

<b>Delegated Report</b> (Refusal)		<b>Analysis sheet</b> N/A		<b>Expiry Date:</b> 28/11/2017			
				<b>Consultation Expiry Date:</b> 08/11/2017			
<b>Officer</b>			<b>Application Number(s)</b>				
Patrick Marfleet			2017/5455/P				
<b>Application Address</b>			<b>Drawing Numbers</b>				
328 E-H Kilburn High Road London NW6 2QN			See decision notice				
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>				
<b>Proposal(s)</b>							
Demolition of existing bar/restaurant (Sui Generis) and erection of four storey mixed use building including commercial unit (A1-A4) at ground floor level and 8 residential units (C3) at first, second and third floor level comprising 4 x 1 bed, 3 x 2 bed and 1 x 3 bed flats with associated roof terraces to the front and rear.							
<b>Recommendation(s):</b>		Refuse planning permission					
<b>Application Type:</b>		Full Planning Permission					
<b>Conditions or Reasons for Refusal:</b>		Refer to Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	<b>00</b>	No. of responses No. electronic	<b>06</b> <b>06</b>	No. of objections	<b>03</b>
<b>Summary of consultation responses:</b>		<p>Site notices were displayed from 18/10/2017 - 08/11/2017</p> <p>Six responses were received from neighbouring residents including one letter of support. The issues and concerns raised are summarised below.</p> <ol style="list-style-type: none"> <li>1. Opposed to demolition of another old building from the High Road, older buildings should be restored not demolished.</li> <li>2. Submitted plans do not show the existing rear extensions and roof terraces at No.332. The proposed windows and balconies on the north-west / north-east elevations would directly overlook adjoining properties.</li> <li>3. Object to the extent of the rear projection, this is not in accordance with design of adjacent properties. Four storey structure to the rear is unacceptable.</li> <li>4. The size of the proposed rearward projection would cause unacceptable overshadowing to the rear gardens and windows of properties along southern side of Iverson Road.</li> </ol>					

5. The proposed development should be in line with the existing rear elevations in the terrace. Proposal in current form would cause considerable loss of daylight and sunlight to neighbouring properties on Iverson Road.

Officer comments

1. *The demolition of the existing building and design of the proposed development is discussed in paragraph 4 of this report.*
2. *The impact of the proposal on neighbouring amenity is discussed in paragraph 5 of this report.*
3. *The demolition of the existing building and design of the proposed development is discussed in paragraph 4 of this report.*
4. *The impact of the proposal on neighbouring amenity is discussed in paragraph 5 of this report.*
5. *The impact of the proposal on neighbouring amenity is discussed in paragraph 5 of this report.*

**Transport for London submitted the following comments:**

1. The site of the proposed development is on Kilburn High Road, which forms part of the Strategic Road Network (SRN). TfL have a duty under the Traffic Management Act 2004 to ensure that any development does not have an adverse impact on the SRN. Therefore, no skips or construction material shall be kept on the footway or carriageway of the SRN at any time.
2. The proposal includes cycle parking provision of 12 long-stay spaces, which is London Plan compliant for the residential aspect of the mixed-use building. However, no cycle parking spaces are proposed to serve the commercial units. According to the London Plan minimum standards, at least 1 long-stay and 5 short-stay cycle parking spaces must be provided to serve the commercial space. These should be provided following the London Cycle Design Standards and should be secured by condition.
3. The cycle parking access arrangement should be revised to provide a direct route into the residential lobby rather than expecting residents to return to the street after parking their bikes in order to access their residences.
4. No Delivery and Servicing Plan (DSP) has been submitted with this application. Due to the nature and location of the proposal, TfL requests a DSP to be submitted and approved by Camden City Council in conjunction with TfL prior to occupation. This should be secured by condition.
5. Due to the poor cycling access arrangement and the lack of London Plan compliant cycle parking provision, TfL objects to this application.

