

Delegated Report (Refusal)		Analysis sheet	Expiry Date:	20/11/2015
		N/A / attached	Consultation Expiry Date:	23/10/2015
Officer			Application Number(s)	
Jonathan McClue			2015/4993/P	
Application Address			Drawing Numbers	
The Brondes Age 328E-H Kilburn High Road London NW6 2QN			Refer to Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
First floor extensions and creation of a roof terrace bar (A4) to be used in connection with the ground floor Public House (A4)				
Recommendation(s):	Refuse			
Application Type:	Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	28	No. of responses	36	No. of objections	36
Summary of consultation responses:	<p>In addition to the 28 letters posted, a Site Notice was displayed from 02/10/2015 to the front of the premises. 36 objections were received from no.s 2 (flats 1 and 3), 4 (Flats A, B, C, D and E), 6, 7, 8, 8a, 8 (first floor), 9 (flat 4), 10a, 10b, 1-d, 12b, 12c, 12d, 16, 16 (flat 1), 22c Iverson Road, 15 and 16 Maygrove Road and 8 Overdone Road along with a consultation response from Transport for London. The objections are summarised below:</p> <ul style="list-style-type: none"> • Overlooking issues from new terrace into adjacent residential properties • Noise levels are already significant and proposal would worsen the existing impact • Adding a roof deck for 100 guests backing on to a residential area would substantially change the environment • Light pollution from open terrace • Would devalue surrounding properties • Would increase amount of anti-social behaviour • It would be a threat to wildlife and biodiversity • The area is noisy enough already with people parking to go to the bars in Kilburn High Road • The Design and Access Statement declares that music and entertainment will be available on the terrace on certain evenings. The acoustic report confines itself to evaluating predicted noise levels for voices and has not assessed the impact on residents of playing music on the terrace. Music and entertainment on the terrace are in contravention of the Borough of Camden's Noise Strategy 10.11 • There are inconsistencies between the submitted drawings and the Noise Impact Assessment Report in terms of the height of the acoustic barrier provided • The Noise Report makes the assumption that customers will not speak with raised voices which is unlikely. It also fails to take into account the intended addition of music and other entertainment • Noise from the terrace would affect residents well into the night, even with closed windows, and would make it impossible for residents to 					

keep their windows open

- The submitted documents fail to indicate how, if at all, the development would protect the privacy of the neighbours living on Kilburn High Road and Iverson Road. The 'Proposed Drawings' indicate that customers on the roof terrace will have a direct view into the bedrooms, living rooms, kitchens, and gardens, of residents
- 8 cycle parking spaces are provided but with no easy means (if any) for staff or customers to access them
- Increase in height at the rear of the building will make it far easier for trespassers on the overground line to climb onto the terrace, and into the gardens below
- No means for disabled access to the roof terrace
- Cigarette smoke that will arise from the roof terrace. This is will be unpleasant in terms of smell and may have health risks for people living near by
- RBA have taken noise levels along Kilburn High Road and then used these levels to the rear of the Brondes Age on the proposed 'open' extension. These noise levels do not represent true readings which are enjoyed at present by the residents to the existing properties on Iverson Road, who are shielded from these noise levels by the properties on Kilburn High Road. Furthermore, the noise levels were not taken from the nearest properties to the proposal which are no.s 2, 4 and 6 Iverson Road
- The proposed roof terrace, accommodating at least 100 people, with music and other entertainment, would stand in close proximity to the Netherwood Day Centre. Until 4.30pm, the centre provides a range of activities for people with dementia. The centre offers a welcome chance for those affected to "relax", and includes a "lovely garden space outside" and activities such as "gardening". The Netherwood Centre is currently protected from excessive noise by its location off Kilburn High Road, but the garden would be located directly next to the proposed roof garden, depriving both carers, and people being cared for, of a much-needed space providing quiet and relaxation.
- The photos supplied in the 'Design and Access Statement' show branches hanging over the flat roof which is the site of the proposed terrace. These could be damaged during or after the development of the planned terrace.

