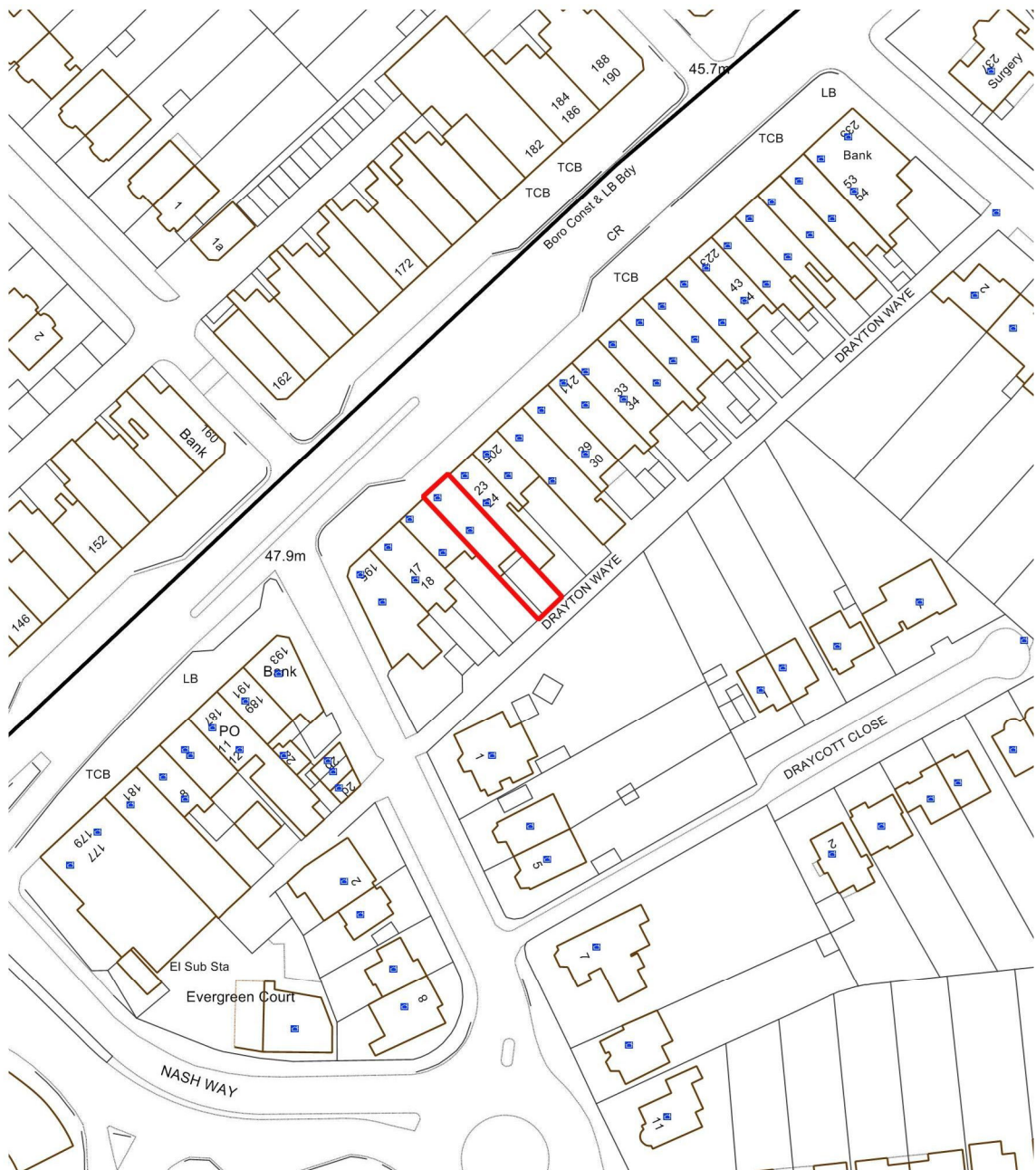
 **Planning Committee Map**  
Site address: 201 & 203 Kenton Road, Harrow, HA3 0HD  
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This map is indicative only.

**RECEIVED:** 14 October, 2011

**WARD:** Kenton

**PLANNING AREA:** Kingsbury & Kenton Consultative Forum

**LOCATION:** 201 & 203 Kenton Road, Harrow, HA3 0HD

**PROPOSAL:** Change of use of ground floor premises at 201 Kenton Road from a retail unit (use class A1) to mixed use comprising a retail unit at the front of premises and a dining hall at the rear to be used in connection with an adjoining restaurant at 203 Kenton Road with associated alterations.

