

Delegated Report		Analysis sheet		Expiry Date:		11/05/2015	
		N/A		Consultation Expiry Date:		28/04/2015	
Officer				Application Number(s)			
Nanayaa Ampoma				2015/1549/P			
Application Address				Drawing Numbers			
64 Kilburn High Road London NW6 4HJ				See Decision Notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Change of use of ground floor from retail unit (Class A1) to a betting shop (Sui Generis).							
Recommendation(s):		Refuse planning permission					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	05	No. of responses	39	No. of objections	41
				No. electronic	00	Support	0
Summary of consultation responses:		<p>The application was advertised via a Site Notice for a period of 21 days between 07/04/2015 to 28/04/2015.</p> <p>Neighbouring properties were also notified via direct letters. Neighbour objections have been received from:</p> <ul style="list-style-type: none"> • 107 Kingsgate Road • 10A Charteris Road • 10a Hazelmere Road • 11A West End Lane, • 12 Bradwell House, Mortimer Crescent • 18A Mortimer Crescent • 21 Maygrove Road • 23 Hopefield avenue • 24 Burton Road • 26 Tennyson Road Kilburn • 27 Douglas Road 					

- 29 Barrett Bouse
- 33 Kingsgate House 2-8 Kingsgate Place Kilburn
- 33 Minster Road NW2 SH
- 36b Mapesbury
- 36b Mapesbury Road
- 39 Esmond Road
- 4 Brondesbury Villas
- 49 Brondesbury Villas
- 49A Brondesbury Villas
- 50 Callcott R&D
- 50 New Street New Mills
- 50 New Street New Mills High Peak SK22 4PD
- 54A Brondesbury Villas
- 6 Gascony Avenue
- 7 Mornington Court Mornington Crescent
- 8 Queensgate Place
- 82 Otley Road Headingley, Leeds
- 83 Priory Park Road
- 83 Priory Park Road
- 88 Tennyson Road
- Douglas Road
- Flat 10 Malcolm House 405 Kilburn High Road
- Flat 2 Cedar Lodge Exeter Road
- Flat 35 Watling Gardens Cricklewood
- Flat 6 34 Glengall Road
- Flat 6 34 Glengall Road
- Flat D 88 Fordwych Road
- Grd flr flat 101 Fordwych Road

These comments can be summarised as follows:

- There are already nine betting offices and four Adult Gaming Centres in the Kilburn High Road centre belonging to William Hill, Coral, Ladbrokes and Paddy Power.
- Paddy Power already has a huge shop that takes up three units on the high street.
- The proposal would result in the ninth betting unit in the high street.
- Kilburn needs another betting shop like a hole in the head.
- Too many betting shops would lead to a decline of the high street and could be detrimentally harmful to the character of the shopping area
- Object to loss of A1 unit
- People need somewhere they can buy from.
- A local high street should be a diverse collection of shops & services, which actually benefit the community & stimulate improvement. The ubiquity of betting shops on the Kilburn High Road fosters the exact opposite
- We need restaurants and cafés
- Kilburn should be regenerated in a positive way