Officer comments

*1-5. The transport implications of the proposed development are discussed in paragraph 7 of this report.*

**comments:**

No comments received.

**Site Description**

The application site is located at 328 E-H Kilburn High Road which is currently occupied by The Brondes Age restaurant and bar (Sui Generis). 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. 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 site is located within a designated Grade 1 Site of Nature and Conservation Importance (SNCI) and consists of a number of lightweight, single storey, flat roofed structures. The restaurant/bar use was granted planning permission retrospectively via appeal (APP/X5210/A/00/1055276\_ under permission reference PWX0002647) and has occupied the site since November 2000, the appeal decision also included the retention of a new shopfront and a single storey structure to the rear of the site.

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 High Road and surrounding properties and act as a buffer between the railway corridor and the surrounding uses.

**Relevant History**Application Site

**2015/4993/P** - First floor extensions and creation of a roof terrace bar (A4) to be used in connection with the ground floor mixed restaurant/bar use (Sui Generis). **Refused 11/04/2016 due to unacceptable impact on amenity of neighbouring residents.**

**2005/3393/P:** 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. **Granted on 26/09/2005.**

**2004/3312/P** - 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. **Granted on 17/05/2005.**

**2003/0847/P** - 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. **Withdrawn on 28/07/2004.**

**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.

## **Relevant policies**

### **National Planning Policy Framework 2012**

### **The London Plan 2016**

### **Mayors Supplementary Planning Guidance**

### **Camden Local Plan 2017**

Policy G1 Delivery and location of growth

Policy H1 Maximising housing supply

Policy H4 Maximising the supply of affordable housing

Policy H6 Housing choice and mix

Policy H7 Large and small homes

Policy C5 Safety and security

Policy C6 Access for all

Policy E1 Economic development

Policy E2 Employment premises and sites

Policy A1 Managing the impact of development

Policy A2 Open space

Policy A3 Biodiversity

Policy A4 Noise and vibration

Policy D1 Design

Policy D2 Heritage

Policy CC1 Climate change mitigation

Policy CC2 Adapting to climate change

Policy CC3 Water and flooding

Policy CC4 Air quality

Policy CC5 Waste

Policy T1 Prioritising walking, cycling and public transport

Policy T2 Parking and car-free development

Policy T3 Transport infrastructure

Policy DM1 Delivery and monitoring

### **Supplementary Planning Policies**

#### Camden Planning Guidance

CPG 1 Design (updated March 2018) - paragraphs 4.9 to 4.13

CPG 2 Housing (updated March 2018)  
CPG 3 Sustainability (updated March 2018)  
CPG Amenity (2018)  
CPG Biodiversity (2018)  
CPG 7 Transport (2011)  
CPG 8 Planning obligations (update March 2018)  
CPG Town centres (2018)

## **Assessment**

### **1.0 Proposal**

1.1 Planning permission is sought for the demolition of the existing single storey bar/restaurant (Sui Generis) at the site and the erection of a four storey mixed commercial and residential development.

1.2 The proposal would provide approximately 216m<sup>2</sup> of flexible commercial space at ground floor level, 2 x 1 bed and 1 x 2 bed flats at first floor level, 2 x 1 bed and 1 x 2 bed at second floor level and 1 x 3 bed and 1 x 2 bed at third floor level. The proposal also comprises a third floor front roof terrace area and rear roof terraces at first, second and third floor level.

1.3 The upper floors of the front façade, which contain the proposed residential units, read as three distinct sections with layered window reveals and projecting brick dormers at roof level. At ground floor level large glazed openings and a stall riser type structure provide a clear distinction between the commercial and residential uses. The predominant facing material for the proposal is red/brown brick.

