Above

**HISTORY**

Planning applications of relevance to this application include the following;

Planning application (Ref No: 08/2658) for the Change of use of ground floor rear from (Use Class A2) into 2 Offices (Use Class B1) was granted approval on 31 November 2008

Planning application (Ref No: 07/0269) for the Change of use of ground floor from bank (Use Class A2) to restaurant (Use Class A3) and installation of extractor duct to rear elevation of building was granted permission on 26 September 2007

Planning application (Ref No: 06/2713) for the Change of use of ground floor from bank (Class A2) to mixed use bank (Class A2) at front and 2 x residential flats (Class C3) at rear was refused on 15 September 2006.

## **POLICY CONSIDERATIONS**

### **Brent Unitary Development Plan 2004**

**STR11** – The quality and character of the Borough's built and natural environment will be protected and enhanced; and proposals which would have a significant harmful impact on the environment or amenities of the borough will be refused.

**BE2** – Proposals should be designed with regard to their local context, making a positive contribution to the character of the area.

**TRN11** – Developments should comply with the plan's minimum Cycle Parking Standards (PS16); with cycle parking situated in a convenient, secure and, where appropriate, sheltered location. Priority will be given to improving cycle parking at stations and in town centres.

**TRN34** – The provision of servicing facilities is required in all development covered by the plan's standards in Appendix TRN2, and the loss of such facilities will be resisted.

**SH2** – Planning proposals should support the maintenance and improvement of shopping and other facilities in Kilburn Town Centre in accordance with its status as a major town centre.

**SH9** – Within Secondary Shopping Frontages of town centres non-retail uses that provide a service to visiting members of the public will be permitted subject to residential amenity, highway and traffic considerations.

**SH10** – A3 uses are acceptable in the Borough's centres providing they comply with the requirements of either SH7 or SH9, and the requirements below. Where the proposal is of a scale to attract large numbers of people it will be considered against policies SH3-SH5. A3 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 proposals account will 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 the 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 extra ducting, ventilation, grease traps and/or noise insulation.

Consideration will be given to granting permission for a specific use within the A3 use class, restricted by conditions, where it can be demonstrated this would not result in unacceptable environmental impact.

**SH11** – Where permission is granted for A3 appropriate conditions may be imposed relating to hours of opening, noise, disposal of refuse, or restricting the sale of hot food to be consumed off the premises.

**SH12** – Where customer toilet facilities are provided on change of use to class A3, applicants will be encouraged to include reasonable provision for disabled people.

**PPS 6** : Planning for Town Centres

## **CONSULTATION**

### **External**

On 10 January 2011, 52 neighbouring properties and ward Councillors were consulted. The Council has received 3 letters of objection. The objections are outlined below:

- Impact of noise, fumes and odours from the restaurant, associated extraction equipment, and the hours any noise would be created.
- The proliferation of food and drink uses in the immediate vicinity and the effect on the retail character, function, vitality and viability of the centre.
- Obstruction of alleyway which serves as access to neighbouring flats (Albion Alley)
- The extractor duct is visually obtrusive
- No details of waste disposal
- The change of use would create mental instability of neighbouring residents due to fumes, pollution and noise
- No fire access

#### Internal

- Environmental Health do not object provided that certain conditions are attached to control noise, vibration and odour in conjunction with the A3 use.
- The Highway Engineer has no objections on traffic grounds.
- StreetCare raise no objection and consider refuse arrangements acceptable.

#### Other

The opposite side of Kilburn High Road falls within the boundary of London Borough of Camden. Camden Council raise no objection.

### **REMARKS**

#### Principle of Development

The ground floor of No 325-327 is used as a hair dressers (A1). The policy objectives for Town Centres and Shopping set out in the UDP 2004, are clear in requiring a mixed use of retail services within the Town Centre. The site is located within a Secondary Shopping Frontage, as such the principle of a A3/A5 use in a Town Centre is not objected to.

Policy SH9 of Brent's Unitary Development Plan 2004 sets out that the proposed change of use of a premises to non-retail uses A3/A5 within the Designated Shopping Parade will be permitted where these provide a service to visiting members of the general public, subject to residential amenity and highway and traffic considerations. In brief, transport engineers have not taken issue with the change of use as discussed below. With the limitation on opening hours and provision of insulation as suggested by condition the impact on future residents should be limited. There is no in principle objection to the change of use.

Policy SH10 requires consideration to be given to the specific nature of the use proposed and its effect of the use on the character of the area. Specifically the policy requires an assessment of the concentration of non-retail uses and those in food and drink use in the immediate vicinity, as a reduction of retail uses and a proliferation of food and drink uses can affect the retail function and character of a centre and result in disturbance from night-time activities of food and drink uses.

There is a run of 9 non-food and drink uses to the north of the application site, and other than a Class A3 café on the opposite corner to the south of Dyne Road, a run of 4 non-food and drink uses to the south. Whilst the character of this Town Centre is acknowledged, and there are a large number of food and drink establishments in the wider area, the proliferation of such uses in the vicinity of the application site cannot be considered to be an over-concentration.

Your officers find there to be no policy grounds for refusal to resist the change of use. The replacement use will contribute to the vitality and viability of the established Town Centre thus meeting policy objectives outlined in the Councils Unitary Development Plan 2004, PPS 6 : "Planning for Town Centres" and indeed the Councils Adopted Core Strategy.

### Extract Duct

The proposal will involve the erection of an extract duct to the rear of the property. A similar duct was approved during the 2007 application, as outlined in the report's site history. The Council's Environmental Health Unit have inspected the proposals and consider the location of the extract duct to be generally conducive to protecting residential amenity in terms of noise and odours. However, for the avoidance of doubt, it is recommended that a condition requiring further technical details of the extract system should be attached to any permission to ensure that the proposed duct would not cause unreasonable noise, vibration or odours.