- These businesses fail to bring any positive contribution to our locality, instead they contribute to economic inactivity by leeching on poorer people and multiplying unemployment by facilitating addiction.
- Another betting shop would lead to more antisocial behaviour.
- They destroy people and families
- Development would contribute to gambling addiction
- Betting shops are unhealthy
- The whole Road has become so horribly "run down". Shame on you Brent & Camden!
- The development fails to comply with Camden policy
- Given that they are now Sui Generis and not A2 it is a clear indication that they are an issue.
- Development does not comply with CPG 5
- The vacancy rate in the Core Frontages is well below the national average, at only 4.5%. Such a low proportion of vacant units would suggest this centre is viable as a retail destination and additional non-retail uses are not necessary to ensure vitality. Therefore there is demand for the A1 unit.
- It is important to note that the updated London Plan highlights the need to address the issue of proliferation of betting shops.
- An application under Brent Council (ref: 13/3501) was recently objected to by Camden Council and was refused due to concerns for the area. The reason for refusal stated that: *The proposal would therefore result in the ninth betting office in the defined frontages. The cumulative impact of such a concentration of betting offices could have a detrimental impact on the character of the centre and indeed individual frontages. Furthermore, the footfall associated with betting office uses will likely already have been accrued from these 8 existing betting offices. Any further replication of this use would not add to the footfall in the area but merely occupy vital A1 floorspace which is essential to the vitality and viability of the centre. Camden Council's objection to this application stated: object (the change of use from retail (Class A1) to a betting shop (Class A2) would be detrimental to community safety and, by reason of the potential increase of indebtedness, would be harmful to the health and well-being of the local community contrary to the National Planning Policy Framework). Given the cumulative impact from other developments in the area such as at the Saatchi.*
- The development would not enhance or add to the vitality of the high street.
- Patrons often congregate outside these venues drinking high strength alcohol and generally creating an intimidating environment for other users of the High Road.
- Development would not add to footfall.
- As a client of Paddy Power my experience has been that it is badly managed and acts like a magnet for anti-social behaviour in a socially deprived areas, i.e at midday on Wednesday 22nd April 2015 the manager was interacting with a notorious troublemaker. Unlike other betting establishments in the area they do not display the sign "no smoking, no under 18's". In the last four years they have failed to display the required planning notification until after the consultation period has expired. They are the most socially irresponsible high street bookmaker.
- Local community at Kings Gate Watch strongly object to development
- Objection from Kilburn Fair Credit Campaign

- The proposed site is in between a Marks & Spencer and Boots - two shops frequented by residents the former by families and the latter by young children
- As a woman I would feel more unsafe with another betting shop
- I would not like to walk along a betting shops with my children to get to the supermarket
- The business fails to make any positive contribution in the area
- The area has improved recently more betting would not help
- It is time the Council acted to the benefit of the area.
- The unit could be used for a more positive community asset
- Their Taxation arrangements are also highly questionable
- The betting unit is used for drug dealers and money laundering
- No Site Notice was posted on the building, the community do not know. I only found out by from comments in the Kilburn Times

Officer response: please see section titled 'Loss of A1 and small shop unit' and 'Representation' for an assessment of the neighbour comments.

Response to comments stating that there was no Site Notice displayed or that it was not placed there until a week before end of the consult period. At the time of the officer site visit a Site Notice was on display in the window of the unit. As such, it is not possible to confirm when the display was placed in the window.

The application site does not fall in a conservation area. No comments have been received from local groups.

Met Police (designing out crime): We are having growing problems with a William Hill on the High Road by the overground station...[this is]... already attracting numerous crime, drug users, ASB, and other criminals we do not wish to attract to the area. On that basis, if we can resist any attempts to further the number of bookies on the High Road then we would support that.

Councillor Maryam Eslamdoust: Objects on the grounds of concentration of betting units, resulting Anti-social behaviour and deprivation.

Councillor Thomas Gardiner: Objection to development and agrees with neighbour objections received. Kilburn is the second most deprived area in Camden. The development will help compound this view together with the concentration of payday lenders. It is clear that these types of premises feed off each other. There also appears an attempt to take advantage of the different planning regimes in Brent and Camden, applicable here because of Kilburn High Road's status as a border road. The loss of 64 Kilburn High Road a retail use would be significant. It would reduce footfall, reduce the attractiveness of the High Road and in general cause loss of amenity to Kilburn residents and visitors. I urge the Development Control Committee to reject the application.

Officer response: please see section titled 'Loss of A1 and small shop unit' and 'Representation' for responses to the above comments. Comments from the met police are considered in the section titled 'Principle of Change of use to betting shop'.

CAAC/Local groups*/
Councillors/Other
comments:
*Please Specify

Site Description

The application site relates to a four storey mixed use property that forms part of a ten row terrace. The property is part of the main Kilburn High Street frontage. The site is not listed and does not fall within a conservation area.