### **2.0 Assessment**

The material considerations for this application are summarised as follows:

- Land use;
- Design;
- Mix and quality of residential units;
- Amenity of neighbouring residential occupants;
- Transport;
- Energy and sustainability

### **3.0 Land use**

#### Development on designated Site of Nature Conservation Importance (SINC)

3.1 A large section of the application site (to the rear) is located within a Borough Grade 1 Site of Importance for Nature Conservation (SINC) and the Metropolitan and Jubilee Underground Line Strategic Wildlife Corridor.

3.2 Policy A3 of the Local Plan seeks to protect and enhance the boroughs sites of nature conservation and biodiversity. To protect existing sites, the Council will resist the development of designated sites where the nature conservation value has been diminished or lost, especially where this loss is due to neglect and damage as it is possible for the habitat to be restored.

3.3 The submitted floor plans and Ecology and Landscape Report (July 2017) indicate that 145sqm of

protected SINC land is located within the curtilage of the application site, with approximately 31sqm of the SINC occupied by the existing single storey structures to the rear of the site. The proposed development would result in the loss of a further 50sqm of SINC land with the building occupying approximately 81sqm of protected land in total, which is contrary to Policy A3 of the Local Plan.

3.4 Within their supporting submissions the applicant has stated that 201sqm of landscaping and intensive green roof planting would be provided as part of the development, however; the Council do not consider this to represent a contiguous habitat. Policy A3 of the Local Plan requires all developments of this size to incorporate or investigate the possibility of incorporating the use of Green Roofs within the proposal, and therefore this provision of wildlife habitats on green roofs on the site is considered to represent an enhancement of the proposal rather than mitigation against the harm caused by the development.

3.5 Therefore, whilst officers acknowledge that the aforementioned SINC area has an existing baseline of low value in terms of priority habitats and/or protected species, its ecological value is as part of the wider SINC and strategic wildlife corridor, and whilst the condition of habitats is important the extent of contiguous habitat or habitat potential is of greater importance to the Council. In this regard, the proposed development would lead to the further unacceptable erosion of protected Grade 1 SINC land, which is contrary to the aims of the Camden Local Plan and the Mayors Biodiversity Strategy and forms a reason for refusal of the current application.

#### Proposed housing (C3)

3.6 Policy H1 of the Local Plan aims to secure a sufficient supply of homes to meet the needs of existing and future households and will seek to exceed the target for additional homes in the borough by regarding self-contained housing as the priority land use of the Local Plan.

3.7 The terrace of buildings adjacent to the application site and further along the high street are characterised by commercial units at ground floor level with residential accommodation provided on the floors above. Therefore, the proposed provision of residential accommodation above a ground floor commercial use at the site is considered acceptable in land use terms.

#### Ground floor flexible commercial use (A1, A2, A3, A4)

3.8 The application site is located within a secondary shopping frontage on Kilburn High Road which is Camden's second largest Town Centre area. Policies TC2, TC4 and Appendix 4 of the Local Plan seek to protect the function of the boroughs designated retail areas and will resist proposals that would result in a secondary frontage containing less than 50% retail use. The Council will also seek to resist proposals that would result in more than 3 consecutive similar non-retail uses within the secondary frontage.

3.9 The application site (328 E-H) is currently occupied by a mixed bar/restaurant use which was granted permission under ref: 2004/3312/P, and forms one of 6 commercial units in the secondary frontage. The existing uses of the ground floor units are listed below:

- No. 338 - A1
- No. 336 - A1
- No. 334 - A3
- No. 332 - A4
- No. 330 - A1
- No. 328 (E-H) - Sui Generis

3.10 Given the above, 50% of the secondary frontage is currently occupied by retail (A1) uses, which is the minimum percentage the Council consider acceptable to maintaining a viable retail offering in the boroughs town centres. Therefore, the proposed flexible use at ground floor level would not bring the retail offering in the frontage below the 50% threshold and could even improve the retail function if the proposed unit was to be occupied by an A1 use.

