

Delegated Report		Analysis sheet		Expiry Date:		09/05/2012	
		N/A / attached		Consultation Expiry Date:		07/05/2012	
Members' Briefing							
Officer				Application Number(s)			
Elaine Quigley				2011/0907/P			
Application Address				Drawing Numbers			
Ground floor 244 Kilburn High Road London NW6 2BS				See draft decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Installation of glazed folding/sliding shopfront, high level windows on side elevation at ground floor level (adjacent No. 246), new fire escape door with ventilation extract grille above on side elevation (adjacent to No. 242) all in connection with change of use of ground floor retail (Class A1) to offices (Class B1).							
Recommendation(s):		Grant conditional permission					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	26	No. of responses	01	No. of objections	01
				No. electronic	00		
Summary of consultation responses:		Letters were sent to neighbouring occupiers on 16/04/2012 (expired 07/05/2012). 1 letter was received from the neighbouring property at 246-248 Kilburn High Road that raised concern about the installation of the windows in the side elevation of the existing property and potential overlooking to the owners driveway.					
CAAC/Local groups* comments: *Please Specify		None received to date					

Site Description

The application site is located on the east of Kilburn High Road in close proximity to its junction with Grangeway to the south and Buckley Road to the north. It comprises a 4-storey building with vacant retail space on the ground floor and 8 self-contained flats above. To the north of the site is an accessway that leads to an enclosed site that has been used as a car showroom area with a modern three storey development that is located to the rear of the site at no. 246. To the south of the site is a recently completed five storey modern building that comprises a dance studio on the ground floor and residential flats above. The site is within the Kilburn Town Centre and is located within the secondary frontage.

Relevant History

Application site

Planning permission was **granted** with warning of enforcement action on 27/01/2011 for partially retrospective amendments to planning permission 2003/3333/P (demolition of the existing first floor, alterations to the existing shop fronts and the erection of 3x new floors on the Kilburn High Road frontage and 2x new floors at the rear to accommodate 3 x 3 bed residential units and 4 x 1 bedroom flats above the existing ground floor retail premises) to include an additional (fourth) floor containing a 3-bed flat with roof terrace, extension to contain lift-shaft overrun, alterations to the front elevation including an amended shopfront, the installation of solar panels and the sub-division of a three-bedroom unit to create 2 one-bedroom units (2009/5355/P).

Planning permission was **granted** on 18/11/2009 for amendments to planning permission 2003/3333/P (demolition of the existing first floor, alterations to the existing shop fronts and the erection of 3x new floors on the Kilburn High Road frontage and 2x new floors at the rear to accommodate 3 x 3 bed residential units and 4 x 1 bedroom flats above the existing ground floor retail premises) to include an additional (fourth) floor containing a 2-bed flat with roof terrace, extension to contain lift-shaft overrun, alterations to the front elevation including an amended shopfront and installation of solar panels (2008/1097/P)

Planning permission was **granted** on 27/04/2005 for demolition of the existing first floor, alterations to the existing shop fronts and the erection of 3 x new floors on the Kilburn High Road frontage and 2 x bed floors at the rear to (2003/3333/P).

Neighbouring sites

240-242 Kilburn High Road

Planning permission was **granted** on 07/09/2009 for change of use of ground and basement floors from retail (Class A1) to dance school (Class D2).

246 Kilburn High Road

Planning permission was **granted** on 01/11/2010 for amendment to planning permission granted on 11/05/05 for 'erection of a second floor roof extension and a first floor extension at front part of building, to create additional habitable floorspace for the existing two storey live/work unit' (ref: 2005/1186/P) namely, creation of a roof terrace and green roof at second floor level with associated staircase, balustrading and screening.

246A-248 Kilburn High Road

Planning permission was **granted** on 17/02/2010 for amendment to planning permission 2007/3467/P dated 12/10/2007 (Erection of building fronting Kilburn High Road comprising ground floor retail unit (Class A1) and 4 upper floors to provide 4 x 2-bedroom residential units, plus erection of a building to the rear comprising basement and ground floor (Class B1) business use and 3 upper floors to provide 3 x 3-bedroom flats and 3 x 2-bedroom flats with balconies and terraces) to remove basement and other internal alterations at ground floor level with associated revisions to the south east elevation.

Relevant policies

LDF Core Strategy and Development Policies

Camden Core Strategy

CS1 (Distribution of growth)

CS3 (Other Highly Accessible Areas)

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centres and shops)

Camden Development Policies

DP10 (Helping and promoting small and independent shops)

DP12 (Supporting strong centres and managing the impact of non retail town centre uses)
DP13 (Employment sites and premises)
DP26 (Managing the impact of development on occupiers and neighbours)
DP28 (Noise and vibration)
DP30 (Shopfronts)

Camden Planning Guidance

CPG 1 Design - Shopfronts

CPG5 Town centres, retail and employment – Kilburn High Road

Assessment

Background

Planning permission was granted for a development comprising 7 flats (3 x 3 bed units and 4 x 1 bed units) on three floors above a ground floor retail unit. This permission has subsequently been amended by planning permission 2008/1097/P and 2009/5355/P that included alterations to the existing shop fronts and an additional storey to provide an additional flat (see full details of permission in history section above). As part of the most recently amended scheme the approved shopfront design included a traditional fascia and stallriser.

