

# Officer's Report

|                           |                                                                                                                                                                              |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number</b> | <b>HGY/2023/0035</b>                                                                                                                                                         |
| <b>Type</b>               | <b>Change of use</b>                                                                                                                                                         |
| <b>Location</b>           | 1A, Ashley Gardens, Ashley Road, London, N17 9LJ                                                                                                                             |
| <b>Proposal</b>           | Change of use of ground floor commercial unit fronting Ashley Road from Use Class Class E (Commercial, Business, and Service) to Sui-Generis (Drinking establishment & Shop) |
| <b>Case Officer</b>       | Philip Elliott                                                                                                                                                               |
| <b>Valid Date</b>         | 06/01/2023                                                                                                                                                                   |
| <b>Applicant</b>          | Carkeet                                                                                                                                                                      |
| <b>Agent</b>              | Mr - Stern                                                                                                                                                                   |

## **RECOMMENDATION**

### **Approve with Conditions**

#### **SUMMARY OF RECOMMENDATION**

GRANT PERMISSION subject to conditions

Conditions:

- 1) Development begun no later than three years from date of decision
- 2) In accordance with approved plans
- 3) Proposed use to be operated in accordance with submitted management plan

Informatives:

- 1) Advertisements
- 2) Environmental Health - Extract/Sanitation etc
- 3) Mechanical Extract Ventilation
- 4) Food Safety and other requirements
- 5) Designing out Crime

#### **PROPOSED DEVELOPMENT AND LOCATION DETAILS**

##### **Proposed Development**

Planning permission is sought for a change of use of the ground floor commercial unit fronting Ashley Road from Use Class E (Commercial, Business, and Service) to Sui-Generis (Drinking establishment & Shop).

##### **Site and Surroundings**

The application site contains a ground floor commercial unit that has been recently constructed under planning permission HGY/2019/2804 (which amended HGY/2017/2045).

## Relevant Planning History

The site has a long history relating to non-material amendments and approval of details relating to planning permission HGY/2019/2804 (which amended HGY/2017/2045). The site has no history since construction.

## **CONSULTATION RESPONSE**

### Transport comments

- a) The TAA and additional information submitted in support of this application is limited. This is because the application is premised on an assumption that the proposal will have similar operational characteristics to an F&B restaurant use – that is permitted within existing consent for Class E. This assumption, however, has not been verified by comparing survey data from the Mother Kelly site with data from other F&B TRICS sites.
- b) Average trip generation data from selected F&B restaurant Trics sites, indicates a peak accumulation of approximately 61 people on site. This is based on the occupancy of floor space within the building and does not allow for use of any external space. This may explain the difference between Trics-based assessment and the maximum of 125 people envisaged by Mother Kelly. No further information has been provided regarding any restrictions on the number of people permitted under the terms of the Licence.
- c) The Trics data-based assessment of servicing and delivery indicated a demand of 15 vehicle trips/day. Mother Kelly's demand expectation is for 10-11 trips/week.
- d) There is no further consideration given to consider or demonstrate the adequacy of the provision of 'Blue Badge' car parking or the potential impact on local parking stress during late evening hours.
- e) No further consideration/information has been provided regarding the provision for refuse storage - because it is presumed that the proposal is comparable to F&B use that is already permitted under class E. Similarly, cycle parking is proposed to remain for consented class E use.

### Metropolitan Police Designing Out Crime Officer

Whilst in principle we have no objections to the change of use, we have recommended the attaching of suitably worded conditions and an informative. These relate to hours of operation, noise reduction, demarcation, CCTV, Chelsea clips, and toilet closing times.

## **LOCAL REPRESENTATIONS**

The application has been publicised by way of 181 letters. The number of representations received from neighbours, local groups, etc in response to notification and publicity of the application were as follows:

No of individual responses:

Objecting: 2

Supporting: 0

Objections have been received from Living Under One Sun and the Down Lane Park User and Community Forum. The objections raised the following summarised points:

- There is a potential increase in noise from the change of use which could have an undue impact on the users of Down Lane Park and the Community Hub & Gardens, especially on Tottenham Hotspur Stadium (THS) event days.
- The application provides no assessment of noise impact, and no noise control plan to mitigate any noise.

## **MATERIAL PLANNING CONSIDERATIONS**

The main planning considerations raised by the proposed development are:

1. The principle of the change of use;
2. Transport impacts;
3. Impact on neighbouring amenity; and
4. Public safety.

### Principle

A non-material amendment (NMA) to HGY/2019/2804 was granted under HGY/2020/2806. Amongst several other amendments, the approved NMA allowed for alterations to Condition 4 (COMPLIANCE – LAND USE (Retail)). The changes lifted restrictions on retail and café floorspace. This was granted because of the introduction of Class E to the Use Classes Order which made it unreasonable and unnecessary to enforce the wording of the condition as originally granted.