3.11 Furthermore, the existing A1 use at No.330 Kilburn High Road currently separates the existing non-retail uses at Nos.332 and 328 (E-H) and prevents three consecutive non-retail uses from occupying the frontage. The flexible use currently proposed at ground floor level would not alter this arrangement and would not result in the over concentration of non-retail uses within the frontage, in accordance with Policies TC2, TC4 and Appendix 4 of the Local Plan. Therefore, no objection is raised to the proposal in land use terms, subject to all other aspects of the scheme being considered acceptable.

#### Affordable housing

3.12 Policy H4 seeks to maximise the provision of affordable housing. A sliding scale target applies to developments that provide one or more additional homes and have capacity for fewer than 25 additional homes starting at 2% for one home and increasing by 2% of for each home added to capacity. Capacity for one additional home is defined within the Local Plan as the creation of 100m<sup>2</sup> of additional residential floorspace (GIA). In assessing capacity, additional residential floorspace is rounded to the nearest 100m<sup>2</sup> (GIA). Where developments have capacity for fewer than 10 additional dwellings (or 1000sqm), the Council will accept a payment-in-lieu of affordable housing.

3.13 The current application proposes the creation of 608sqm (GIA) of residential floorspace, which would trigger an affordable housing contribution in line with Policy H4. The sliding target in this instance would require a provision equal to 12% of the total C3 floorspace (expressed in GEA). Policy H4 accepts that a payment-in-lieu is often to most appropriate means to secure this provision in schemes of under 10 units and no longer requires off-site provision to be explored for schemes of this scale.

3.14 The Council's current adopted multiplier for calculating a payment-in-lieu within market residential schemes is £2,650 per sqm. This provides an overall requirement of **£214,968** based upon the creation of 676sqm (GEA) of C3 floorspace (12% of 676sqm = 81.12sqm x £2650 = £214,968).

3.15 The supporting documents submitted with the application included an affordable housing viability statement prepared by Kempton Carr Croft (KCC) which confirmed that any form of affordable housing contribution would render the development totally unviable.

3.16 The viability report has been independently reviewed by the Council's third party auditor (BPS) who identified a number of discrepancies and ambiguities within the report produced by KCC. Therefore, in order to make an accurate assessment of the sites potential to provide affordable housing BPS made the following changes to the submitted appraisal:

- Reduced profit on commercial unit to 15%
- Increased private residential GDV
- Increased rent on retail unit
- A downward adjustment to base build cost
- A removal of the discounting of residual land value

3.17 Taking the above changes into account, the BPS audit report confirmed the following:

*These changes result in a residual land value of £2.0m. This compares to the benchmark land value figure of £2.07m stated above, which we consider to the minimum realistic benchmark to adopt, taking*

*into account the strong current trading of the pub and its development potential. This indicates that no affordable housing contributions can be delivered by the scheme. In addition, it is very likely according to our cost consultant that abnormal costs associated with the sites close proximity to the railway line will cause overall costs to be higher than those estimated in the applicant's appraisal, which would further compromise viability.*

3.18 Therefore given the above, the lack of a legal agreement to secure an affordable housing contribution would not be cited as a reason for refusal of the application.

3.19 However, Policy H4 of the Local Plan also states that, where the development's contribution to affordable housing falls significantly short of the Council's targets due to financial viability, and there is a prospect of viability improving prior to completion, the Council will seek a deferred contingent contribution, based on the initial shortfall and an updated assessment of viability when costs and receipts are known as far as possible. Therefore, the absence of a legal agreement to secure a re-appraisal of affordable housing viability on or following completion of the development forms a reason for refusal in this instance.

## **4.0 Design**

4.1 Local Plan Policies D1 (Design) and D2 (Heritage) aim to achieve high quality design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. Officers note that the site is not listed nor is it in a conservation area, however; the adjoining properties (330 to 334) are identified as Non-Designated Heritage Assets on the boroughs local list and so a full assessment of the character and distinctiveness of the local area is required.

