



APPEAL STATEMENT

**SECTION 78 OF THE TOWN AND COUNTRY
PLANNING ACT 1990 (AS AMENDED)**

**APPEAL AGAINST THE REFUSAL OF PLANNING
PERMISSION BY THE LONDON BOROUGH OF
CAMDEN**

APPEAL SITE: 260 KILBURN HIGH ROAD, LONDON

APPELLANT: MR LULI TAFASI

APPLICATION REFERENCE: 18/1781/FUL

PREPARED BY: LRJ PLANNING LTD

DATE: MARCH 2019



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1 AUTHOR'S BACKGROUND



- 1.1 My name is Lloyd Jones. I am a Chartered Town Planner and I hold a degree in City and Regional Planning from Cardiff University. I am a member of the Royal Town Planning Institute and prior to establishing LRJ Planning I worked in Local Government for 15 years dealing with a range of applications from householder schemes to major residential development.
- 1.2 The evidence which I have prepared and provided for this appeal is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.



2 INTRODUCTION

- 2.1 This Appeal Statement has been prepared by LRJ Planning on behalf of Mr Tafasi in support of an appeal against the decision of the London Borough of Camden to refuse planning permission (planning reference: 2018/3574/P) for the following development at 260 Kilburn High Road, London:

“Change of use of from A1 to A3 at ground floor level with associated shopfront alterations (retrospective application).”

- 2.2 The application was validated by the Council on 14th August 2018. The application was determined under delegated powers where it was refused on 21st February 2019 for the following reasons :

“1. The restaurant frontage, by virtue of it being recessed with stepped access, is an incongruous feature of the wider commercial frontage, encourages anti-social behaviour and fails to promote fair access, contrary to policies D3, C5 and C6 of the Camden Local Plan 2017.

2. The continued use of the ground floor unit as a restaurant would, by virtue of an over concentration of non-retail uses, cause harm to the function, character and success of the Kilburn High Road Neighbourhood Centre contrary to policies TC2 and TC4 of the Camden Local Plan 2017.”

- 2.3 A copy of the officer delegated report and decision notice is attached at **Appendix A.**



3 APPEAL SITE LOCATION AND PROPOSAL

- 3.1 The appeal site comprises a three-storey mid-terrace property with a basement. The property is positioned with the Kilburn Neighbourhood Centre as well as Kilburn Town Centre.
- 3.2 The appeal property is located within an area where there are a mix of commercial and residential uses. Further to this there is a variety of shop frontages within the area. The photographs exhibited at **Appendix B** illustrates this. The appeal property is not a listed building and does not fall within a Conservation Area.
- 3.3 The basement of the appeal property benefits from a lawful A3 that was granted planning permission (reference: 2016/6314/P) in August 2017.
- 3.4 The appeal proposal therefore relates to the change of use of the ground floor of the property from (use class A1) to a restaurant (use class A3). The previous frontage of the site on to the Kilburn High Road was a poor quality. The appellant has sought to create a vibrant frontage through the provision of a high quality recessed shop front, as illustrated on the plans provided at **Appendix C**.



4. PLANNING POLICY CONTEXT

- 4.1 On 24th July 2018, the Government published the latest version of National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and sets out how they are expected to be applied. The NPPF took immediate effect.
- 4.2 Paragraph 2 of the NPPF states that *"Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise."* The plan-led approved approach to development as enshrined by Section 38(6) of the Planning and Compulsory Purchase Act 2004. In addition, the NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions, as are previous planning decisions and appeals.
- 4.3 Paragraphs 7 and 8 confirm that the purpose of the planning system is to contribute to the achievement of sustainable development, which comprises economic, social and environmental dimensions.
- 4.4 The NPPF retains a presumption in favour of sustainable development. Paragraph 11 reaffirms that *"applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise."*
- 4.5 In respect of the presumption in favour of sustainable development, Paragraph 11 identifies that development proposals which accord with the development plan should be approved without delay and importantly:



“approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

4.6 Paragraph 38 of the NPPF relates to decision making and confirm that *“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”*

4.7 The Courts have held that Central Government’s policy is a material consideration that must be taken into account by the decision maker, as are relevant appeal decisions.

4.8 The development plan pertinent to the appeal site and the development proposal comprises the Camden Local Plan (2017).

