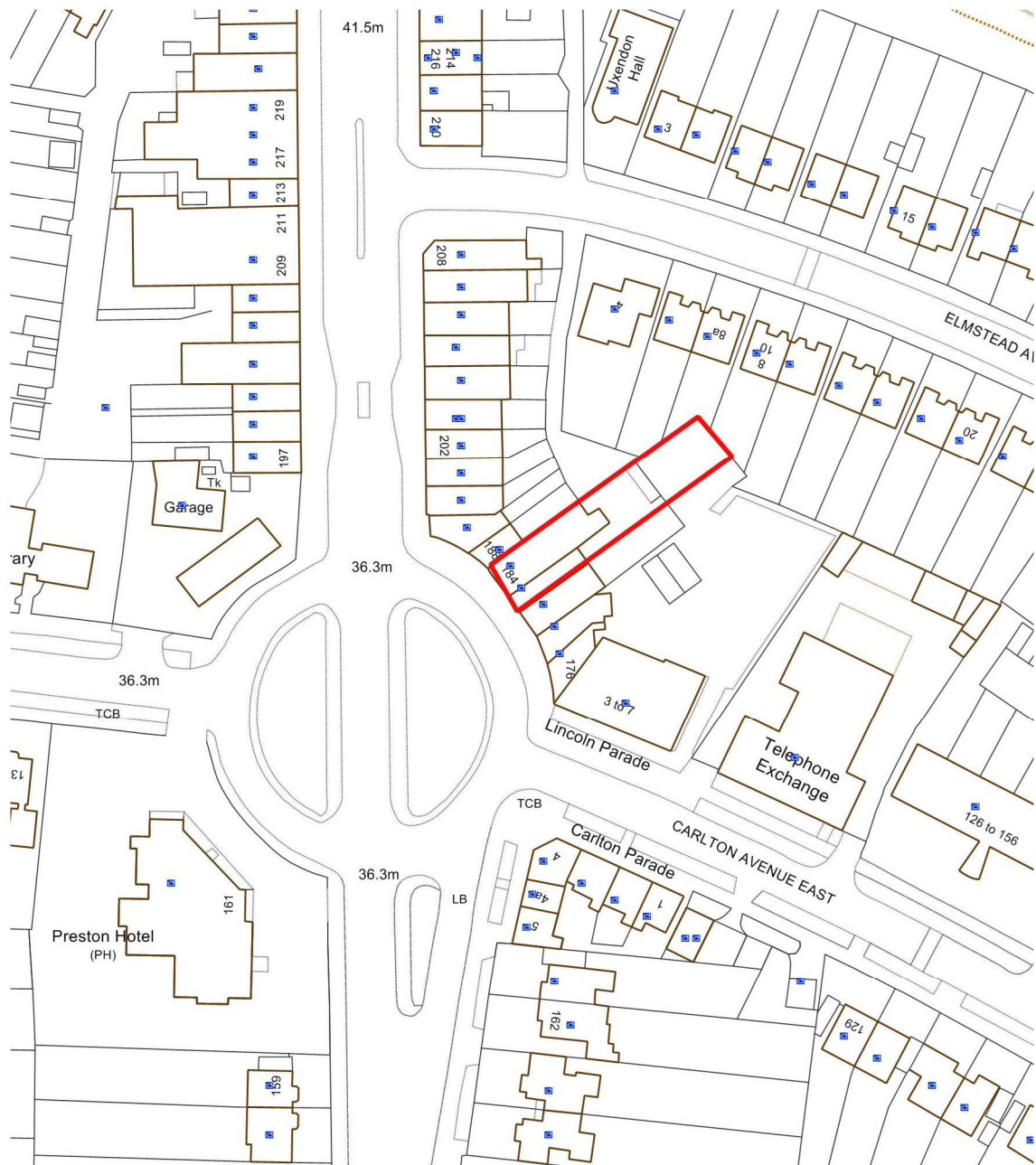
 **Planning Committee Map**  
Site address: 182-184 Preston Road, Wembley, HA9 8PA  
© Crown copyright and database rights 2011 Ordnance Survey 100025260



This map is indicative only.

**RECEIVED:** 21 September, 2011

**WARD:** Preston

**PLANNING AREA:** Wembley Consultative Forum

**LOCATION:** 182-184 Preston Road, Wembley, HA9 8PA

**PROPOSAL:** Retrospective application for an existing canopy structure to the rear of premises

**APPLICANT:** CLUB 182

**CONTACT:** Mr J Benaim

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

---

## **RECOMMENDATION**

Approval

## **EXISTING**

The subject site exists as a restaurant on the ground floor with residential properties above, located on Preston Road, Wembley. There is an existing canopy structure extension located to the rear, which is used for an outdoor seating area.