### Site and surrounding context

4.2 The site lies on the eastern side of Kilburn High Road abutting a railway viaduct to the south. To the north, the block is composed of a terrace of three/three-plus-attic storey brown and red brick Victorian properties from 330 to 336 Kilburn High Road and a four storey yellow brick Victorian building that occupies a corner site fronting both Iverson Road and Kilburn High Road. These buildings and structures are of most relevance to the setting of the proposal site and the way in which it should relate to its context.

4.3 The three locally listed buildings (330-334) that neighbour the application site have ground floor rear extensions but are not extended above ground floor level. There is a closet wing extension to the rear of No.336 to a height of approximately half a storey below eaves level. The Iverson Road properties also feature closet wings to eaves level.

### Proposal

4.4 The current proposal would demolish the existing building and replace it with a building that has its massing expressed in two main parts; the street facing section that adjoins the existing terrace, and the four storey projection to the rear. The street facing section of the proposal is considered to represent a contextual response to the site and the surrounding Kilburn High Road terrace and is conceived as a continuation of the three storey with attic level and dormer typology of the neighbouring buildings to the north, which officers consider acceptable in design terms.

4.5 However, the proposal to the rear of the plot reads as a disproportionate four storey projection beyond the prevailing rear building line of the terrace. At ground floor level near full plot coverage is

proposed whilst on the floors above ground floor level, the proposed rearward projection would extend to occupy over half the width of the entire plot. The rearward projection continues above the third storey eaves level and culminates in a contrived mansard roof type design that angles back into the rear roof slope creating an awkward relationship between the front and rear elements.

4.6 As stated above, the proposed size and design of the street-facing façade of the replacement building is considered to represent a contextually sensitive and appropriate interpretation of the prevailing built form and reads as a continuation of the adjoining buildings in the terrace. Therefore, in this regard, the proposed rearward projection appears as a four storey extension to the terraced building, and whilst officers acknowledge that this is a new build development, the Council's guidance with regard to rear extensions is considered applicable in this instance.

4.7 Paragraph 4.8 and 4.10 of Camden's supplementary design guidance document (CPG 1) states that rear extensions should be secondary to the main building in terms of location, form, proportions, dimensions and detailing and should respect and preserve the historic pattern and established townscape of the surrounding area, including the ratio of built to unbuilt space.

4.8 There are no specific circumstances within the current proposal that would enable an exception to this approach. The position of the site within the context of the terrace to the north and the open aspect to the east supports a design approach of a rear projection that is subordinate to the primary built form of the street facing part of the site.

4.9 The proposed rearward projection is considered excessive in terms of the built to unbuilt plot ratio and does not conform to the historic pattern of development successfully reflected in the street facing part of the site, i.e. the subdivision of the plot into three parts that respects the fine grain that is characteristic of Kilburn High Road. Conversely, the rearward projection is placed centrally on the site spanning across all three plots and reads as a monolithic block that fails to relate sympathetically to the site and the adjoining terrace of locally listed buildings.

4.10 Additionally, paragraph 4.13 of CPG1 states that in most cases, extensions that are higher than one full storey below roof eaves/parapet level, or that rise above the general height of neighbouring projections and nearby extensions, will be strongly discouraged.

4.11 The height of the proposed rear projection is one full storey above the eaves level of the proposed street facing terraced building, which is twice the height recommended in CPG 1. The flank wall of the development rises to a sheer height of four storeys and the rear elevation is slightly inclined at fourth storey level with the intent of generating a mansard-type form with projecting dormers. However, the mansard-type roof form is at odds with the character and proportions of the prevailing roof-scape of the adjoining buildings in the terrace, and does not succeed in mitigating the visual effect of the excessive bulk proposed. The proposed mansard type roof structure and rearward projection would also combine to create an incongruous flank elevation when looking north along Kilburn High Road, which further adds to the harm the proposal would cause to the character and appearance of the surrounding area.