Camden Local Plan

4.9 **Policy D3** relates to shop fronts and identifies that the Council will expect a high standard of design in new and altered shopfronts, canopies,



blinds, security measures and other features. When determining proposals for shopfront development the Council will consider:

- a. the design of the shopfront or feature, including its details and materials;
- b. the existing character, architectural and historic merit and design of the building and its shopfront;
- c. the relationship between the shopfront and the upper floors of the building and surrounding properties, including the relationship between the shopfront and any forecourt or lightwell;
- d. the general characteristics of shopfronts in the area;
- e. community safety and the contribution made by shopfronts to natural surveillance; and
- f. the degree of accessibility.

The Council will resist the removal of shop windows without a suitable replacement and will ensure that where shop, service, food, drink and entertainment uses are lost, a shop window and visual display is maintained.

Where an original shopfront of architectural or historic value survives, in whole or in substantial part, there will be a presumption in favour of its retention. Where a new shopfront forms part of a group where original shop fronts survive, its design should complement their quality and character.

4.10 **Policy C5** relates to safety and security. The policy states that the Council will aim to make Camden a safer place. We will:

- a. work with our partners including the Camden Community Safety Partnership to tackle crime, fear of crime and antisocial behaviour;



- b. require developments to demonstrate that they have incorporated design principles which contribute to community safety and security, particularly in wards with relatively high levels of crime, such as Holborn and Covent Garden, Camden Town with Primrose Hill and Bloomsbury;
- c. require appropriate security and community safety measures in buildings, spaces and the transport system;
- d. promote safer streets and public areas;
- e. address the cumulative impact of food, drink and entertainment uses, particularly in Camden Town, Central London and other centres and ensure Camden's businesses and organisations providing food, drink and entertainment uses take responsibility for reducing the opportunities for crime through effective management and design; and
- f. promote the development of pedestrian friendly spaces.

Where a development has been identified as being potentially vulnerable to terrorism, the Council will expect counter-terrorism measures to be incorporated into the design of buildings and associated public areas to increase security.

4.11 **Policy C6** relates to access for all. The Council will seek to promote fair access and remove the barriers that prevent everyone from accessing facilities and opportunities.

We will:

- a. expect all buildings and places to meet the highest practicable standards of accessible and inclusive design so they can be used safely, easily and with dignity by all;
- b. expect facilities to be located in the most accessible parts of the borough;
- c. expect spaces, routes and facilities between buildings to be designed to be fully accessible;



- d. encourage accessible public transport; and
- e. secure car parking for disabled people. The Council will seek to ensure that development meets the principles of lifetime neighbourhoods.

4.12 **Policy TC2** identifies that the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors.

We will:

- a. seek to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located;
- b. provide for and maintain, a range of shops including independent shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice;
- c. make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area and focusing such uses in King's Cross and Euston Growth areas, Central London Frontages, and Town Centres (Refer to Policy TC4 Town centre uses);
- d. support and protect Camden's Neighbourhood Centres, markets and areas of specialist shopping, local shops; and
- e. pursue the individual planning objectives for each centre, as set out in supplementary planning document Camden Planning Guidance on town centres and retail, and through the delivery of environmental, design, transport and public safety measures. The Council has designated primary and secondary frontages in its centres, which are shown on the Local Plan Policies Map. We will:
- f. protect the primary frontages as locations with a high proportion of shops (A1) in order to maintain the retail function of the centre; and



g. protect the secondary frontages as locations for shops (A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre. The Council's expectations for the mix and balance of uses within frontages for each designated centre are set out in Appendix 4.