The property is located within a District Centre as detailed within Brent's adopted Core Strategy (2010)

## **PROPOSAL**

Retrospective application for an existing canopy structure to the rear of premises

## **HISTORY**

11/0709 - Variation of condition 10 of planning permission (currently restricted to 23.00, with customers gone by 23.30 and staff gone by 00.30, to allow Monday-Thursday 10am to 23.30, Friday and Saturday 10am to 00.30am, Sunday 11.00-23.00, and New Years Eve and Christmas Eve 10am to 1.00am) of planning permission granted 06/12/95 for Continued use as private members club and repositioning of extractor flue to rear elevation. (Revised plans received 10 November 1995). *Refused 04/08/2011*

E/10/0510 – Enforcement Case – Without planning permission the erection of a canopy structure to the rear of the premises, to provide outdoor seating area associated with the existing use of the premises. *Current Enforcement Case*

E/07/0232 – Enforcement case – Breach of condition regarding the use of open area at rear of premises *Closed Enforcement Case – breach addressed.*

00/1390 – Use of land to rear of premises to create garden for club. *Withdrawn 01/05/2001*

00/0645 - Variation of Condition 10 (hours of operation) of planning permission ref. 95/1121 varied on appeal by the Planning Inspectorate on 18/11/1999 (Ref. T/APP/T5150/C/99/1021310) to allow

non-resident staff to leave the premises by 0100 on Mondays to Fridays and by 0130 on Saturdays and Sundays. *Refused 17/05/2000*

00/2640 – Details pursuant to condition 5 (air-extraction equipment) of full planning permission 98/0663 dated 17/12/98 for alterations including re-roofing and cladding of existing storage building adjacent to rear pedestrian access, new rear fencing, retention of single-storey rear extension and provision of 2 parking spaces *Granted 06/01/2000*

E/99/0366 – *Enforcement Case* – Breaching Condition on opening hours. Appeal dismissed 04/09/2000

99/2336 – Retention of single-storey rear extension (alterations during of the course of construction involving the provision of additional door on side elevation) *Granted 26/05/2000*

99/1513 – Details pursuant to condition 2 (materials) of full planning permission 98/0663 dated 17/12/98 for alterations including re-roofing and cladding of existing storage building (adjacent to rear of pedestrian access) new rear fencing, retention of single storey rear extension and provision of 2 parking spaces. *Granted 16/08/1999*

E/99/0011 – *Enforcement Case* – Opening in excess of hours stated in condition. *Allowed on appeal*  
*See section entitled 'Existing permitted hours' within Remarks section of this report*

98/0663 – Alterations including re-roofing and cladding of existing storage building (adjacent to rear pedestrian access), new rear fencing, retention of single-storey rear extension and provision of 2 parking spaces (as amended by plans received on 15 October 1998)

E/97/0608 – *Enforcement Case* – Unauthorised structure. *Closed case.*

95/1121 – Continued use as private members club and repositioning of extractor flue to rear elevation (Revised plans received 10 November 1995). *Granted 06/12/1995*

94/0380 – Change of use from A1 retail to restaurant A3, provision of extractor flue, erection of single storey rear extension, installation of new shop front and provision of parking. *Granted 20/07/1994*

## **POLICY CONSIDERATIONS**

### Core Strategy (Adopted July 2010)

CP16 – Town Centres and Sequential Approach to Development

### Brent's Unitary Development Plan (2004)

BE2 - Townscape: Local Context & Character

BE3 - Urban Structure: Space & Movement

BE7 - Public Realm: Street scene

BE9 - Architectural Quality

SH10 – Food and Drink (A3) uses

SH11 – Conditions for A3 Uses

SH19 – Rear Servicing

EP2 - Noise & Vibration

H22- Protection of Residential Amenity

SH10 - Food and Drink (A3) Uses

SH11 - Conditions for A3 Uses

TRN34 - Servicing in New Development

Supplementary Planning Guidance:

SPG17 - Design Guide for New Development (Adopted October 2001)

SPG19 - Sustainable design, construction and pollution control (Adopted 2003)

**SUSTAINABILITY ASSESSMENT**

N/A

**CONSULTATION**

20 neighbouring properties were notified by letters dated 13<sup>th</sup> October 2011. 2 letters of representation, objecting to the application, have been received to date. One of these letters is from a solicitor acting on behalf of 3 nearby residents. The issues raised are summarised as follows:

- This application should be refused on the grounds that it infringes the existing regulations that do not permit the use of the open area at the rear of the premises for patrons of the club.
- They have complained on many occasions of the noise caused by customers permitted to drink and dine at the rear of the restaurant
- The disturbance late into the summer evenings prevents the enjoyment of their garden and requiring the windows and doors to be closed
- The retractable canopy was installed in breach of licence for the use by customers and reported by letter to the Planning Service in July 2010
- From Solicitor: have previously made their clients position clear in a previous letter. However would like to reiterate that their clients already experience a lot of problem with other night clubs in the areas, due to noise pollution and club lights filtering through their bedroom windows during the night.

Internal comments

*Environmental Health*

Have had no complaints relating to the current (unauthorised) use of the rear of these premises as a smoking area and therefore have no objections to the proposal to regularise the structure.

