

**Committee Report
Planning Committee on 7 June, 2011**

Item No. 2/12
Case No. 11/0464

RECEIVED: 17 February, 2011

WARD: Kilburn

PLANNING AREA: Kilburn & Kensal Consultative Forum

LOCATION: 77 Kilburn High Road, London, NW6 6HY

PROPOSAL: Erection of enclosed decking to front of public house

APPLICANT: Mr Costa Tofan

CONTACT: Office Sian Architecture

PLAN NO'S:
See condition 2

RECOMMENDATION

Approval

EXISTING

The subject site, located on the southern corner of the junction between Kilburn High Road and Brondesbury Villas, is occupied by a three-storey public house. The public house has active frontages, including customer access, to both Kilburn High Road and Brondesbury Villas. Along Kilburn High Road the subject site forms part of the designated secondary shopping frontage which is characterised by a wide range of town centre uses. Other than where it meets Kilburn High Road, Brondesbury Villas is predominately of a residential character and forms part of the Kilburn Conservation Area.

PROPOSAL

The proposed development would involve the erection of an area of decking to the front of the public house adjacent to Kilburn High Road.

Since the receipt of the application, Officers have advised that the proposals be amended to omit a second proposed area of decking to the side of the public house adjacent to Brondesbury Villas. The amendments have also involved the replacement of balustrading to the decking with planters.

HISTORY

There is a lengthy planning history on the site consisting primarily of applications for minor alterations in conjunction with the use of the premises as a public house. These applications are considered to be of limited relevance to the determination of the current application as there have been no planning applications on the site since 1995.

POLICY CONSIDERATIONS

London Borough of Brent Unitary Development 2004

The following 'saved' policies contained within the Unitary Development Plan are considered most relevant to the determination of the current application.

BE2 Townscape: local Context & Character
BE6 Public Realm: Landscape Design
BE7 Public Realm: Streetscape

SUSTAINABILITY ASSESSMENT

N/A

CONSULTATION

EXTERNAL

Consultation letters, dated 8th March 2011, were sent to 30 neighbouring owner/occupiers. In response six letters of objection have been received. The concerns of the objectors include:-

- The proposed development would increase instances of noise disturbance and anti-social behaviour associated with the use of the existing public house.
- The proposed development will set a precedence for other similar forms of development along Kilburn High Road.
- The proposed development would interfere with the operation of a nearby bus stop.
- The development will restrict visibility which could increase crime.
- The development would restrict pedestrian use of the pavement

It should be noted that since the receipt of the above objections that the applicant has, on the advice of Officers, amended the proposals to omit a second proposed area of decking to the side of the public house adjacent to Brondesbury Villas. The amendments also involve the replacement of balustrades to the decking with planters.

CAMDEN COUNCIL

No comments received.

INTERNAL

Highways & Transport Delivery

No objections to the proposal have been raised by the Highways and Transport Delivery Officers. It has also been confirmed that the land to the front of the public house, on which the proposed decking would be sited, is privately owned and that it does not form part of the public highway.

Environmental Health

Environmental Health Officers have confirmed that they have no record of formal complaints regarding noise from the use of the pub or the area outside for smoking and that they have no objection to the proposed development. Environmental Health have recommended that Informative be placed on any permission advising the applicant of the legal requirements should they intend to allow the outside seating area to be used by smokers.

REMARKS

IMPACT ON NEIGHBOURING OCCUPIERS

The curtilage of the existing public house extends beyond the front and side of the building on site. It is on this private land to the front of the building, adjacent to Kilburn High Road, that the proposed decking would be sited. The submitted proposal had originally envisaged a second area of decking on the private land to the side of the public house, adjacent to Brondesbury Villas. However, the application has since been amended by the applicant to remove the proposed second area of decking in response to concerns raised regarding its proximity to residential dwellings along Brondesbury Villas which is a predominately residential street. As such, it is considered that the residential occupiers most likely to be affected by the proposal are those living on the upper floors of the properties along Kilburn High Road.