<p>CAAC/Local groups* comments: *Please Specify</p>	<p><i>MILAM (Maygrove, Iverson, Loveridge, Ariel and Medley Road) Residents; Association objection 14/02/2016:</i></p> <p>The Noise Impact Assessment doesn't take into account the full impact of the noise increase which would occur in reality for surrounding residents. The properties on Iverson Road are somewhat protected from the noise of Kilburn High Road by the properties on that road. The rooftop terrace would result in an unacceptable increase in noise levels which would cause disturbance in the evenings when trying to sleep and cause privacy issues as the terrace would overlook the properties. It would no doubt devalue the properties as well as a result. Even now, on days where the bars and pubs on Kilburn High Road are busy, noise is at a high level. An open rooftop terrace would make noise levels intolerable.</p> <p><i>Comment from Transport for London (TfL) Planning on 12/10/2015:</i></p> <p>A minimum of 8 cycle spaces (1 long stay, 7 short stay) are required for the additional floor space of 260sq.m. Cycle changing facilities (including showers) should also be provided for bar staff and secured by planning condition. TfL advises that the applicant consults with Network Rail due to the proximity to the rail corridor.</p> <p><i>Comment from Network Rail on 18/11/2015:</i></p> <p>The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:</p> <ul style="list-style-type: none"> • encroach onto Network Rail land • affect the safety, operation or integrity of the company's railway and its infrastructure • undermine its support zone • damage the company's infrastructure • place additional load on cuttings • adversely affect any railway land or structure • over-sail or encroach upon the air-space of any Network Rail land • cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Site Description

This application relates to "The Brondes Age" which is a ground floor restaurant and bar (Sui Generis) located at 328E-H Kilburn High Road. The host building is a single storey structure formed from four shop units that have been converted into the existing premises. It includes a restaurant/bar area, a kitchen, cellar, toilets and a rear yard. The building has 4 distinct roofs with 3 tiled hipped roofs and a flat felt roof. The roofs sit behind a parapet on the façade with the pitches of the hipped roofs and chimneys visible above. Projecting over the footpath is a full length retractable canopy for outdoor drinking and eating. Tables and chairs are located under the canopy and are used by the facility. The rear of the building consists of a series of single storey flat roofed modest attachments. The restaurant/bar use was granted planning permission retrospectively via a successful appeal under PWX0002647. The use has occupied the site since November 2000.

The host property lies adjacent to a terrace at 330-338 Kilburn High Road to the northeast which is 3 storeys in height (plus basement and loft). The immediate building at 330 consists of a ground floor and basement salon (A1); a first floor office (B1a) and residential flats (C3) on the second and third floors. The remainder of the terrace contains commercial uses on the ground with residential above. To the north of the site is a residential terrace at 2-50 Iverson Road. These buildings benefit from habitable windows and gardens to the rear, with 2 Iverson Road located within close proximity to the application site. Residential flats are also located in the upper floors of the building at 359-363 Kilburn High Road on the opposite side of the street (west). Behind the host building to the east is an area of open space running behind the rear of the properties on Iverson Road. This area provides a buffer from the railway corridor. Immediately to the south the host building attaches to a railway bridge and embankment leading to/from Brondesbury Overground Station.

The application building is not listed nor does it lie within a conservation area. It is noted that there are several large trees to the rear of the site which provide an amenity value from Kilburn Road and surrounding properties. In addition, they provide a buffer between the railway corridor and the surrounding uses.

The host property lies just outside of the boundary of Fortune Green and West Hampstead Neighbourhood so the Neighbourhood Plan does not apply to this application.

Relevant History

Planning history:

PWX0002647: Planning permission for the "Retention of the change of use from Class A1 retail to Class A3 food and drink, together with the retention of a new shopfront and the retention of a single storey rear extension" was refused with enforcement action recommended on 23/11/2000. The reason for refusal was based on the change of use resulting in harm to the character, function, vitality and viability of the area.

An appeal was subsequently allowed under written representations on 08/03/2001 ref: APP/X5210/A/00/1055276. The outcome of the appeal made the existing use lawful.

2003/0847/P: Planning permission for the "The retention of a change of use from Class A1 (retail) to Class A3 (food and drink) as an extension to the existing restaurant bar in 328E-G Kilburn High Road, including retention of alterations to the shopfront" was withdrawn on 28/07/2004,

2004/3312/P: Planning permission for "The retention of the change of use of nos. 328E and H from Class A1 to a mixed restaurant/bar use (Sui Generis) as an extension to the existing restaurant/bar use in 328F and G; the removal of condition 3 (restricting the numbers of tables and chairs on the forecourt of units 328F and G) of planning permission ref: PWX0002647R1, allowed on appeal on 8th March 2001; the retention of alterations to shopfront of no.328H and a retractable canopy to all

shopfronts of 328E-H” was granted on 17/05/2005.