4.12 To conclude, the overall size, scale and height of the proposed rearward projection is considered excessive and would create an over-dominant and incongruous development that would cause unacceptable harm to the character and appearance of adjoining buildings along Kilburn High Road and the wider area. The proposal is therefore contrary to Policy D1 of the Local Plan and its unacceptable size and design forms a reason for refusal of the application.

## **5.0 Mix and quality of residential accommodation**

5.1 Policy H7 of the Local Plan seeks to ensure that all housing development contributes to meeting the priorities set out in the Dwelling Size Priorities Table (below) and includes a mix of large

and small homes.

**Table 1: Dwelling Size Priorities**

	<b>1-bedroom (or studio)</b>	<b>2-bedroom</b>	<b>3-bedroom</b>	<b>4-bedroom (or more)</b>
Social-affordable rented	lower	high	high	medium
Intermediate affordable	high	medium	lower	lower
Market	lower	high	high	lower

5.2 The proposal would comprise 1 x 3 bed unit (high priority), 3 x 2 bed units (high priority) and 4 x 1 Bed Units (lower priority). Therefore, as 50% of the proposed dwellings would have a minimum of 2 Bedrooms, no objection is raised to the proposed mix of housing which is considered to adequately fulfil the requirements of Policy H7.

5.3 The proposed residential units would either meet or exceed the space standards as set out in the London Plan space standards table, and as such are considered acceptable in respect of unit size. All of the proposed units would be dual aspect and all rooms would be served with suitably sized windows to ensure the receipt of good levels of daylight and sunlight.

5.4 Officers note the close relationship between the bedroom windows of flats 102 and 103 at first floor level and flats 202 and 203 at second floor level and the possible overlooking between units that could occur as a result of the development. However, the size and orientation of the aforementioned windows on the flank elevation of the rearward projection and the rear elevation of the street facing building, would result in only oblique views being available between the proposed neighbouring windows. Therefore, given the very limited opportunity for overlooking between these four properties, officers consider all of the proposed units to benefit from good levels of privacy.

## **6.0 Impact on neighbouring amenity**

6.1 Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes privacy, overlooking, outlook and implications on daylight and sunlight. CPG - *Amenity* provides specific guidance with regards to privacy, overlooking and outlook.

### Daylight and Sunlight

6.2 With regard to daylight the applicant has used Vertical Sky Component (VSC) to test levels of daylight. If the VSC is greater than 27% then enough daylight should be received by the windows. Should windows fail the 27% level it is acceptable to have a reduction from the existing level of VSC to no less than 80% its former value.

6.3 With regard to the adjoining properties at 330-336 Kilburn High Road the report demonstrates that in most locations the proposed VSC would retain the benchmark figure of 27%. Wherever VSC values fall below 27% the neighbouring windows would remain above 0.8 the existing value, in accordance with the above requirements.

6.4 With regard to the neighbouring properties at 2-6 Iverson Road, the report demonstrates that the windows on the rear elevation would remain above 27% VSC. Where this would not happen the

proposed values would be retained above 0.95 the existing value. Similarly, the neighbouring block of flats at 359-363 Kilburn High Road would retain sufficient VSC levels and would be BRE compliant.

6.6 Officers note the objections received from neighbouring residents on Iverson Road with regard to the overshadowing to rear gardens that would occur as a result of the development. With regard to amenity spaces BRE suggests the Equinox (21<sup>st</sup> March) as the date for the assessment of overshadowing impact. The BRE guidance recommends that at least half of garden amenity areas should receive at least two hours of sunlight on 21<sup>st</sup> March. The submitted daylight and sunlight report demonstrates that with regard to the closet rear gardens of 2 and 4 Iverson Road the resulting value would remain above 0.8 the existing amenity value and would cause no adverse effect as a result. Therefore, no objection is raised with regard to the developments impact on neighbouring daylight/sunlight.