Although Environmental Health have confirmed that there is no record of formal complaints regarding noise from the public house, Officers acknowledge the concerns that have been raised by objectors with regards to instances of noise disturbance and anti-social behaviour associated with the use of the public house. However, whilst sympathetic to these concerns, it should be noted that the outside area can already be used, without permanent fixtures and fittings, as a sitting out area without requiring planning permission, as is the case for the adjacent coffee shop at 75 Kilburn High Road. The Council's Licensing Officers have confirmed, that although the premises is licenced to operate until 5am, a condition of the license is that all outside drinking should cease at 11pm. Kilburn High Road is a busy town centre with a number of uses which contribute to the night time economy and therefore it is considered reasonable to expect that during the evenings residents living within the centre will experience some level of disturbance beyond that expected within predominantly residential areas. What is important is to ensure that any disturbance is kept to a reasonable level and, in this case, it is considered that the terms of the licence on the premises already seek to ensure that this should be the case.

Whilst the provision of decking to the front of the public house would formalise the space as a customer seating area, given the above it is not considered likely that this would, in itself, result in a significant change to the existing use of the area in terms of the hours of operation and the number of customers using the area. As such, the provision of decking itself is unlikely to result in any significant increase in noise disturbance and/or anti-social behaviour beyond existing levels. On balance, it is considered that the provision of decking to the front of the premises would have an acceptable impact on the amenity of neighbouring residential occupiers.

CHARACTER & APPEARANCE

The subject site is located close to, but outside of, the Kilburn Conservation Area. The siting of the proposed decking at the front of the premises mean that it would be unlikely to have any significant affect on the views into or the setting of the nearby Conservation Area. The existing public house is not listed, either statutorily or locally.

The proposed development would involve the erection of a section of decking to the front of the premises which would be approximately 8.4m in width and 5.3m in depth. The decking would generally be enclosed by planters with a height of approximately 0.6m, whilst the decking itself would have a height of approximately 0.1m. The decking would be accessed by a ramp from street level allowing for disabled access.

Overall, it is considered that the proposed decking would be unlikely to have a substantial impact on the character and appearance of the public house whilst the provision of planters would constitute a pleasant addition to the streetscene.

CONSIDERATION OF OBJECTIONS

The concerns of the objectors, so far as they relate to noise disturbance and anti-social behaviour, have been addressed in the main report above.

Officers do not consider that the approval of this proposal would set a precedent for other similar forms of development within the surrounding area as each planning application should be determined on its individual merits.

In terms of the impact on pedestrian routes and the nearby bus stop it should again be clarified that the development is to be sited on private land. Whilst in the past the public may have benefited from the site being open to the public footpath, it should be noted that there is no public right of way over this land and should the applicant decide to enclose this land then it would be possible for them to do so, subject to maximum height requirements, without requiring planning permission. In any case, the Council's Highway and Transport Delivery Officers have confirmed that adequate footpath width would be maintained.

Since submission the scheme has been amended so that the proposal would have a lesser impact on visibility and site lines around the site. It is considered unlikely that the development would result in any significant increase in crime within the surrounding area.

REASONS FOR 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

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 development hereby permitted shall be carried out in accordance with the following approved drawings:-

- C02
- C03
- C04
- C10 Rev A
- C11
- C12 Rev A

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

INFORMATIVES:

- (1) The applicant is advised that under the Smoke-free (Premises and Enforcement) Regulations 2006, smoking is not permitted in premises that are enclosed or substantially enclosed. An enclosed or substantially enclosed area is one which has a roof and more than 50% of the wall area enclosed. The Council's Environmental Health Officers advise that for the purposes of these regulations they would consider an awning and hedging as a roof and walls, respectively. In order to comply with the regulations the applicant is advised that the hedging should not be allowed to grow above half of the height of the space available below the awning.

- (2) The applicant is informed that the Council's Licensing Officers have confirmed that a condition of the license relating to these premises is that all outside drinking should cease by 11pm.

REFERENCE DOCUMENTS:

London Borough of Brent Unitary Development Plan 2004
Six letters of objection
Consultation responses from Highway & Transport Delivery and Environmental Health

Any person wishing to inspect the above papers should contact Ben Martin, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5231



Planning Committee Map

Site address: 77 Kilburn High Road, London, NW6 6HY

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This map is indicative only.