The property is commercial with A1 use at ground floor and B1 office use on the upper floors. Details submitted with the application indicate that the property was previously used as a Barratts shoe shop at ground floor. This closed on the 27th December 2013. Currently, the unit at ground floor is used as a clothes shop for the brand District. The upper floors are currently vacant.

The high street, to which it relates, is a vibrant and busy one. It has been designated formally as a Town Centre and falling under a Primary Shopping Frontage. The site has also been identified as falling within Area 1 of the Kilburn Neighbourhood Renewal scheme.

Along the relevant frontage of the site there are 10 units at ground floor, 9 in A1/2 use. These are detailed below:

- Traid 70-72: A1
- Marks and Spencer's 66-68: A1
- District 64: A1
- Boots 60-62: A1
- JD Sports 58: A1
- Primark 55-56: A1
- HSBC 52: A2
- Nationwide 48: A2
- Vacant 46: Use unknown possibly D1
- Corner unit 42: A1

The proposal has been submitted by Paddy Power, which is a large international betting shop founded in 1988. The application is part of a series of applications to turn the unit into a branded shop for the company. There are currently three other applications for aerials at roof level, advertisement consent and shop front changes. These are all pending consideration.

Brent Council are the local planning Authority for the opposite side of the road. They recently refused an application for betting shop in Kilburn High Road in 2013.

Relevant History

2015/2436/A: Display of 1 x internally illuminated fascia and 1 x internally illuminated projecting signs.- **Granted 11/5/2015**

2015/2336/P: Installation of new shopfront. – **Currently under consideration**

2004/3384/A: The retention of an internally illuminated fascia sign and projecting sign to the ground floor shop unit. – **Granted 11/10/2004**

PWX0202485: The installation of an externally mounted security shutter to the ground floor shop unit. – **Granted 04/12/2003**

AWX0002761: The display of an internally illuminated fascia logo and internally illuminated projecting sign at front ground floor level. (as shown on plan numbers; BN2000VS/1a, 2, 3, 4 and 5-18-111 Rev A). – **Granted 09/01/2001**

9100555: Retention of one satellite dish on roof as shown on manufacturer's details and photographs.
– **Grant 01/10/1991**

8680015: Display of an internally illuminated fascia panel sign measuring 1.70m by 4.70m overall affixed at a height of 2.75m between pavement and underside levels. 2) Display of an internally illuminated double-sided projecting box sign measuring 0.90m by 0.45m – **Granted 19/02/1986**

8600122: Installation of a shopfront and an alteration to the front elevation at first floor level as shown on drawing No.JN/626/02/C revised on 13th February 1986. – **Granted 19/02/1986**

Relevant policies

National Planning Policy Framework [2012]

London Plan [2015] consolidated with alterations

LDF Core Strategy and Development Policies [2010]

CS5 Managing the impact of growth and development

CS7 Promoting Camden's centres and shops

DP12 Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses

DP24 Securing high quality design

DP26 Managing the impact of development on occupiers and neighbours

Supplementary Planning Policies

CPG 5 Town Centre, Retail and Employment [2013]

CPG 6 Amenity [2011]

Assessment

Proposal

The current application seeks permission for the change of use of the unit from A1 (shop) to Sui Generis (betting shop). No external changes are being proposed under this application.

The Council's LDF aims to protect the vibrancy of any high street or neighbourhood shopping centre by resisting any significant loss of A1 units. Unlike A1 uses, betting shops do not create as much footfall or generate the level of vibrancy associated with shopping uses. Additionally, there are around eleven units in close proximity to the site. These include 251 Kilburn High Road (Paddy Power) and 143 Kilburn High Road (William Hill).

In light of the above the main areas for consideration are:

- Loss of A1 and small shop unit
- Principle of change of use to betting shop
- Amenity
- Representations

Loss of A1 retail unit

The NPPF states that Local Planning Authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality (paragraph 23).

Policy CS7 aims to protect and enhance Camden's centres by ensuring successful and vibrant centres that serves the needs of local residents as well as visitors to the area. In doing so it aims to protect local character, ensure development is appropriate and maintaining a range of shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice.