In terms of character and appearance, the siting of the proposed extract duct would make it unlikely to be so visible from any of the residential windows within the subject building to cause detrimental harm. However, the ducting is likely to be visible from areas to the rear of the subject site. The applicant has proposed to render the duct, as it would be sited on the part of the building that is presently rendered to reduce the visual impact of the proposed duct on the character and appearance of the surrounding area. Officers consider that the proposed extract duct would have a reasonable impact on the character and appearance of the property and surrounding area.

### General Activity

The subject site is located within a busy Town Centre and therefore some level of disturbance arising from the general activities of commercial operations is to be expected. However, it is important to ensure that any disturbance is kept to a reasonable minimum. It is therefore recommended a condition restricting the hours of use from 0800-2300 7 days a week.

Owing to the duct being positioned on a recessed elevation, as far away from neighbouring windows as possible, where it will be appropriately screened Officers consider that the visual amenity of residents will be protected. Further as the hours of operation are to be limited to no later than 2300 on any given day and details to control noise, vibration and odour in conjunction with the A3/A5 use will be secured by condition officers consider the amenity of neighbouring residents to be protected. The concerns of neighbours are noted, but it is considered that providing that the controls referred to above are implemented it would be difficult, in a busy Town Centre location, to argue that amenities would be unacceptably impacted upon.

### Highways

Policy SH10 also expresses that such uses are acceptable provided they do not result in the creation of traffic congestion, car parking problems or a reduction in highway safety in surrounding areas.

The application site is located on the west side of Kilburn High Road (a London distributor road) at its intersection with Dyne Road. Kilburn High Road does not have any frontage parking and is in a Controlled Parking Zone which operates 08:00-18:30 Mon to Sat. Dyne Road has space for two cars on the site frontage. Access to public transport is very good, Kilburn (tube) and Brondesbury (rail) Stations are within 75m and 200m of the site respectively, and there are numerous bus routes on Kilburn High Road. The PTAL rating is 5 (very good).

There are no objections from Transportation Engineers concerning the proposed change of use as current parking requirements will not be increased. Parking standards specified in policy PS9 do not require any parking spaces to be provided.

The servicing requirements of the unit will be reduced as retail floorspace attracts a greater requirement than the proposed use. Refuse and recycling materials will be brought through the restaurant and placed on the street on pick up days, as is common in the High Road area. The only modification to accommodate this change will be the widening of the doors. Officers do not take issue with the wider doors and Streetcare Officers have confirmed they have accepted this arrangement

The proposed floorplan shows 16 seats which would require cycle storage for up to 2 cycles. A public bicycle stand is available within 25m of the site, so this will be likely to meet the needs of potential customers.

In summary the Council's parking standards and servicing standards for an A3/A5 use are met. Also it is considered the proposal will not result in detrimental impacts on traffic, parking or highway safety, as it is within an area where strict parking controls are in place. It is considered that these would be likely to deter/prevent customers parking illegally, particularly when seeking to take advantage of the take-away facilities, where people may be tempted to stop as close as they possible can to the premises.

#### Conclusion

The proposed change of use does not constitute an over-concentration or unreasonable proliferation of food and drink uses, for the reasons set out above.

While the proposed use does have the potential to create adverse effects on the amenity of neighbours and the area generally, a number of recommended conditions, including the requirement to submit further details of a fume extraction system are considered sufficient to ensure that no such adverse effects are caused by the proposed use. The proposal therefore complies with the policies contained in Brent's Adopted Unitary Development Plan, 2004 and is accordingly recommended for approval.

**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 hereby permitted shall be carried out in accordance with the following approved drawing:

3192/1

3192/2F

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

(2) 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.

- (3) The premises shall only be used for the preparation or sale of hot food and for ancillary purposes between the hours of 0800-2300.

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

- (4) The front entrance door shall be made self-closing to minimise emission of odours and/or noise to the neighbouring area.

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

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

Reason: To safeguard the amenities of the adjoining occupiers.

- (6) The change of use hereby authorised shall not be commenced until full details of a system for the extraction and ventilation of fumes and odours from the kitchen of the proposed restaurant have been submitted to and approved in writing by the Council. The information submitted shall include:

(a) Details of the apparatus installed for the extraction of the fumes and the neutralising of all effluvia from the processes of preparation, cooking and storage of food and waste.

(b) Details of means to ensure the plant and ducting do not cause unreasonable effects on the amenity of any residential neighbour.

(c) Method of enclosing ducting with rendered cladding

The relevant aspects of the development shall not be installed other than as approved, and shall be retained as such, permanently thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining property.

- (7) Detailed particulars of the levels of noise to be generated within the buildings and the prediction of those levels at the site boundary of the premises, the siting of machinery and plant, the provision to be made for insulation of the building and plant against the transmission of noise and vibration and of the times during which noise-producing activities will be carried out in the buildings, shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced; and the development shall be carried out and completed and the premises shall be used in every respect in accordance with these details.

Reason: To safeguard the amenities of the adjoining occupiers.

- (8) Noise generated by the operations conducted within the premises by virtue of the granting of this permission shall not cause any increase in the existing hourly background-noise level of dB(A) (L90 - the level of noise exceeded for 90% of the time) as measured at the boundaries.

Reason: To safeguard the amenities of the adjoining occupiers.

**INFORMATIVES:**

None Specified

Any person wishing to inspect the above papers should contact Tanusha Naidoo, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5245



# Planning Committee Map

Site address: 325-327 Kilburn High Road, London, NW6 7PY

Reproduced from Ordnance Survey mapping data with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. London Borough of Brent, DBRE201 2005



London Borough of Brent - Copyright (C)

This map is indicative only.