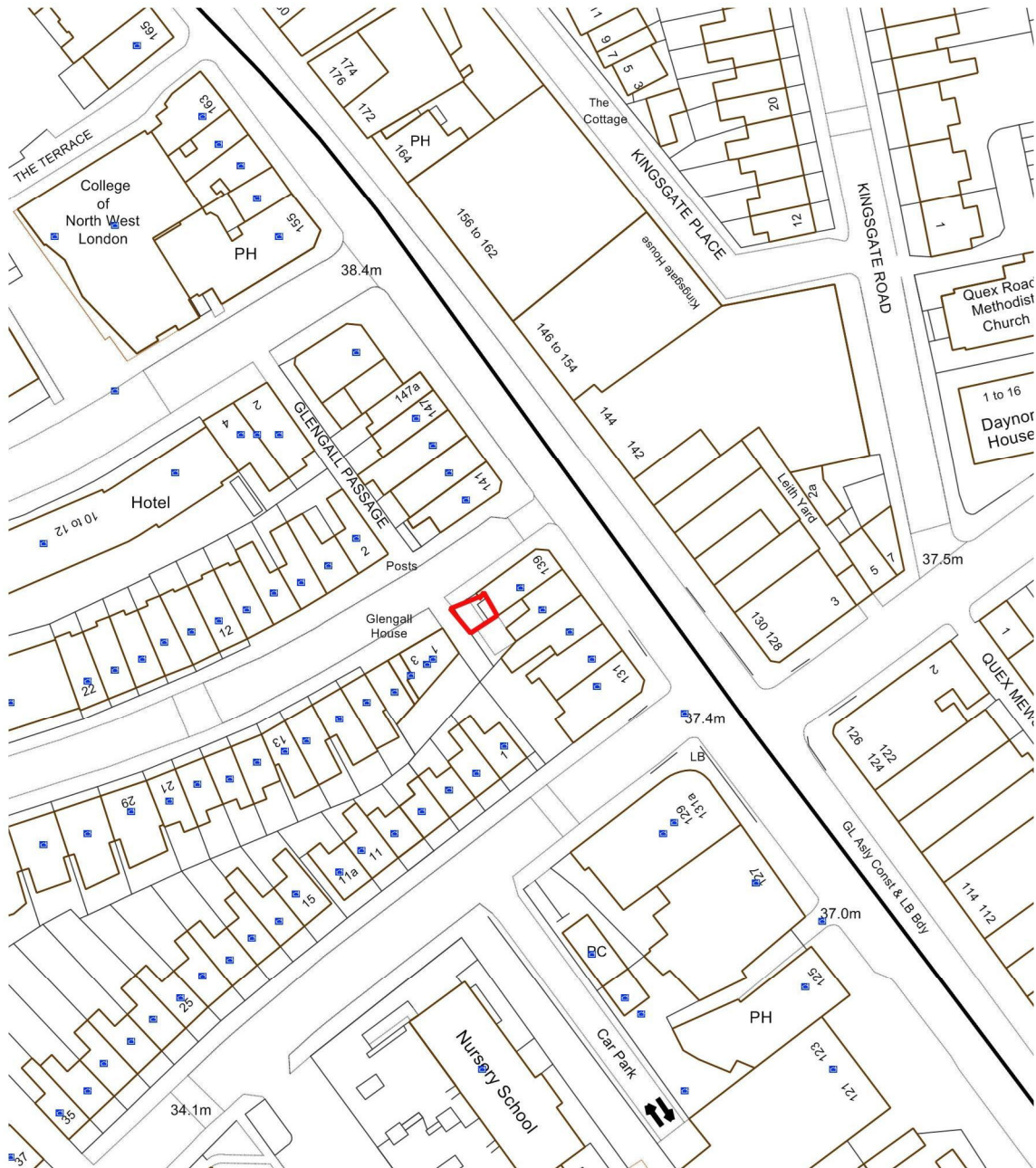
 **Planning Committee Map**  
Site address: 139D Kilburn High Road, London, NW6 7HR  
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This map is indicative only.

