LIST OF RECOMMENDATIONS UNDER DELEGATED POWERS

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

1. APPLICATION DETAILS

Reference No: HGY/2016/0796 **Ward:** West Green

Date received: 04/03/2016

Drawing number of plans: Design and Access Statement and OS

Address: 8 Westbury Avenue N22 6BN

Proposal: Variation of Condition B (Hours of Operation) attached to planning permission HGY/2004/1618

Applicant: Mr Dertar Hekuri The Sunny Beach Restaurant

Ownership: Private

Officer contact: Wendy Robinson

2. SUMMARY OF RECOMMENDATION

GRANT PERMISSION subject to conditions

3. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

3.1 This is an application for: Variation of Condition B (Hours of Operation) attached to planning permission HGY/2004/1618 to extend permitted opening hours of the restaurant to 1000 - 2400 Monday – Saturday, Closed Sunday & BH.

Site and Surroundings

3.2 The application site is located along Westbury Avenue within a parade of shops with residential accommodation on the upper floors. The site is located opposite Turnpike Lane Tube Station and the surrounding area is predominantly residential.

Relevant Planning and Enforcement history

3.3 HGY/1990/1258 REF 29/01/1991 Change of use from retail (Use Class A1)to restaurant (Use Class A3)

3.4 HGY/2004/1618 GTD 14/09/2004 Change of use from A1 (retail) to A3 (cafe/restaurant) and erection of single storey rear extension

4. LOCAL REPRESENTATIONS

4.1 The application has been publicised by way of 16 letters. No representations were received.

5 MATERIAL PLANNING CONSIDERATIONS

The main planning considerations raised by the proposed development are:

1. Background;
2. Section 73 application
3. Impacts on the surrounding area

Background

4.2 Condition B attached to planning permission HGY/2004/1618 states that:

The use hereby permitted shall not be operated before 0800 or after 2300 hours on Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished.

Section 73 application

4.3 As with any planning conditions imposed on a planning permission, the applicant is entitled to make a S.73 application to seek to vary the wording of the condition. In considering a S.73 application to vary a condition, the Local Planning Authority may impose a different condition than the one originally imposed, or grant the permission unconditionally, or refuse the application

Impacts on the surrounding area

4.4 There are many late night uses that operate on Green Lanes (restaurants, bars and takeaways etc). It is noted that the proposal also involves the reduction of hours by opening later in the morning and only one additional hour in the evening.

4.5 Planning Officers also need to be mindful that the particular activities of later opening hours are not controlled under planning legislation but rather under Licensing.

4.6 Invariably commercial units of this nature can generate noise from comings and goings, however in the context of a Town Centre where there is a high level of ambient noise from the constant flow of traffic along the Green Lane. Against this backdrop the amount of noise and disturbance generated from the activity associated with such a use and the hours in question are not considered to be significant.

Conclusions

4.7 Officers do not consider that the proposed change of hours would lead to unacceptable levels of noise and disturbance to nearby residents. Given the above this application is recommended for APPROVAL.

6 RECOMMENDATION

GRANT PERMISSION subject to conditions

Registered No. HGY/2016/0796

Applicant's drawing No.(s) Design and Access Statement and OS

Subject to the following condition(s)

1. The use hereby permitted shall not be operated before 1000 or after 2400 hours on Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished.

2. No detriment to the amenity of the neighbourhood shall be caused by noise or other disturbance than is reasonable as a result of the use of the premises hereby authorised.

Reason: In order to ensure that the proposal does not prejudice the enjoyment of neighbouring occupiers of their properties.

3. Any extract fans installed shall be mounted with flexible connections and installed together with any associated ducting so as to prevent the transmission of noise and vibration into neighbouring premises.

Reason: In order to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties.

4. A suitable soundproofing scheme to provide effective resistance to the transmission of airborne and impact sound shall be implemented in accordance with the requirements of the Local Planning Authority for all compartment floors and party walls prior to the occupation of the premises.

Reason: In order to ensure that the proposed use does not give rise to an unacceptable loss of amenity for occupiers within the property as a direct result of inadequate soundproofing.