4.13 **Policy TC4** relates to uses within Town Centres. The policy notes that the Council will ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

We will consider:

- a. the effect of development on shopping provision and the character of the centre in which it is located;
- b. the cumulative impact of food, drink and entertainment uses, taking into account the number and distribution of existing uses and nonimplemented planning permissions and any record of harm caused by such uses;
- c. the Council's expectations for the mix and balance of uses within frontages for each centre are set out in Appendix 4;
- d. the individual planning objectives for each centre, as set out in the supplementary planning document Camden Planning Guidance on town centres and retail;
- e. impacts on small and independent shops and impacts on markets;
- f. the health impacts of development;
- g. the impact of the development on nearby residential uses and amenity and any prejudice to future residential development;
- h. parking, stopping and servicing and the effect of the development on ease of movement on the footpath;



- i. noise and vibration generated either inside or outside of the site;
- j. fumes likely to be generated and the potential for effective and unobtrusive ventilation; and
- k. the potential for crime and antisocial behaviour, including littering. To manage potential harm to amenity or the local area, we will, in appropriate cases, use planning conditions and obligations to address the following issues:
 - l. hours of operation;
 - m. noise/vibration, fumes and the siting of plant and machinery;
 - n. the storage and disposal of refuse and customer litter;
 - o. tables and chairs outside of premises;
 - p. community safety;
 - q. the expansion of the customer area into ancillary areas such as basements;
 - r. the ability to change the use of premises from one food and drink use or one entertainment use to another (within Use Classes A3, A4, A5 and D2); and
 - s. the use of local management agreements to ensure that the vicinity of premises are managed responsibly to minimise impact on the surrounding area. Contributions to schemes to manage the off-site effects of a development, including for town centre management, will be sought in appropriate cases.

4.14 The Statement of Case at section 6 will demonstrate how the proposal complies with the above policies.



5. MAIN PLANNING CONSIDERATIONS

5.1 I am of the opinion that the principal considerations relating to this appeal are:

- The effect the recessed shop front has on the character and appearance of the area; and
- Whether the use of the ground floor as an A3 use is acceptable.

5.2 The refusal reason is considered in depth below. In the first instance it is considered that the proposal would comprise sustainable development as defined in the NPPF. The use would provide an economically sustainable and more successful business use through securing a long term economic use for the building.

5.3 Overall, as the proposed use represents sustainable development, there is presumption in favour of it, unless there are compelling reasons why planning permission should not be granted.

5.4 Section 6 of this appeal statement will address each of the above considerations and set out the appellant's case.



6. STATEMENT OF CASE

CASE AGAINST REFUSAL OF PLANNING PERMISSION

i) Character and Appearance of the Area

- 6.1 The appeal proposal has resulted in significant enhancements to the character of the property through ensuring a vibrant reuse of the ground floor of the property. The recessed shop frontage is considered to be a sympathetic introduction to the frontage of the unit.
- 6.2 Paragraph 92 (d) of the NPPF relates to the provision of social, recreational and cultural facilities and services the community needs, planning policies and decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community. National planning policy therefore recognises the importance of being able to develop and modernise.
- 6.3 It also noteworthy that the appeal property does not fall within in a designated Conservation Area and is not a designated heritage asset.
- 6.4 The overarching purpose of the replacement shop front was not only to improve the external appearance of the frontage of the unit and make it more attractive to encourage more custom, but to improve natural surveillance of the area. Public safety is also enshrined in paragraph 95 of the NPPF.
- 6.5 As described at the outset, there are a variety of styles of shop fronts, and that the shop front it replaced was not of a high architectural quality. At ground floor there is no architectural rhythm and no uniformity in respect of any of the frontages of any of the units in respect of design



and materials. As a result, it is advanced that there is no requirement to conform to a particular style or form of shop frontage. The provision of the recessed shop frontage with full height bi-folding doors introduces a vibrant element within the existing street scene and does not result in any material harm to the character and appearance of the property or he area.

- 6.6 The appellant is at a loss to understand how the development he has undertaken to improve the character of the property, and the provision of a vibrant reuse of the building, has resulted in the refusal of the application on this basis.
- 6.7 The appellant contends that the shop frontage has significantly enhanced the character of the unit. To reinstall the previous frontage would be a retrograde step. Further to this, to ensure access for all, the appellant has a ramp that enables all members in society to access the property. If this appeal was to fail it would significantly impact on the economic sustainability of the business.
- 6.8 Overall, given the poor quality of the previous frontage, as well as the nature and variety of the style of the surrounding frontages, the proposal enhances the character of the property and surrounding area. Additionally, there are economic benefits to the scheme, which are an important consideration. Accordingly, the proposal complies with policies D3, C5 and C6 of the Camden Local Plan 2017.

ii) Loss of A1 use

- 6.9 The National Planning Policy Framework (NPPF) seeks to promote a strong economy. Paragraph 80 of the NPPF stipulates that:



“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.”