**RECEIVED:** 25 May, 2011

**WARD:** Kilburn

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

**LOCATION:** 139D Kilburn High Road, London, NW6 7HR

**PROPOSAL:** Change of use from office (Use Class B1) to financial services (Use Class A2) excluding betting shop

**APPLICANT:** Mr C Pornaris

**CONTACT:** Mr T Edens

**PLAN NO'S:**  
See condition 2

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## **RECOMMENDATION**

Approval

## **EXISTING**

The subject site comprises of a single-storey, plus basement, self-contained annexe to the frontage property at 139 Kilburn High Road. The unit is independently accessed from Glengall Road. The unit, which at the time of a recent site visit appeared to be vacant, was most recently used to provide office accommodation (Use Class B1). The subject site, along with the frontage property, lie within the Primary Shopping Frontage. The adjacent properties facing Glengall Road lie within the Secondary Shopping Frontage.

## **PROPOSAL**

See above

## **HISTORY**

### **DIRECT SITE HISTORY**

A Certificate of Lawful Use (09/1905) for the existing use of the premises as offices (Use Class B1) was issued by the Council on the 26th October 2009. There is no other planning history that relates directly to the subject unit. However, there is substantial planning history relating to the wider site at 139 Kilburn High Road and, in particular, a number of recent planning applications relating to the ground floor shop unit, fronting Kilburn High Road, which are considered relevant to the determination of the current application.

### **ASSOCIATED SITE HISTORY**

For the avoidance of doubt, the applications referred to below do not relate specifically to the subject site at 139D Kilburn High Road. However, they do relate to the adjacent shop unit 139 Kilburn High Road.

Most recently, as Members may recall, applications for the replacement of the existing shopfront (11/0346) and the installation of new shop signs (11/0347) to the shop unit at 139 Kilburn High Road were reported to Planning Committee at the meeting held on 12th May 2011. During that meeting objectors raised concerns that the works applied for were required in connection with the occupation of the shop unit by H&T Pawnbrokers and that this constituted a material change of use. At the time Officers expressed a view that the use of the premises by H&T Pawnbrokers was likely to fall within Use Class A1 and, therefore, no change of use would have occurred. Members resolved to delegated authority to the Head of Area Planning to approved both applications subject to further legal advice from the Director of Legal & Procurement as to whether the current use of the premises by H&T Pawnbrokers constituted a change of use. These applications remain undetermined.

Prior to the most recent applications, discussed above, on the 26th April 2010 a planning application (10/0370) was refused for a change of use of the shop unit at 139 Kilburn High Road from retail (Use Class A1) to a betting shop (Use Class A2). This application was refused for the following reason.

*"The proposed use of the premises as a betting shop (Use Class A2) would exacerbate the existing over-concentration of non-retail units within the both the locality and wider Primary Shopping Frontage and would fail to enhance the range of services that is already provided causing harm to the vitality of Kilburn Town Centre and lessen its attractiveness to shoppers contrary to policy SH6 and SH7 of the London Borough of Brent Unitary Development Plan 2004"*

Following this refusal a subsequent planning application (10/2533) for the change of use of the shop unit from retail (Use Class A1) to financial services (Use Class A2) was submitted. This application was also refused by the Council on 9th December 2010 for the following reason:-

*"The proposed use of the premises to provide financial services (Use Class A2) would exacerbate the existing over-concentration of non-retail units within the both the locality and wider Primary Shopping Frontage lessening its attractiveness to shoppers thus causing harm to the vitality and viability of Kilburn Town Centre contrary to policy SH6 and SH7 of the London Borough of Brent Unitary Development Plan 2004"*

## **POLICY CONSIDERATIONS**

### **London Borough of Brent Unitary Development Plan 2004**

SH6            Non-Retail Uses Appropriate to Primary Shopping Frontages  
EMP9         Development of Local Employment Sites

## **SUSTAINABILITY ASSESSMENT**

N/A

## **CONSULTATION**

### **EXTERNAL**

Consultation letters, dated 31st May 2011, were sent to Ward Councillors and 197 local owner/occupiers. In response 10 letters of objection have been received. The concerns of the objectors include:-

- Concerns regarding the lack of detail regarding the proposed use.
- Concerns that the proposed use will result in an over concentration of non-retail/financial

service uses.

- Concerns that the proposed use could increase levels of anti-social behaviour within the locality.

As the subject site is in close proximity to the Borough boundary, the London Borough of Camden have been consulted on the application. In response they have confirmed that they have no observations to make on the proposal.

## INTERNAL

### Environmental Health

Have confirmed that Environmental Health do not wish to make any specific comments on the application.