2005/3393/P: Planning permission for the “Variation of condition 01 of planning permission granted on 17/5/05 (for the retention of the change of use of nos. 328 E and H to a mixed restaurant/bar sui generis use) and condition 01 of planning permission granted at appeal on 8/3/2001 (for the retention of the change of use from Class A1 to Class A3) to extend the opening hours from midnight to 01.00hrs on Sundays, 01.00hrs to 02.00hrs on Mondays-Thursdays and 02.00hrs to 03.00hrs on Fridays and Saturdays” was granted on 26/09/2005.

Enforcement history:

EN000950: Enforcement investigation into the retention of the change of use from Class A1 retail to Class A3 food and drink, together with the retention of a new shopfront and the retention of a single storey rear extension. No further action was taken after the granting of PWX0002647 at appeal.

EN010960: Enforcement investigation into the extension of the approved A3 food and drink use from 328F and G to 328E and H.

Relevant policies

NPPF 2012

London Plan March 2015, consolidated with alterations since 2011

Local Development Framework 2010

Core Strategy

CS5 (Managing the impact of growth and development)
CS7 (Promoting Camden’s Centres and shops)
CS11 (Promoting sustainable and efficient travel)

Development Policies

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)
DP16 (The transport implications of development)
DP17 (Walking, cycling and public transport)
DP18 (Parking standards and limiting the availability of car parking)
DP19 (Managing the impact of parking)
DP24 (Securing high quality design)
DP26 (Managing the impact of development on occupiers and neighbours)
DP28 (Noise and vibration)
DP30 (Shopfronts)

Camden Planning Guidance (CPG)

CPG1 (Design) 2015
CPG5 (Town Centres, Retail and Employment) 2013
CPG6 (Amenity) 2011
CPG7 (Transport) 2011

Assessment

1.0 Proposal

1.1 Planning permission is sought for first floor extensions to create a roof terrace bar (A4) to be used in connection with the restaurant/bar (Sui Generis) below.

1.2 The first floor extension would include a brick build façade with inward opening doors and Juliet balconies; a steel/glass pitched roof over the central area; a timber fence acoustic panel and enclosed areas for the stairwells, storage and toilets.

1.3 New timber glazed doors are proposed to the ground floor façade.

1.4 A replacement canopy would be constructed to the front of the building.

1.5 8 cycle parking spaces would be included within the rear yard.

2.0 Impact of the Proposed Use on Neighbouring Amenity

Principle of the development

2.1 Policy CS7 of the Core Strategy recognises that food, drink and entertainment uses can add variety and vibrancy to commercial areas. It also makes it clear however that this should not be at the expense of the living conditions of local residents. Policy DP12 sets out detailed criteria in relation to the potential effect of such uses on residential amenity. Policies CS5 and DP26 deal with the effect of development on residential amenity in more general terms. It is considered that the creation of a rooftop bar (A4) would be unacceptable in principle as it would create a significant amount of noise and general disturbance for surrounding occupiers.

2.2 The proposed bar is likely to be disruptive given the nature of its use and the openness of the development. The rooftop facility is surrounded by a number of residential properties including flats within the upper floors of the adjacent building at 330 Kilburn High Road, flats on the adjacent side of Kilburn High Road at 359-363 (approximately 8m away) and a residential terrace at 2-50 Iverson Road, with the rear garden of no. 2 located approximately 1.5m away and its rear elevation 5m. Due to the intensity of the proposed use, which would cater for at least 100 patrons on the roof terrace, and the proximity of the surrounding residential occupiers the proposal would result in undue harm to those residents.

2.3 The Council's Environmental Health Officer objects to the principle of the application and considers the submitted acoustic information to be inadequate. The Council already has noise issues with the premises and an additional rooftop facility would be likely to exacerbate these. In addition, the acoustic information submitted is not conclusive and fails to take into account the actual levels of noise that would result from the proposed use.

2.4 While objections to a scheme are not a basis for refusal in their own right, the sheer number of objections received (36 written objections), indicates that there are already issues with the existing use and that it would be likely that the proposal would disturb every surrounding residential occupier to an unacceptable level. The use would be likely to lead to unacceptable levels of noise late into the evening over all nights of the week. This would prevent the surrounding residents from having unaffected use of their amenity space as well as opening their rear windows. The impact would be particularly harmful during the summer months.