Proposal

The building has been constructed apart from the shopfront. This application seeks permission for installation of glazed folding/sliding shopfront, windows on side elevation at ground floor level (adjacent No. 246), new fire escape door with ventilation extract grille above on side elevation (adjacent to No. 242) all in connection with change of use of ground floor retail (Class A1) to offices (Class B1).

The agent confirmed on site that the new use would be serviced offices. The proposed floor plans indicate that the internal area would be subdivided by partitions to create approximately 7 individual offices and four large meeting rooms to the rear of the ground floor unit and the mezzanine upper ground floor space. The office spaces would be individually let. The application form states that the new offices would employ 4 full-time and 2 part-time employees. However if the spaces are individually let there would be the potential for 7 people to be working within the ground floor unit. The hours of operation would include Monday to Friday 08:00 to 17:30 and Saturday 08:00 to 13:00.

Revisions and further information

Marketing information

During the course of the application the applicant has submitted marketing information to support the justification for the loss of the retail floorspace. This included the following:

- Details of the particulars of the unit from estate agent Kingleigh, Folkard and Hayward who started marketing the property in April 2005
- Details of the particulars of the unit from estate agent Chesterton's who started marketing the property in July 2006
- Email from estate agent CJON Properties who started marketing the property in November 2008 to October 2010 when Al Qahtani, the present leaseholder obtained the lease
- Details of the unit from estate agent Bellevue Mortlake who started marketing the property in January 2010
- Details concerning the rental prices (reduction in the rental price from £68,000 per annum to £38,000 per annum.
- Email from CJON properties dated 07.08.2012 indicating interested from several companies including Tesco, Sainsbury's, Iceland (November), Cost Cutter (November), Aldi (November) and Budgens (November) in 2008, Shennan Ltd (local furniture company) in January 2009, McLee and Co Solicitors in September 2009.

The email from CJON Properties advised that the companies were not interested in leasing the unit for the following reasons:

- Unsuitable service access arrangements for larger vehicles to the rear of the site
- Financial costs of estimated building works to fit out the unit
- Internal size and layout of the unit is restrictive as it is too small and too narrow for larger national companies

Revisions

The design of the shopfront has been revised to incorporate a stallriser measuring 0.9m in height with an enlarged window that is separated into five panes of glass and glazed entrance door.

Assessment

Main considerations as part of the assessment of the application include:

- Loss of ground floor retail unit
- Principle of B1 office floor space
- Design of shopfront
- Amenity

Loss of ground floor retail unit

Prior to the redevelopment of the site there was originally a supermarket at ground floor level (retail use). The ground floor unit has an authorised use for retail use (Class A1 use) however it has never been occupied as such since the development was completed approximately 4 years ago. The unit provides approximately 287 sq. m of retail floor space.

Policy DP12 states that the Council will ensure that town centre uses other than Class A1 retail uses do not cause harm to the character, function, vitality and viability of a centre. CPG 5 notes that Kilburn High Rd has a large number of small, independent shops that mostly serve the day-to-day needs of the local population. It states that the Council will resist proposals that would result in less than 50% of the Secondary Frontage being in retail use.

Within the Secondary Frontage the parade of units include nos. 238-274 Kilburn High Rd (15 units), 8 of the units (53.3%) are currently in retail use (including the application site as an authorised A1 retail unit) and 46.7% would remain in retail use if this proposal were to be implemented. The proposal would therefore result in the number of A1 units within this part of the frontage of shops falling below this fail to comply with this part of the policy.

Whilst the guidance seeks to generally resist such proposals, it has been formulated to support the established policies; in this case LDF policies CS7 and DP12. Therefore, the assessment cannot rely wholly on the figures relating to percentage ratios in the individual frontage or the uses to which consecutive units are put as an absolute requirement to dictate the decision that is made on this planning application, as it is intended only as guidance to assist in the interpretation of the policy. The key test, as laid down in policy DP12, is whether the loss of retail floorspace would serve to erode or undermine the character, function, vitality and viability of the frontage. Policy CS7(e) of the LDF Core Strategy seeks to 'protect and enhance the role and unique character of each of Camden's centres' and emphasises the importance of centres that provide convenience and comparison shopping. It goes on to advise that Kilburn has "relatively high proportions of convenience (food), retail and A3 (restaurants and cafes) uses, many of which are independent".

In terms of Development Policy DP12 the opening clause and criterion a), b), c) and e) are relevant to the proposal – i.e. the Council will ensure that the development of services does not cause harm to the character, function, vitality and viability of a centre, it will consider the impact of non-retail development on shopping provision and character, the impact on nearby residential uses and amenity and the cumulative impact of food, drink and entertainment uses taking into account the number and distribution of existing uses.