Policy DP12 states that the Council will ensure that new Town Centre uses do not harm the character, function and vitality of the area by considering:

- a) the effect of non-retail development on shopping provision and the character of the centre in which it is located; [...]
- c) the impact of the development on nearby residential uses and amenity, and any prejudice to future residential development; [...]
- g) the potential for crime and anti-social behaviour, including littering;

In so doing the Council will protect the retail function of the Town Centre by ensuring there is a high proportion of premises in shopping use. This theme is expanded upon in CPG 5. This states that any assessment of change of use from retail (A1) to another use must consider the percentage depletion rate of retail. As the location has been identified as falling within the Kilburn High Road Core Shopping Frontage, it is required that any loss of A1 use should not reduce the total number of A1 units to below 75% of all units along the relevant parade between. Currently, the number of A1 units along the parade amount to 70%.

- Formula: $A1 / \text{all units} \times 100 = \%$
- Current : $7/10 \times 100 = 70\%$

Should the proposal gain permission the new percentage would fall to 60%.

- Proposed: $6/10 \times 100 = 60\%$

As this is below the required 75% the proposal fails to comply with policy DP12 (a) and supplementary planning guidance CPG 5.

Although the proposal fails to comply with the 75% benchmark, CPG 5 also states that the Council will consider the loss of a retail unit in the event that there is no realistic possibility of continuing the use. For example, should any A1 unit be vacant for a considerable length of time and evidence demonstrates that it is unlikely to ever be used as A1, the Council may allow a change of use to help promote the vitality of the area (CPG 5: p.8). In such cases marketing evidence collected over a sufficient amount of time is required to demonstrate that the proposed loss is justified and that although efforts have been made it has not been possible to let the unit for A1 use. In such cases CPG 5 states that the Council will require information pertaining to:

- where the premises were advertised (shopfront; media, web sources etc) and when (dates);
- how long the premises were advertised for and whether this was over a consistent period;
- rental prices quoted in the advertisement (we expect premises to be marketed at realistic prices);
- copies of advertisements;
- estate agents details;
- any feedback from interested parties outlining why the premises were not suitable for their purposes; and
- consideration of alternative retail uses and layouts.

The applicant has submitted an estate agent advert and marketing letter both from Nash Bond estate agents detailing their endeavours to rent the unit as A1. This letter states that:

“The unit has failed to secure a permanent A1 retail operator despite 15 months of active marketing (by Savills from December 2013 to July 2014 and then by Nashbond since August 2014). The unit was also marketed by the Administrator as part of a grouping after the closure of Barratts however no interest was shown in the unit. Whilst an A1 retailer has been operating from the unit since autumn 2014, this is on a temporary, informal basis and no rent is being paid, nor has the occupier put any investment in the unit” (p.5).

Since the Barratts use came to an end in December 2013, Savills were instructed to advertise the unit. Although there were a number of enquiries the unit remained vacant. Nash Bond estate agents were then instructed to try and let the unit in September 2014. Nash Bond state that they received five enquiries of which they state “*none made firm offers*”, even though the current tenants (District clothing) moved into the property in autumn 2014. The Marketing Activity Report dated 15th April 2015 also states that the property is “Under Offer” in April. Therefore a tenant has been found for it. Separately, there is no evidence to show that the unit was advertised by Savills aside of their being mentioned in the submission. The remaining period of 24th September 2014 to 15th April 2015 (for Nash Bond) is not considered sufficient time to demonstrate that the property is unrentable as an A1 unit.

The applicant has stated that the current tenant is there temporarily and that they are not paying rent. Therefore less importance should be placed on their occupation of the unit and the unit should still be considered as being unrentable as A1. However whether they are paying rent or otherwise is not material to the planning assessment. Additionally, whether this use is temporary or otherwise, it is still indicative of demand.

In light of the above, the submission has failed to comply with the required policies.