#### Privacy and outlook

6.7 Paragraph 2.4 of Camden's Planning Guidance document - *Amenity* (2018), advises that to ensure privacy, it is good practice to provide a minimum distance of 18m between the windows of habitable rooms in existing properties directly facing the proposed development. The 18m distance should be measured between the two closest points on each building.

6.8 With regard to the current proposal, the windows most likely to result in increased overlooking to neighbouring residents are considered to be the three bedroom windows located on the northern flank elevation (first, second and third floor level) and the proposed balconies at first second and third floor level.

6.9 The distance between the proposed bedroom windows and nearest habitable room windows at Nos. 2 and 4 Iverson Road would be approximately 22m, which exceeds the minimum 18m requirement stated above and is therefore considered acceptable. Furthermore, whilst the proposed bedroom windows would be located in closer proximity to the neighbouring rear windows of Nos. 330-336 Kilburn High Road, any views between windows would be at very narrow angles and would not result in unacceptable levels of overlooking as a result. The proposal would also result in several front habitable room windows facing towards 359-363 Kilburn High Road, however; they would share the same outlook as the existing windows of neighbouring residential units in the street and would not lead to unacceptable levels of overlooking to properties facing the site. Particularly as this close relationship between residential properties is a common feature of densely developed urban areas such as this.

6.10 With regard to the proposed balconies at first, second and third floor level, officers note that concerns have been raised from the occupiers of 332B Kilburn High Road over the potential impact the proposed balconies could have on the privacy of their existing rear roof terraces that were granted permission in August 2017.

6.11 However, given the 1.5m high privacy screens that were approved as part of the roof terrace application for 332B, the proposed first floor balcony area at 328 E-H is not considered to cause a loss of privacy as it would be located at the same level as the approved terrace.

6.12 Officers acknowledge the remaining two balconies proposed at second and third floor level would be higher than the neighbouring terrace at No.332 and would allow for some views between neighbouring balconies to occur as a result. However, the approved boundary treatment of the terraces at No.332, coupled with the distance between the approved and proposed outdoor areas, is considered sufficient to ensure no unacceptable harm would be caused to the amenity of neighbouring residents in terms of loss of privacy as a result of the development.

6.13 Similarly with regard to outlook, the proposed size, scale and height of the proposal is not considered to have an unacceptable impact on the outlook of any neighbouring properties at the site. Officers note that the rearward projection would be located in close proximity to the rear habitable room windows of No.330 Kilburn High Road, however; the aforementioned windows would still benefit from unimpeded view directly east and provide a good level of outlook for the occupants of the dwelling. Therefore, no objection is raised to the proposal on amenity grounds.

## **7.0 Transport**

### Car parking

7.1 Policy T2 of the Camden Local Plan states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The council will not issue on-street parking permits in connection with new development and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.

7.2 No on-site parking is proposed as part of the current proposal and none of the proposed units would be eligible for on street permits. The car-free requirements would be secured by a legal agreement if the scheme was considered acceptable. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

### Cycle parking

7.3 With regard to cycle parking, Policy T1 (Prioritising walking, cycling and public Transport) of the Camden Local Plan requires development to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in CPG7 - Transport. The London Plan states that new residential developments (Class C3) need to provide two cycle parking spaces for each unit of two bedrooms or more. The proposed development would therefore need to provide 12 covered, secure, fully enclosed and easily accessible cycle parking spaces in order to meet the minimum requirements of Table 6.3 of the London Plan.

7.4 The proposal would provide 12 covered, secure, partially enclosed and easily accessible cycle parking spaces at ground floor level adjacent to the new building in accordance with the minimum London Plan requirement. However, the details within the submitted design and access statement suggest that 'hook and hang' vertical cycle parking racks would be provided. This would not be considered acceptable as it would be contrary to Camden Planning Guidance document CPG7 (Transport).