**APPLICANT:** Mr Rajendra Shah

**CONTACT:** Mr Emad Al-Ebadi

**PLAN NO'S:**  
See Condition 2.

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## **RECOMMENDATION**

Grant Consent

## **EXISTING**

The application site is a 3-storey property with retail use on the ground floor and residential at first floor and second floor level. It is located within a Primary Shopping Frontage. It is not located in a Conservation Area and is not a listed building.

## **PROPOSAL**

Change of use of ground floor premises at 201 Kenton Road from a retail unit (use class A1) to mixed use comprising a retail unit at the front of premises and a dining hall at the rear to be used in connection with an adjoining restaurant at 203 Kenton Road with associated alterations.

## **HISTORY**

**E/11/0222** - change of use of the premises from a shop to a mixed use as shop and function hall (Use Class D1) - awaiting outcome of planning application.

**04/2492** - change of use from Retail Use Class A1 (Dry Cleaners) to Non-Retail Use Class A3 (Restaurant), installation of new shopfront and extractor flue - REFUSED 27/09/2004.

## **POLICY CONSIDERATIONS**

### **Brent UDP 2004**

BE2 – Townscape: Local Context & Character

BE9 – Architectural Quality

TRN25 - Parking In Town Centres

SH19 - Rear Servicing

SH7 - Non-retail uses appropriate to primary shopping frontages

SH10 - Food and Drink (A3) Uses

## **CONSULTATION**

Sixteen neighbours were consulted alongside the Council's Transportation, Environmental Health and Brent Streetcare departments on 21st October.

No objections have been received from the Council's internal departments, however three objections have been received from three neighbours on the following grounds:

- noise and disturbance impacting on residential occupiers directly above the premises;
- problems with congestion at the alleyway, no designated smoking area and likely subsequent use of alley as a smoking area leading to noise and disturbance;
- existing servicing and waste problems will be exacerbated and will not be appropriately managed;
- the proposal will result in both nos. 201 and 203 being used as banqueting facilities of more than 80 people and will cause larger cumulative impacts with regard to parking, noise and disturbance etc;
- the proposal will cause problems relating to crime and disorder, particularly at closing time;
- lack of car parking for visitors of the premises;
- loss of a retail unit within the primary retail frontage;
- an alcohol and entertainment license has been granted for no. 203 only and not 201; and as a result there is a discrepancy between the licensing application, which showed the units to be used as two separate uses, and the planning application, which proposes a door between nos. 201 and 203;
- in light of the door being included between the two units as part of the application, the sound proofing proposed as part of the licensing permission would not be honoured;
- the agent acting on behalf of the applicant is an elected member of the council staff who would be making personal gain as part of this proposal, and the application is a conflict of interest.

*Officer Comment:* This is noted and has been declared on the application form. The application is assessed against current planning policy and other material planning considerations.

## **REMARKS**

### ***Key considerations***

The key considerations for this application are:

- (a) Whether the principle of the change of use from A1 to A3 is acceptable;
- (b) Whether there would be an adverse impact on the amenities of nearby residents;
- (c) Whether the proposal would result in unacceptable highway impacts.

### ***Assessment***

#### **(a) Whether the principle of the change of use from A1 to A3 is acceptable**

The application site is located within the Kenton Road Primary Shopping Frontage. The planning history for this site reveals that an application has been previously refused for a proposed change of use at these premises from an A1 retail shop to an A3 use, under planning reference 04/2492 (refused 27/09/2004) as it would have resulted in the loss of a retail shop and an excessive concentration of non-retail units within a primary shopping frontage.

UDP policy SH7 sets out the circumstances in which retail units can be converted to other uses in primary shopping fronts. The relevant criteria in the policy are as follows:

- Retail uses may not be converted to other uses where applications will result in an excessive concentration of units, or continuous non-retail frontage within any parade or street block;
- The application should not generally increase the proportion of non-retail frontage to over 35%. However, if vacancy rates exceed 10% of primary frontage then non-retail changes of use may be permitted to a maximum of 50%.

A retail survey of Kenton High Street was undertaken on 15/11/2011 (201/203 Kenton Road as existing A3 premises), which showed that A1 uses stood at 36.3% within the primary retail area, vacancies stood at 5.1% and other uses stood at 58.6%. The proposal, as existing, therefore meets policy SH7 and the principle of the change of use is considered acceptable. It is however recommended that if planning permission is granted, a condition should be imposed to ensure that the retail frontages are kept as two separate units.