However, it is noted that a formal smoke-free inspection has never been carried out at the premises to confirm compliance with the smoke free regulations, therefore the applicant should be advised as follows:

- In order to be considered as an open side we would expect the distance between the edge of the roof/awning and the next wall to be at least 1.5m
- The applicant can request a smoke free inspection (in addition to our rolling programme of inspections) by calling 020 8937 5252 and asking to speak to the food team.

**REMARKS**

This application is for the retention of an existing canopy structure to the rear of the restaurant at 182-184 Preston Road. This canopy structure is the subject of a current enforcement case, reference E/10/0510.

The canopied structure is being used to provide shelter for an outside seating area for patrons of the restaurant. The current application seeks retrospective planning permission for its retention.

### Existing site

The existing site is a restaurant/bar located within a Secondary Shopping Parade, as allocated within Brent's Unitary Development, 2004, and within a District Centre as allocated within Brent's adopted Core Strategy, 2010. To the rear of the site are the rear gardens of residential dwellings located on Elmstead Avenue, and there are also residential flats above the shops within this parade.

### Existing permitted hours

Planning permission reference 95/1121 had the following condition attached: (condition no 10)

*The premises shall only be used for the preparation or sale of hot food and for ancillary purposes including the serving of drinks between the hours of 0800 to 2300 and all patrons shall have left the premises by 2330 hours. All staff shall have left the premises by 0030 hours.*

*Reason: In order to prevent loss of amenity to adjoining and adjacent residents.*

On 4<sup>th</sup> March, an Enforcement notice was served on the premises for breach of this condition. This notice was appealed and allowed with the following new condition in relation to hours of use:

*The premises shall only be used for the preparation and sale of hot food and for ancillary purposes including the serving of drinks between the hours of 0800 to 2300 on Sundays to Thursdays, and 0800 to 2330 on Fridays and Saturdays. All patrons shall have left the premises by 2330 on Sundays to Thursdays, and by 2400 on Fridays and Saturdays. All non-resident staff shall have left the premises by 0030 on Mondays to Fridays, and by 0100 on Saturdays and Sundays.*

This means that the existing permitted hours of use (for patrons) is until 2300 on Sundays to Thursdays, and until 2300 on Fridays and Saturdays. Any outside garden area may also be considered to be permitted to be used until these hours.

### Existing Canopy Structure

The existing canopy structure measures 3.8m in depth and spans a width of approximately 7.45m. It has three open sides, although two of these sides are along existing fences. The third open side is set in from the rear fence by approximately 4.0m. The height of the canopy is approximately 3.2m to the highest point and 3.0m to the eaves.

There is provision of external seating within the canopied area. This allows for patrons to sit outside and use the structure as a smoking shelter, as well as during warmer days and evenings.

### Noise Disturbance and Light Spillage

A condition has been attached restricting the hours of use to until 2200 hours of the canopied area. This is needed to ensure that the amenity of the residential above and to the rear of the premises is not affected by noise late into the night. A further condition with regard to external lighting is also attached, not permitting any external lighting without further details to be approved in writing. This is in order to control the impact of the use of the canopied area on surrounding residential properties.

### Smoke free inspection

An informative will be attached advising the applicants to contact Environmental Health regarding smoke free inspections.

### Response to objections

The application site is located within a busy parade of shops on Preston Road, where other similar uses also operate at late hours. Without the existing canopy structure at the rear of the

application site, patrons may still use the garden area at the rear of the premises along with the permitted hours of up until 2300 hours Sundays to Thursdays or until 2330 hours on Fridays and Saturdays. The current planning application allows the restriction of the use of the canopied area to no later than 2200 hours. This should alleviate any concerns raised by nearby residents of late night disturbance.

### Conclusion

The retention of the canopied structure to the rear of the premises is considered to be acceptable for the reasons set out above as such it is recommended for approval.

There is an uncertainty as to whether the plans submitted are accurately drawn. The applicants have been asked to clarify this. Any revised plans will be appraised within a supplementary report.

**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 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(s) and/or document(s):

SB/B36;

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

- (3) No music, public address system or any other amplified sound shall be installed on the site which is audible at any boundary outside the curtilage of the premises.

Reason: To safeguard the amenities of the adjoining occupiers.

(4) The premises shall not be used except between the hours of:-

0800 and 2200 Mondays to Fridays;  
0900 and 2200 hours Saturdays, Sundays and Bank Holidays

without the written consent of the Local Planning Authority.

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

(5) No external lights shall be installed on site without the prior submission to and approval in writing by the Local Planning Authority. This shall include the specification, manufacturer, lux, model, direction and the siting of each lamp. Thereafter the lights shall be installed in accordance with the details so approved prior installation

Reason: In order to prevent harm to local amenities from light spillage

**INFORMATIVES:**

(1) The applicants are advised to contact Environmental Health food team on 020 8937 5252 regarding smoke free inspections.

Any person wishing to inspect the above papers should contact Avani Raven, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5016