- 6.10 The above national planning policy is therefore supportive of existing businesses through allowing them to grow. The situation is unique where there is an existing A3 use operating at basement level. It is therefore advanced that it is perverse for the Council to restrict an A3 use at ground floor when they have previously supported the A3 use within the basement of the appeal property.
- 6.11 Policy TC2 (g) of the Local Plan is quite clear in that it is supportive of a mix of uses within secondary shopping frontages. Indeed, it cites that the Council’s expectations for the mix and balance of uses within frontages for each designated centre are set out in Appendix 4. Appendix 4 stipulates that the minimum proportion of A1 uses on individual frontages should be 50% and that there should be no more than 3 consecutive non retail uses. With regards to the current situation it is evident that the current lawful situation along this existing frontage is that 20% of the units comprise an A1 use. As it stands, the existing lawful situation significantly exceeds the 50% threshold. It is therefore advanced that the creation of any additional non-A1 use will not result in any material harm over and above the existing situation.



- 6.12 Additionally, the Council places great weight on the fact that there would be a continuous row of more than 3 non-retail uses. However, the table in Appendix 4 of the Local Plan is explicit in that it does not refer to frontages. The existing lawful situation is that there is already a lawful A3 use operating at the property, and therefore the current and lawful situation is one that does not accord with the policy provision set out in Policy TC2 (g). As a result, given the existing lawful conflict with the policy provision, the proposal will therefore not materially harm the vitality and vibrancy of this area, that justified the refusal of the application on this basis.
- 6.13 It is advanced that the above provides compelling reasons, that there are other material considerations that justify why the proposal is acceptable, and that a departure from the requirement of Policy TC2 of the Local Plan in this particular case is acceptable.
- 6.14 The Council has not provided any cogent evidence to demonstrate any harm that will be caused.
- 6.15 Overall, the NPPF sets out that significant weight should be given to the needs of businesses. It is contended that the proposal is an acceptable form of development at this location, which accords with local and national planning policy.



7 CONCLUSION

- 7.1 Taking into account all relevant factors, it is submitted that the proposed use is acceptable in this location and would safeguard existing jobs as well as generate employment opportunities. Moreover, given the lack of architectural cohesiveness in the area, the recessed shop front is an attractive feature within the street scape and enhances the character of the area.
- 7.2 The Council does not quantify any material harm that will result from allowing the proposal, given the fact that an A3 use has been established in the basement of the appeal property. There are no sound planning reasons to withhold planning permission. The delay in granting planning permission are frustrating the needs of the business, as supported in national planning policy.
- 7.3 The Council has rigidly applied the criteria of Policy TC2 of the Local Plan without a full understanding of the wider economic benefits and the existing lawful position. It is advanced that the proposal comprises sustainable development that accords with the Local Plan and the NPPF.
- 7.4 The Inspector is respectfully requested to allow this appeal and grant planning permission for the retention of this development.

APPENDIX A

Application ref: 2018/3574/P
Contact: Josh Lawlor
Tel: 020 7974 2337
Date: 21 February 2019

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Go To Planning Ltd.
Chessington Business Centre
37 Cox Lane
CHESSINGTON
KT9 1SD

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Refused and Warning of Enforcement Action to be Taken

Address:

**260 Kilburn High Road
London
NW6 2BY**

Proposal:

Change of use from retail (Class A1) to restaurant (Class A3) at ground floor level with associated shopfront alterations (retrospective application)

Drawing Nos: Location Plan, 5184-001,0310-P03

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 1 The restaurant frontage, by virtue of it being recessed with stepped access, is an incongruous feature of the wider commercial frontage, encourages anti-social behaviour and fails to promote fair access, contrary to policies D3, C5 and C6 of the Camden Local Plan 2017.
- 2 The continued use of the ground floor unit as a restaurant would, by virtue of an over concentration of non-retail uses, cause harm to the function, character and success of the Kilburn High Road Neighbourhood Centre contrary to policies TC2 and TC4 of the Camden Local Plan 2017.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2018.