Noise impact assessment

2.5 The submitted Noise Impact Assessment is based on incorrect assumptions. It inaccurately states that the closest residential window is at 361 Kilburn High Road on the opposite side of Kilburn High Road. The nearest residential premises are within the second and third floors of the adjacent building at 330 Kilburn High Road. It also assumes that the worst affected residential window would be 8 Iverson Road which is located 30m away. This is unlikely to be the case as 361 Kilburn High Road lies

immediately adjacent to the proposed terrace as does the rear garden and property at 2 Iverson Road. An assessment of the impact on these properties has not been undertaken. The report is inconsistent with the proposed drawings in terms of the height of the acoustic barriers and whether music and entertainment would form part of the proposal. The report states that there would be a 3.5m high acoustic barrier to the rear of the rooftop and a 3m barrier through the centre of the terrace. The proposed drawings state that a 2.4m high panel would be installed to the rear and there are no details of a barrier through the centre of the terrace. It is unlikely that barriers at these heights and locations would be acceptable due to their impact on the character and appearance of the building. These barriers are not shown on the proposed drawings, so they have not been addressed in design terms in section 3 (below). The microphones used to measure the background noise were positioned to the front of the application site at roof level and 1.2m above ground level to the rear. The first location would measure all the noise from the road and the second location would be located immediately adjacent to the railway line and the existing restaurant/pub. These locations are not considered to be suitable for measuring background noise. The surrounding residential flats are better screened from noise and would experience much lower background noises.

Light pollution

2.6 Due to the open nature of the rooftop bar and given that it would require a significant amount of lighting for use at night, particularly during the winter months, it is likely that the proposal would result in a material level of light pollution to surrounding occupiers.

Overlooking, loss of privacy

2.7 The rear of the rooftop would contain toilets and a store room which would prevent patrons from overlooking into properties to the rear.

Loss of light, outlook

2.8 The extensions, due to their height and location, would be unlikely to result in a material loss of light or outlook to surrounding occupiers.

3.0 Design and Character and Appearance

3.1 The proposed scheme draws from local industry and architecture with features such as brick detailing from factory frontages and steelwork from railway infrastructure. The resulting façade would be simple and coherent while retaining clean lines and returning to a two storey structure that was likely to be there historically, given the markings on the adjacent gable. Overall, it is considered that the extensions would respond to local context and distinctiveness, in height, overall size, massing, materials and architectural features.

3.3 Existing architectural features of the building would be lost, such as the fascia and the pitches of the hipped roofs behind. Furthermore, the current building height creates an openness and break in built form along this terrace at the juncture with the railway bridge. Views of the mature trees behind would be partially lost. Despite this, it is not considered that the development would result in a demonstrable level of harm to the built environment. The height of the proposed development would not result in an obliteration of the character of the area and its appearance is not objectionable.

4.0 Transport, Servicing and Cycle Parking

4.1 The site lies adjacent to Network Rail Land and if the development were to be considered acceptable, conditions would be attached to ensure the safe operation of the railway and protection of the land if an approval were granted.

4.2 8 cycle parking spaces are proposed to the rear for staff members in accordance with the requirements of the London Plan. While the spaces are not secure or covered, which is a requirement of CPG8 (Transport), it is considered that these details could be reserved for condition if the

application were to be deemed acceptable.

4.3 The proposed development would materially increase the size and operation of the existing use which would impact servicing and waste. These details have not been submitted as part of the application, however, this could be addressed by a planning condition if the application was not being refused.

4.4 The summary page of Policy DP21 states that 'The Council will expect works affecting Highways to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development'. The footway directly adjacent to the site could be damaged as a direct result of the proposed works. The Council would therefore need to secure a financial contribution for highway works as a section 106 planning obligation if planning permission is granted. However, in the absence of an acceptable scheme, the lack of a s106 for these highways works form another reason for refusal of the application.

5.0 Trees

5.1 There are mature trees to the rear of the site that provide amenity value as well as an acoustic buffer from the railway line. The development would most likely result in the need for some pruning and it would be expected that all trees would be protected during construction. A tree report and Arborcultural Impact Assessment have not been submitted with the application, however, the Council's Tree and Landscaping Officers have reviewed the proposal and find the proposal to be acceptable in principle. Therefore, Officers consider that this should not form a reason for refusal as if the development were to be considered acceptable, details of tree protection could be reserved via planning condition.

Recommendation: Refuse planning permission