**(b) Whether there would be an adverse impact on the amenities of nearby residents.**

UDP policy SH10 sets out the circumstances for which A3 uses are acceptable within the borough's centres. It states that A3 uses should not result in the creation of traffic congestion; car parking problems; a reduction in highway safety and should not adversely affect the amenity of residential occupiers.

Account will also be taken of:

- The proximity of residential accommodation;
- The specific nature and size of the use proposed;
- The character of the area and the concentration and existing level of disturbance from A3 and similar uses;
- Whether the proposed hours of operation would result in residential disturbance; and
- The practicality of providing extract ducting ventilation, grease traps and/ or noise insulation.

The change of use proposes a restaurant seating area (79 sq m) to provide 40 additional seats which will form part of the existing restaurant at 203 Kenton Road, and a sweet shop providing a serving counter (23 sq m) within unit 201 Kenton Road.

An application was approved in 1999 for the change of use from A1 retail to A3 restaurant at number 203 Kenton Road, which restricted the premises' opening hours to 08:00 to 23:00 Sunday to Thursday and 08:00 to 23:30 Friday to Saturday. This application proposes slightly different opening hours for the A3 use at number 201 Kenton Road, from 06:00 to 23:00 Monday to Saturday and 06:00 to 22:00 on Sundays and Bank Holidays. The different opening hours can be considered acceptable as the additional seating area in no.201 can be closed using the internal door whilst the adjoining restaurant remains open. The sweet shop's operating hours are proposed to be from 11:00 to 23:00 Monday to Saturday, and 11:00 to 18:00 on Sundays and Bank Holidays.

There are a number of residential uses located above 201 and 203 Kenton Road, however the proposed opening hours are not unusual for a shop/ restaurant and are considered to be acceptable. Although the operating hours for number 201 Kenton Road will be earlier than that of number 203 Kenton Road, deliveries for the whole premises will be restricted to arrive between 07:30 to 18:00 to ensure there will be no significant impact on residential amenity. The sweet shop, in consideration of its small size and use, is not anticipated to cause any impact on amenity and as such it is not considered necessary to apply a condition to impose different restrictions to the A3 use to the rear.

An earlier application (LPA Ref: 04/2492) was refused on 27/09/2004 as the proposed extractor flue, by virtue of its low level and proximity to residential properties, would have resulted in significant harm to the amenities of residents in the residential accommodation above the application premises because of the emission of smells and fumes. No new kitchen or extraction flue is proposed within no. 201 as the kitchen of no. 203 is to be utilised to enable operation as one unit and accordingly Environmental Health have raised no objections. Although some concerns have been raised with regard to the lack of a designated smoking area, this is not considered to be a significant issue within a town centre location where there is generally high footfall and ambient noise.

It has been noted that there have been two complaints at the address relating to noise in recent years. The first, recorded in 2002, related to noise from a low level extraction system which has now been resolved, and the second complaint related to noise from a party in May this year at the restaurant at number 203 Kenton Road. No further complaints have been received, but a condition will be imposed to ensure that 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.

### **(c) Whether the proposal would result in unacceptable highway impacts**

No objections have been raised by the Council's Transportation department, providing access is retained through the new dining room to the retail area at the front for servicing purposes; and a door is retained between the front and rear to allow this to happen.

In addition, prior to occupation of the development, at least 2 bicycle parking spaces shall be provided within the site for the use of staff and visitors. The proposed plans have been revised to adhere to the Transportation Department's requirements and now show that three car parking spaces and two cycle parking spaces will be provided to the rear of the premises.

With regard to visitor parking and accessibility, the restaurant is in a Controlled Parking Zone (CPZ) operating from 7am to 7pm Monday to Friday on Draycott Avenue, and from 8am to 6.30pm Monday to Friday on the rest of the surrounding streets. Additionally, there are a number of pay and display bays on Kenton Road and Upton Gardens which operate Monday to Saturday 8am to 6.30pm with a maximum stay of two hours. Parking provision is therefore considered acceptable as it is likely that most journeys will be made in the evening when there are no parking restrictions in the locality. The restaurant is in a town centre location which has a high level of public transport accessibility (PTAL Level 5) and it is feasible that a number of journeys will be made to the restaurant by public transport. As such, it is not considered that the proposal will result in significant issues relating to parking.

### **Response to objections**

Objections have been raised on the loss of a retail unit at the premises. Although the previous application refused the change of use from A1 to A3 (LPA Ref: 04/2492) as the proposal would take the non retail frontage to less than 35%, the most recent survey has shown that the proposal would not take the A1 frontage to less than 35% and is therefore acceptable. A condition will be imposed to ensure that the retail frontages are kept as two separate units.