7.5 The proposal would also provide approximately 222sqm of commercial space at ground floor level. Table 6.3 of the London Plan would require the following provision for each potential use class:

- A1 food retail - 2 long stay spaces and 6 short stay spaces.
- A1 non-food retail - 1 long stay space and 2 short stay spaces.
- A2, A3, A4 - 2 long stay spaces and 6 short stay spaces.

7.6 The proposal in its current form does not appear to provide any cycle parking space for the ground floor commercial use. The proposed cycle parking provision is therefore considered inadequate and would fail to accord with the minimum requirements of the London Plan, Camden Planning Guidance document CPG7 and Policy T1 of the Local Plan.

### Management of construction impacts on the public highway in the local area

7.7 Policies A1 and T4 of the Local Plan state that Construction Management Plans should be secured to demonstrate how a development will minimise impacts from the movement of goods and materials

during the construction process. The policies also relate to how development is connected to the highway network. For some developments, this may require control over how the development is implemented (including demolition and construction) through a Construction Management Plan (CMP).

7.8 A draft construction management plan (CMP) has been submitted in support of the planning application using the Council's approved CMP pro-forma format. If the proposed scheme was considered to be acceptable, the site would need to be registered with the Considerate Constructors Scheme and the Construction Logistics and Community Safety (CLOCS) Standard. Furthermore, pre-commencement (demolition and construction) consultation on the proposed construction arrangements would need to be undertaken with the local community before a more detailed CMP could be approved by the Council, and all construction vehicle movements would need to be scheduled to avoid morning and afternoon/evening peak periods as a means of minimising and mitigating impacts on the transport network.

7.10 Given the above, a CMP and CMP implementation support contribution of £3,136 would need to be secured by legal agreement. This would help to ensure that the impacts of construction, including the cumulative impacts of 2 or more adjacent developments being constructed concurrently, can be managed and mitigated. However, as the scheme is considered to be unacceptable in other aspects, the failure to secure a CMP through a legal agreement constitutes a further reason for refusal of the application.

7.11 The proposal is also likely to create a significant amount of damage to the public highway in the general vicinity of the site. Such damage would need to be repaired by the Council at the developers expense to allow the development to comply with Local Plan Policy A1 (Managing the impact of development). A highway works cost estimate would therefore need to be prepared if permission was to be granted. However, as the scheme is considered to be unacceptable in other aspects, the failure to secure a highways contribution through a legal agreement constitutes a further reason for refusal of the application.

#### Summary of required transport s.106 obligations

- Car Free development for all residential units
- Construction Management Plan
- CMP Implementation Support Contribution of £3,136
- Highways Contribution

### **8.0 Energy, sustainability and air quality**

8.1 Policy CC1 (Climate change mitigation) of the Local Plan states that the Council will require all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation. All new residential development is required to demonstrate a 19% CO2 reduction below Part L 2013 Building Regulations demonstrating how the energy hierarchy has been applied to make the fullest contribution to CO2 reduction.

8.2 Policy CC4 (Air quality) of the Local plan states that the Council will take into account the impact of air quality when assessing development proposals, through the consideration of both the exposure of occupants to air pollution and the effect of the development on air quality. Consideration must be taken to the actions identified in the Council's Air Quality Action Plan.

8.3 The applicant has submitted an energy strategy and air quality assessment in support of the current proposal. These documents have been reviewed by the Council's sustainability officer who has confirmed that the details are broadly in line with the relevant Local Plan policies and raises no objection

to the development on energy/sustainability and air quality grounds.

## **9.0 Trees and landscaping**

9.1 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 Council's Tree Officer has reviewed the submitted Tree Survey and Arboricultural Impact Assessment and is satisfied that the proposal would not have an adverse impact on the existing trees at the site. Tree protection measures would have been secured by condition if all other aspects of the proposal had been considered acceptable.

## **10.0 Recommendation**

10.1 Refuse Planning Permission