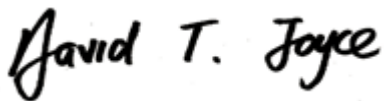
ENFORCEMENT ACTION TO BE TAKEN

The Council has authorised the Planning Department to instruct the Borough Solicitor to issue an Enforcement Notice alleging breach of planning control.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink that reads "David T. Joyce". The signature is written in a cursive, slightly slanted style.

David Joyce
Director of Regeneration and Planning

Delegated Report		Analysis sheet		Expiry Date:	13/09/2018
		N/A / attached		Consultation Expiry Date:	22/12/2018
Officer			Application Number(s)		
Josh Lawlor			2018/3574/P		
Application Address			Drawing Numbers		
260 Kilburn High Road London NW6 2BY			See draft decision		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use from A1 to A3 at ground floor level with associated shopfront alterations (retrospective application)					
Recommendation(s):		Refuse Planning Permission with warning of Enforcement Action			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	02	No. of objections	02
Summary of consultation responses:	<p>Site notices were displayed from 29/11/2018 to the 22/12/2018. The application was publicised in the Ham&High newspaper from the 15/11/2018 to the 09/12/2018</p> <p>Two objections have been received from two separate addresses.</p> <ul style="list-style-type: none">• The loss of A1 floor space• Recessed shop front with railings installed• Raised platform at front which is not accessible for disabled users• Increase of the kitchen size, the addition of a storage area, and the moving of the kitchen area from the rear of the unit to the middle of the unit, thus reducing the retail size of the 258 ground floor unit, removing direct access to the kitchen from the underground restaurants (agreed plan 0310-p05 of planning application 2016/6314/P and agreed plan 1407-p05 of planning application 2015/6789/P)• An access point at ground level has been created between 258 and 260 Kilburn high road <p><i>Officer response: See land use, design and amenity section of this report.</i></p>					

Site Description

The application site is a two storey, plus basement and mansard mid-terrace property. The site forms part of a wider building group of four Victorian buildings. The lawful use of the site comprises restaurant (A3) at basement level, retail (A1) at ground level and three self-contained 1 bedroom flats (C3) above. The application refers to the ground floor use only which has been converted into A3 use without planning consent.

The site is located within a Kilburn Neighbourhood Centre and the wider Kilburn Town Centre. The site is also located with the Kilburn Neighbourhood Forum. It is not located in a Conservation Area.

Planning History:

2016/6314/P – 260 Kilburn Road - Change of use of basement level from retail (Use Class A1) to restaurant (Use Class A3) and amalgamation of the basement level with the basement and rear ground floor of No.258 Kilburn High Road to form one A3 unit. – Granted on 03/08/2017

2015/6789/P - 258 Kilburn High Road - Change of use of basement from storage (vacant) to A3 Restaurant and change of use of rear of ground floor to A3. Elevation alterations to rear – Granted on 05/08/2016

2018/0610/P - 1st Floor Rear, 258 Kilburn High Road - First floor rear extension to allow creation of ancillary office space (Retrospective application) - Granted on 19/09/2018

Enforcement History At The Application Site:

EN17/0442 – unauthorised excavation - On 10/07/2017 permission granted for the change of use of basement level from retail (Use Class A1) to restaurant (Use Class A3) and amalgamation of the basement level with the basement and rear ground floor of No.258 Kilburn High Road to form one A3 unit. (2016/6314/P).

EN18/0414 – Raising of ground floor level and change of use from A1 to A3 – *Investigation ongoing*

Relevant policies

The National Planning Policy Framework 2018

London Plan 2016

Draft London Plan 2017

Camden local Plan 2017

D1 Design

D3 Shopfronts

C6 Access for All

A1 Managing the impact of development

A4 Noise and vibration

TC1 Quantity and location of retail development

TC2 Protecting and enhancing Camden's Centres and other shopping areas

TC4 Food, drink, entertainment and other town centre uses

T1 Prioritising walking, cycling and public transport

T4 Promoting the sustainable movement of goods and materials

Camden Planning Guidance

CPG1 Design – Ch. 7

CPG5 Town Centres – Ch.6

CPG6 Amenity – Ch.4

Assessment

1. Proposed Development

The proposal is for the retrospective change of use from retail (A1 use) at ground floor level to a restaurant (A3 use) and associated alterations to the shopfront to include a recessed frontage and raised seating platform with railings.