The proposed change of use relates to 201 Kenton Road, which was granted an alcohol and entertainment licence dated 10th June 2011 subject to two conditions; that a sound engineer be appointed to check and ensure the quality of soundproofing at the premises; and a noise limiter set at a level agreed by the council's Licensing Unit shall be used at all times. The objections raised by residents state that a music license has been granted for no. 201 and not 203 Kenton Road, and as the plans show a door between the two premises the noise problem would be exacerbated and would have an unacceptable impact on residential amenity.

It is noted that there are inconsistencies in licences for both properties; 201 Kenton Road is licensed for entertainment only (no alcohol) and 203 Kenton Road is licensed for alcohol until 11pm daily (no entertainment) and although a joint use for either may deem both licenses invalid, this is not a planning issue and should be considered by licensing separately. A condition shall be imposed to provide adequate soundproofing for both properties to limit any noise impact on residential amenity. It is not unusual that two A3 units could be located side by side in a town centre location and as such, it is not considered that the amalgamated units will result in significant amenity concerns above those associated with two separate units.

Concerns have been raised by objectors with regard to lack of parking for visitors, servicing and waste facilities which would be exacerbated by the amalgamation of the two properties.

Amendments have been made to the application which has secured improved waste facilities and is considered acceptable. There are unlikely to be any problems with visitor parking as the restaurant is located in an area of high public transport accessibility (PTAL 5) and could be accessed by a number of buses and by two rail stations (buses 114, 183, 223, H9/H10 and H18/H19; Kenton station - Bakerloo and London Overground lines, and Northwick Park - Metropolitan line) and visitors could feasibly travel to the premises by public transport. In terms of parking provision, there is pay and display parking to the front of the premises, on-street parking in the surrounding streets. The proposal is acceptable in terms of parking and servicing.

## **Conclusion**

The proposed change of use from retail (Use Class A1 unit) to non-retail (Use Class A3) would not take the existing retail provision below 35% and would meet UDP policies SH7 and SH9. The proposal meets the UDP policies on parking, servicing, and impact on amenity. Approval is recommended.

**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

Transport: in terms of sustainability, safety and servicing needs

## **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):

EAK/KENTON/02 AMENDMENT A - Floor Plan Proposed dated 29/11/11.

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

- (3) (a) The designated restaurant area (A3 Use) and shop (A1 Use) within the premises at 201 Kenton Road shall only be open from 08:00 to 23:00 Mondays to Saturdays, and 08:00 to 22:00 Sundays and Bank Holidays and shall be cleared, with all ancillary activity completed, within 30 minutes of this closing time.

(b) The premises at 203 Kenton Road (A3 Use) shall only be open from 08:00 to 23:00 Sundays to Thursdays and 08:00 to 23:30 Fridays to Saturdays and shall be cleared, with all ancillary activity completed, within 30 minutes of closing time.

(c) No deliveries to either 201 or 203 Kenton Road shall take place outside of the hours of 07:30 and 18:00.

Reason: To protect the amenities of nearby residential occupiers.

- (4) Number 201 and 203 Kenton Road, shall be maintained as two separate, independent retail frontages to the Kenton Road High Street frontage. Internal access shall be maintained between the frontage retail use (A1) and restaurant seating area (A3) to the rear at 201 Kenton Road.

Reason: To protect the amenities of the Kenton Road and ensure adequate access is provided for servicing.

- (5) 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.

- (6) No development or occupation shall take place until a scheme of sound insulation for the buildings (201 and 203 Kenton Road) has been submitted to and approved in writing by the Local Planning Authority. The sound insulation shall be provided in accordance with the approved details prior to commencement of use.

Reason: To safeguard the amenities of the occupiers.

- (7) Prior to occupation, provision shall be made for two cycle parking spaces, three car parking spaces, storage for the disposal of refuse, food waste, paper and cardboard waste and recyclable material (including litter bins inside and outside the premises) at the rear servicing area of the numbers 201 and 203 Kenton Road in accordance with the approved plans and shall be permanently retained thereafter. The layout shall not be altered except with the prior written permission of the Local Planning Authority.

Reason: To ensure that the proposed development does not prejudice the management of refuse, free flow of traffic or conditions of general safety along the neighbouring highway and to ensure a satisfactory standard of amenity by providing and retaining adequate on site car parking and waste management.

#### **INFORMATIVES:**

None Specified

#### **REFERENCE DOCUMENTS:**

Any person wishing to inspect the above papers should contact Laura Jenkinson, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5276