## REMARKS

### PRINCIPLE OF CHANGE OF USE

The proposal seeks planning permission to change the use of the subject unit from offices (Use Class B1) to financial/professional services (Use Class A2), excluding any use as a betting shop which falls within the same Use Class as that applied for. For the information of Members, Use Class A2 includes uses such as banks, building societies, estate agencies and employment agencies, as well as betting shops/bookmakers. The subject site falls within the designated Primary Shopping Frontage for Kilburn Town Centre.

Policy SH6 of the Council's Unitary Development Plan 2004 sets out that non-retail uses appropriate within a primary shopping frontage will generally comprise of those uses falling within Use Classes A2, A3, A4 and A5. It is noted that uses falling within Use Class B1 are not listed as being appropriate within primary shopping frontages. As such, the principle of the proposed change of use is generally supported under policy SH6. Unlike recent planning applications relating to the shop unit at 139 Kilburn High Road, referred to in the 'History' section of this report, the current proposal seeks permission for a change from one non-retail use to another and, therefore, the proposal would not affect the overall composition of the primary frontage in terms of the proportion of retail and non-retail uses. As such, it is not considered that the proposed development would cause the same material harm to the vitality and viability of Kilburn Town Centre which resulted in the recent refusal of the planning applications at 139 Kilburn High Road. Furthermore, the applicant has stated that they are willing to exempt the use of the premises as a betting shop from any permission which addresses particular concerns regarding the overconcentration of such uses within the locality of the site which contributed to the refusal of planning application 10/0370. This restriction should be enforced through a suitably worded planning condition attached to any permission.

Whilst the existing office use would normally be considered a local employment use it is considered that the constraints of the unit, such as the limited internal floor area of approximately 90m<sup>2</sup>, of which 57m<sup>2</sup> is located at basement level, would severely limit the viability of the site to provide significant employment opportunities to modern standards in the future. It is also considered unlikely that the existing unit would be capable of generating significant employment benefits beyond those that are likely to be associated with the proposed use. On balance, it is not considered that, in this case, the loss of the existing employment use would be so detrimental to borough employment opportunities to warrant the refusal of planning permission.

### CONSIDERATION OF OBJECTIONS

Objectors have raised concerns that the proposed development does not provide specific detail of the proposed use other than to state that it would fall within Use Class A2 and would not include a betting office. As Members will be aware, planning legislation normally permits premises to change

to any other use within the same Use Class without planning permission and, therefore, even if a specific A2 use were to be identified by the applicant, if permission were to be granted for that use, they would not normally be restricted from changing to other uses within Use Class A2 should they wish to do so.

Exceptionally, planning conditions can be used to prevent future changes of use that would normally be permitted without planning permission. However, Circular 11/95 sets out a clear presumption against the imposition of such conditions unless there is an explicit planning justification for doing so. In this case, other than restricting any future change of use of the premises to a betting office, which address particular concerns regarding that specific use, Officers do not consider that the Council's planning policies would justify any further restriction on the normal rights to change the use of the unit to any other use within Use Class A2 in the future.

Objectors have raised concerns that the proposal would give rise to increased anti-social behaviour within the locality, particularly if the unit were to be used to provide pawnbroking, money lending, cheque cashing or other similar financial services. Whilst it is not certain that the future use of the premises would involve any of these activities, in any case, Officers consider that it would be difficult to demonstrate that the approval of this particular application would have a direct and detrimental effect on existing levels of anti-social behaviour within the locality.

**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:-

Town Centres and Shopping: in terms of the range and accessibility of services and their attractiveness

#### **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 drawing:

- Unnumbered Ground Floor (Proposed), dated 25th May 2011

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

(3) Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used for the purposes of a betting office or bookmakers unless agreed in writing by the Local Planning Authority.

Reason: In order to prevent an over-concentration of such uses which would be fail to enhance the range of services that is already provided causing harm to the vitality of Kilburn Town Centre and lessen its attractiveness to shoppers.

- (4) The A2 use, hereby approved, shall remain self-contained from the adjacent shop unit at 139 Kilburn High Road.

Reason: To ensure that the development does not result in the inappropriate loss of a retail use within the Primary Shopping Frontage.

**INFORMATIVES:**

- (1) The applicant is advised that this permission does not extend to any external alterations or alterations to the existing shop front or shop signs. The applicant is advised to contact the Planning Service should any such alterations be required in the future.

**REFERENCE DOCUMENTS:**

London Borough of Brent Unitary Development Plan 2004  
10 letters of objection

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