It is noted that the proposed plans appear to show the unit sharing the kitchen approved at no.258 under planning permission ref. 2015/6789/P. There is no objection to this in principle; however, the kitchen appears to be in a different location, further forward in the plot thereby occupying more of the A1 retail unit of no.258 than consented. Clarification has been sought on this matter; however, no response has been provided by the applicant.

The red line boundary does not extend beyond the planning unit of no.260 Kilburn High Road, nor does the development description refer to any works at no.258, which is considered to be a separate planning unit. The recommended decision is therefore limited to the works within the red line boundary as outlined above, although regard has been given to all material considerations.

2. Assessment

2.2. The principal considerations material to the determination of this application are as follows:

- Land use;
- Design
- Amenity
- Transport;
- Servicing, waste and refuse

3. Land Use

Policy TC2 of the Camden Local Plan 2017 states that the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors. Policy TC2 (part g) states the Council will protect secondary frontages as locations for shops (A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre.

CPG5 (figure 5, page 26) demonstrates the designated Core and Secondary retail frontages of Kilburn Town Centre. The application site is located within a secondary retail frontage (neighbourhood Centre) of the Kilburn Town Centre. Para 3.53 of CPG5 states that the Council will resist proposals that would result in less than 50% of the premises in secondary retail frontages being in retail use and will resist proposals that would result in more than 3 consecutive premises in non-retail use within secondary frontages.

According to the Council's retail survey (2016), between numbers 274-256 (including application site) there are 9 units in total comprising 3 retail and 6 non-retail units (including food, drink and professional service uses). It would appear since the survey was conducted in 2016 there has been a further reduction in retail units on this frontage, including at No. 258. A site visit was conducted on

Friday the 7th of September 2018, to establish the existing mix of uses within the frontage. This was verified against the Council's planning records to establish the lawful uses within this part of the Secondary Frontage. Non-retail uses become lawful as a result of planning permission or after 10 years of established use. From the table below as a result of the proposed change of use, 11% would be A1. Based on the lawful uses it was noted that the unit is situated within a row of 3 non-retail units.

Address	Fascia	Activity	Use
274	The Black Lion Pub	Pub	A4
272	Cjon properties	Estate Agent	A2
270	Powell Spencer	Solicitors	A2
268	Halim's Unisex Hair Salon	Hairdressers	A1
264	Sir Colin Campbell	Pub	A4
262	Meaty Buns	Restaurant	A3
260	Gucci Restaurant	Restaurant	A3
258	Gucci Tallava	Bar	A4
256	Soul Kitchen	Restaurant	A3

The development would therefore result in a further reduction in the proportion of retail units on this frontage. The retention of the A3 use would also mean that there would not be a continuous row of more than 3 non-retail uses. The further loss of retail along this protected frontage is therefore considered to harm the function, character and success of the Town Centre contrary to policy TC2 (Camden's centres and other shopping areas).

Furthermore, It is noted that the basement currently has an A3 use approved under 2016/6314/P. This application was granted on the provision that the ground floor would be retained as an A1 unit so as not to impact the retail frontage.

4. Design

Policy D3 (shopfronts) of the Camden Local Plan 2017 states that the Council will expect a high standard of design in new and altered shopfronts. When determining proposals for shopfront development the Council will consider the existing character, architectural merit and design of the building and its shopfront. The council will also consider the relationship between the shopfront and the upper floors of the building and surrounding properties; the general characteristics of shopfronts in the area and the degree of accessibility. The Council will resist the removal of shop windows without a suitable replacement. Policy D1 also requires development to positively contribute to the street frontage and respect local character and context.

Recessed shopfronts or seating areas are not characteristic of this frontage, indeed there are no recessed shopfronts on this parade. The recessed shopfront is therefore considered out of character and harms the relationship between the building and the wider street scene. The recessed shopfront also harms the viability of the A1 unit as retail floor space is lost as a result.

Policy D3 (Shopfronts) states the importance of community safety and the contribution made by

shopfronts to natural surveillance whilst Policy C5 requires all developments to incorporate appropriate design, layout and access measures. Recessed and covered areas on the other hand, encourage anti-social behaviour, crime and promotes the fear of crime. This is due to the fact they are covered and stepped back from the main footway they provide cover and concealment.