Marketing information

The applicant has provided marketing information during the course of the application to demonstrate the lack of interest in the shop unit for A1 retail purposes. It confirms that the premises have been marketed as early as 2005 but in earnest from November 2008 to October 2010 when the current leaseholder obtained the lease for the premises. During this time expressions of interest were received from various interested parties however the premises were not suitable for their purposes. The leaseholder first took over the lease in 2010 with the purpose of operating a fish wholesale and retail premises. However further investigation proved that (i) another fishmonger that opened a similar operation in close proximity to the site and (ii) negative feedback received from neighbouring occupiers concerning the business operation and its potential impact on their amenity.

It is clear from the marketing information that the applicants have tried to market the unit for retail purposes since 2006 and in earnest since 2008 for approximately two years. From the evidence provided it has been established that the use of the ground floor unit as an A1 retail use is not viable due to the physical constraints of the site. Taking this into consideration the loss of the retail units is therefore supported by the Council subject to an appropriate use operating in its place.

In accordance with Policy DP12 and guidance in CPG5 the Council would seek to prevent concentrations of units that would harm a centre's attractiveness to shoppers or its residential amenity. The Council would generally resist proposals that would result in more than 3 consecutive premises in non-retail use within the secondary frontage. There are already two adjoining units that are in non-retail use (nos. 238 and 240-242). However the proposal would not result in more than 3 consecutive units being in non-retail use, as the other neighbouring units (nos. 246a-248 and 250) are operating within Class A1 retail uses. It must be noted that no. 246a-248 has been demolished and is now part of a vacant site that is currently being occupied by a car sales operator. However the authorised use of the ground floor of no.246a-248 is for mixed A1/B1 uses. The proposal thus passes the tests set out in CPG5 that support this part of Policy DP12.

Principle of B1 office floor space

The supporting paragraph to Policy DP12 refers to a range of uses that are currently found in town centre locations that includes offices (B1a). The proposal would create 287 sq. m of additional employment floorspace through serviced offices. The proposed new use would not be considered harmful to the vitality and viability of the town centre in fact it would be considered to improve the vibrancy and vitality of this part of the secondary frontage as it would create additional employment floorspace within the ground floor of the building that has remained vacant for over 2 years. It must be noted that the site is within close proximity to other retail units within this part of the secondary frontage and would not harmfully reduce the range of shopping facilities for local residents. This type of use would not harm the centre or the amenity of adjoining occupiers (see amenity section below for further details).

The proposal would create opportunities for more flexible and affordable workspaces by providing serviced offices. This would help small and growing businesses to find suitable and affordable premises within the Borough that is in line with the requirements of CS8. The site is in close proximity to Kilburn Overland Station and is served by a number of bus routes. It is therefore highly accessible by public transport.

Design

Policies CS14 and DP24 seek to ensure all development is of the highest quality design and considers the character, setting, context and form of neighbouring buildings. Policy DP30 seeks to ensure a high standard of design in new and altered shopfronts by taking into consideration several qualifying criteria including the relationship between the shopfront and the upper floors of the building and surrounding properties.

The original proposal included a fully glazed shopfront with sliding entrance doors. Although the building is modern in terms of its overall design the modern shopfront was considered out of character with neighbouring ground floor shopfronts and was considered unacceptable. This has now been revised to include a more traditional stallrise and shopfront window. The neighbouring properties have similarly designed traditional shopfronts and the proposal would reflect the character and appearance of these ground floor shopfronts. The proposal would comply with CPG1 (Design) guidance and would be considered acceptable in terms of its impact on the character and appearance of the building and the surrounding streetscene.

Other external alterations are proposed including new high level window openings on the northern side elevation of the ground floor of the building a fire exit door and ventilation grille on the southern side elevation of the building. These alterations are considered acceptable in terms of the impact on the character and appearance of the building.

Amenity

The site is mainly surrounded by properties that include commercial uses on the ground floor with residential units above. The proposed use would operate in a similar way to a retail use in terms of hours of operation, and would not be considered harmful to the amenity of adjoining occupiers.

A row of high level windows (five groups of two and three window openings) would be installed in the side elevation of the building that would face onto the front accessway of no. 246. Concern has been raised by the occupier of this property that the windows would allow overlooking into the adjoining site. The lower cill of the windows would be 2.4m above ground level. Given the position of the windows at high level on the side elevation of the building it would not be possible to look out onto the neighbouring accessway or into the windows on the front elevation of no. 246. However in order to prevent any additional noise breakout from the new users a condition would be attached to ensure that the windows remain non-opening and fixed shut. The proposal would not result in any additional loss of privacy or overlooking to neighbouring properties and would be considered acceptable.

The proposal would also include the installation of a new fire escape door and new ventilation grille above in the south side elevation of the building that would be accessed from a gated alleyway to the side of the premises leading off from Grangeway. The grille would be necessary for fresh air intake into the building and would not harm the amenity of neighbouring properties in terms of noise generation or smells. These elements of the proposal are considered acceptable.

CIL

The proposal would result in the conversion of 287 sq. m of floorspace. No new floor space would be created therefore the proposal would not be liable to CIL contributions.

Conclusion

Grant conditional permission.

DISCLAIMER

Decision route to be decided by nominated members on Monday 10th December 2012.
For further information please click [here](#).