Change of use to betting shop

The NPPF starts that the planning system should help promote healthy communities by building policies that can achieve safe and accessible environments without crime and disorder and the fear of crime, and do not undermine quality of life or community cohesion (paragraph 69). In line with these aims, policy CS7 states the Council will pursue individual planning objectives for each centre and refers in its supporting section for Kilburn High Road to the aim to ‘improve safety and the perception of safety in Kilburn High Road by requiring development to include appropriate design measures to prevent crime and anti-social behaviour’. This demonstrates that crime is an issue for this centre and

needs to be taken account of in assessing applications. Policy DP12 as noted above also refers to the need to assess development for the potential for crime and anti-social behaviour. The London Plan (2015) policy 7.3 states that *Boroughs...should seek to create safe, secure and appropriately accessible environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion and development should reduce the opportunities for criminal behaviour and contribute to a sense of security.*

There are more than eight betting units in close proximity to the proposed site. This cluster is considered significant. These concerns have been further highlighted by neighbours who have stated that there are already enough betting shops in Kilburn and another would simply add to the social decline of the area. Brent Council has recently refused an application (ref: 13/3501) citing the over-concentration of these betting shops. Comments from the Metropolitan Police provide clear evidence that the current situation is getting worse as there are growing issues associated with the existing betting shops in the high street. In line with policy CS7, the Council aims to improve safety and the perception of safety in Kilburn High Road. Also, policy DP12 states that the Council will resist developments that create further potential for crime and anti-social behaviour. Officers are concerned that an additional betting shop would increase the fear of crime in Kilburn as well as contribute to the growing concern along the high road about disruptive behaviour from those using the betting shops. Although the Metropolitan Police highlighted one particular betting shop in their consultation response, they have commented that it is indicative of the general issues with betting shops along the high street. The cumulative impact of such a concentration of betting shops can only exacerbate the existing issues and therefore would be detrimental to the current social fabric in this centre, the character and function of this centre and also would be likely to result in further harm to community safety and increase the fear of crime on Kilburn High Road.

As a result, any additional betting shop would not be supported as it would be harmful to the local character and the community safety in the area, and would also fail to meet the principles of the London Plan, the NPPF and Camden's LDF.

Amenity

Under section 7 of supplementary planning guidance CPG 6 (Amenity), all developments are required to have some regard for the amenity of existing and future occupants. Policies CS5 (Core Strategy) and DP26 (Development Policies) state that the council will protect the quality of life for existing and future occupiers, as well as neighbours by only granting permission for those developments that would not have a harmful effect on amenity. Such issues include visual privacy, overlooking, overshadowing, outlook, sunlight, daylight and artificial light levels.

Due to the position and surrounding area of the proposed betting shop it would have no impact on the amenity of adjoining neighbours in terms of issues detailed above. However as highlighted above, there would be general community implications.

Representations

Many of the comments have already been addressed in the above sections.

Further comments have been submitted in relation to the betting industry's taxation practices and Paddy Power's management style. However these are not planning matters.

An application for a betting shop was submitted to Brent Council and was refused on similar grounds to the issues stated above. Namely that the concentration of the betting units in the area is having a negative impact on the streetscene and the character of the area. An approval would have led to an excessive number of non-retail frontages. The Decision Notice stated: *The proposed use of the premises as a betting shop (Use Class A2) and associated loss of a retail unit (Use Class A1) would exacerbate the existing over-concentration of non-retail units within 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 lessening the attractiveness of its retail offer to shoppers, resulting in the loss of a retail unit in a prime location, contrary to policies SH6 and SH7 of*

Conclusion

The proposed use brings the total number of A1 uses below the minimum ratio of retail uses within the relevant frontage required by policy and would thus harm the retail function of this parade. It may be that the unit has been vacant for some time previously and it has been difficult to rent during this time. However the existing occupants are a clear indication that there is demand for the A1 unit. The marketing evidence submitted also fails to fully demonstrate that an acceptable time has been given to marketing the property. Furthermore an additional betting shop in area already well supplied with them would be likely to result in additional crime and anti-social behaviour and in harm to community safety in the area. Therefore the development fails the necessary policies and should be refused.

RECOMMENDATION: REFUSE