Access

Local plan policy C6 Access for all states that the Council will seek to promote fair access and remove the barriers that prevent everyone from accessing facilities and opportunities. The Council will expect buildings and places to meet the highest practicable standards of accessible and inclusive design so they can be used safely, easily and with dignity by all.

The removal of the level access and creation of a stepped access, by reason of its poor design, fails to allow fair access and creates a barrier for vulnerable and disadvantaged groups, such as disabled people and older people, contrary to Policy C6 (Access for all) of Camden Local Plan 2017. As such the failure to provide an accessible unit will constitute a reason for refusal.

5. Residential Amenity

Policy A1 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. Policy A4 seeks to ensure that residents are not unduly disturbed as a result of noise or vibration. Camden's Local Plan is supported by CPG6 (Amenity).

Policy TC4 states that the Council will consider the impact of food and drink related uses on nearby residential uses and amenity and noise vibration generated inside or outside the site. In order to manage the potential harm to amenity and the local area, the Council will use planning conditions to address hours of operation, noise and vibration and the siting of plant and machinery.

The Council recognises that while food, drink and entertainment use can contribute to the vibrancy and vitality of town centres, they can also have harmful effects such as noise and disturbance to residents. CPG 5 seeks to prevent concentrations of food, drink and entertainment uses that cause harm to the character of the area and the amenity of local residents. The nearest residential properties are located on the upper floors of the host building as well as to adjoining properties. Given the proximity of residential premises, and the number of existing food, drink and entertainments uses in this area, there is potential for noise impacts. A condition limiting the hours of use and details of any other mitigation could overcome this concern.

It is proposed that the A3 unit shares the existing kitchen at no.258 including its associated plant and machinery equipment has been approved under planning permission ref. 2015/6789/P. It is considered that the plant and machinery equipment for the approved scheme (ref. 2015/6789) would continue to operate for the proposed A3 restaurant; however, in the absence of details of the method of ventilation and extraction for the proposed use there would be potential for harm to amenity due to limited capacity of existing plant. This concern could be overcome by condition requiring appropriate details.

6. Transport

Policy TC4 considers the effect of food and drink uses in terms of parking, stopping and servicing.

In terms of transport matters, considering the size of the ground floor unit it is unlikely that there will be any net increase in scale of transport impacts from the proposed restaurant (Class A3) use. It is likely most customers would arrive and leave using public transport. No onsite parking is available to staff or customers and therefore no parking issues are considered to occur.

7. Servicing, waste and refuse

Policy TC4 seeks to ensure the storage and disposal of refuse is managed to safeguard the amenity of the surrounding area. Sufficient accommodation for the necessary refuse/recycling storage requirements for the proposed use have not been demonstrated. As for servicing TfL recommends that a Delivery & Servicing Plan is produced in accordance with TfL guidance.

It is considered that the existing arrangements in place for the basement restaurant (ref: 2016/6314/P) and next door at 258 Kilburn High Road (ref: 2015/6789/P) would be sufficient for the application site.

8. Recommendation

Refuse planning permission with warning of enforcement action to be taken.



APPENDIX B –PHOTOGRAPHS OF APPEAL PROPERTY AND SURROUNDING AREA

Figure 1 – Street Scene View of Appeal Property and Variety of Frontages



Figure 2 – Street Scene View opposite





APPENDIX C

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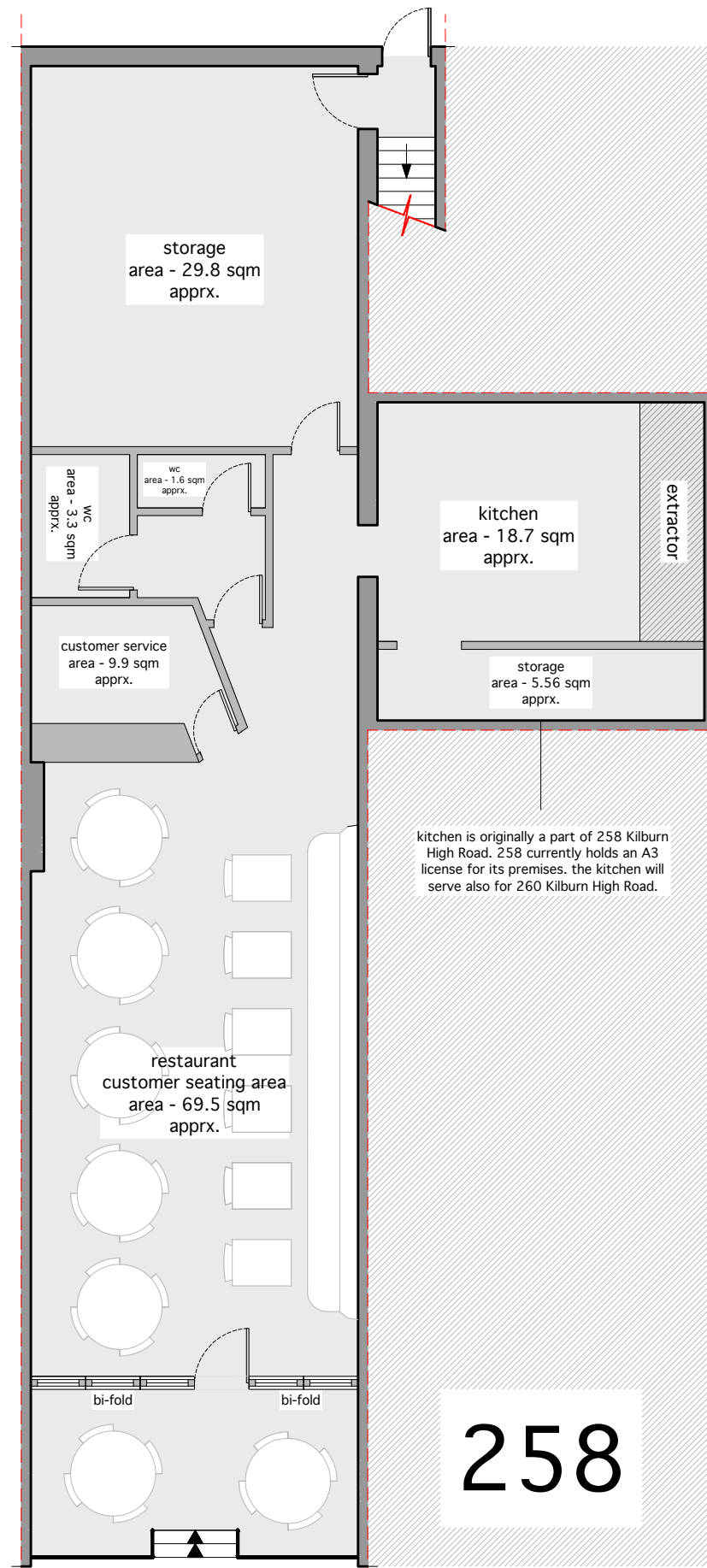
Project: Retrospective change of
use from A1 to A3.

Scale: 1:100 & 1:500 @ A2

Drawing: 5184-001

General Notes

1. Dimensions should not be scaled from the drawings where accuracy is essential.
2. Details of dimensions and levels to be checked on site by builder prior to commencement of works. Any works commenced prior to all necessary local authority approvals are entirely to the risk of the owner and builder.
3. Structural details are subject to exposure of existing construction and verification by local authority surveyor and any necessary revised details are to be agreed with the local authority surveyor prior to carrying out the affected works.
4. All materials are to be used in accordance with the manufacturers guidelines and all relevant British Standards Codes of Practice & Regulation 7 of building regulations.
5. All works to be carried out in accordance with local authority requirements.



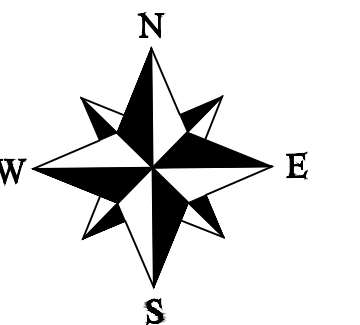
shop floor, retrospective plan, scale 1:100



front elevation, retrospective
plan, scale 1:100



retrospective block plan, scale 1:500, no change to original



This document has been printed to scale, however deformations do occur in the printing and drafting. Therefore all dimensions must be checked on site and any alterations made.