As such, the commercial unit which is the subject of this application can currently operate as any use in Class E without planning permission. The proposed change of use requires planning permission because drinking establishments fall within the sui generis use class. The unit would predominantly operate as a taproom but would also have a shop element selling beverages for people to consume off-site and there would also be a food offer.

The immediate area has undergone significant change as permissions have been constructed to realise the site allocation (TH6 – Ashley Road South Employment Area) in the Tottenham Area Action Plan (TAAP). The application site falls within the centre of the new mixed-use quarter north of the new District Centre. Several of the newly constructed units have struggled to find occupiers.

Whilst the site does not fall within the Tottenham Hale District Centre, it is just beyond its northern border. The proposed use would activate the frontages of the vacant unit which sits in an important location within the masterplan on Ashley Road and at the end of the Berol Link. It would support the aspirations in the local plan for activation, encouraging a new business to come into the area that is an appropriate town centre use.

### Transport impacts

The transport comments are noted. The applicant has highlighted how the proposal would have similar operational characteristics to a food and beverage (F&B) restaurant use. It is acknowledged that this has not been verified by comparison surveys. However, it is clear from the information submitted that the proposed use would operate in a way that would be similar to a currently permitted use. Therefore, such verification is unnecessary.

There are no restrictions on the number of people permitted under the Premises Licence. The proposed use would not materially alter the current situation where a restaurant with a similar layout could operate. As such, limits on numbers would be unnecessary and there would be no undue harm to transportation aspects because of the change.

The servicing and delivery requirements indicate a significantly reduced demand when compared with the expected demand created by other commercial uses. This would be a beneficial aspect of the proposal which would reduce the expected disturbance associated with deliveries and servicing.

The applicant has not sought to demonstrate the adequacy of the provision of 'Blue Badge' car parking or the potential impact on local parking stress during late evening hours due to the

comparable impacts to currently consented uses. Given that the operation would be similar to permitted uses, it would be unreasonable to require the development to provide additional blue badge capacity. Other Class E uses would also have the same impacts on parking and given the proposed use this is likely to have a beneficial impact.

The applicant has not provided details regarding the provision for refuse storage because the needs of the proposed use would be comparable to uses that are already permitted under Class E.

#### Impact on neighbouring amenity

London Plan Policy D14 requires development proposals to reduce, manage and mitigate noise impacts. Objections have been received that raise noise disturbance as an issue. In response, the applicant has provided a management plan which details how disturbance and any potential issues would be mitigated. The plan largely reflects conditions of operation that were put into the Premises Licence granted by the Council on 28/02/2023.

The plan identifies hours of operation that would safeguard amenity (Sunday to Thursday - 10:00 to 23:30 & Friday to Saturday - 10:00 to 00:30) and identifies how potential disturbances would be managed by the operator. The plan requires signs and CCTV to be utilised as well as registered supervisors on event days at the THS. To ensure the measures are carried out, adherence to the plan is recommended as a condition of any permission granted.

The noise impacts of the proposed use would be similar to uses that are currently permitted. However, the concern of the objectors is noted and in response, the applicant has submitted a management plan detailing how noise and disturbance would be minimised and managed, particularly on THS event days. Subject, to a condition requiring compliance with the management plan the proposal would have an acceptable impact.

#### Public Safety

The Designing out Crime Officer's (DOCO) comments are noted. They have suggested conditions and an informative that relate to hours of operation, noise reduction, demarcation, CCTV, Chelsea clips, and toilet closing times.

The majority of the DOCO's requests are incorporated into the management plan such as CCTV. Reduced operating hours have also been requested although this has only been justified on the basis that other similar units elsewhere operate at the requested times. The proposed operating hours are suitable for this location and a licence for such hours has been granted. The management plan would ensure that issues relating to the noise around closing times would be minimised.

A request has been made for the venue to provide air conditioning to ensure outside spaces would not need to be used. The use of outside spaces activates the area and would not result in undue noise at quieter times as these spaces would be closed off near closing time. This request is unreasonable, particularly given it may require the installation of cooling systems that have an environmental impact.

A request has been made for demarcation in the form of fencing. This would require planning permission and is not reasonably justified by the proposed change of use. A restaurant with a similar operation could occupy the unit under the current permission which would not be required to install such features.

Conditions have also been recommended requesting Chelsea clips for tables and logs of toilet closing times. These requests are for the operator and go beyond what can be reasonably sought under the planning process. Given the similarity of the proposed use to uses that could operate under the existing consent a condition requesting these would not meet the tests.

The applicant has submitted a management plan which reflects the premises licence that the operator has received. The plan identifies measures that would support crime prevention and ensure community safety. Subject to a condition ensuring the plan is adhered to, the proposal would have an acceptable impact on public safety.

### Conclusion

The proposal is considered acceptable for the reasons outlined above.

All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION

### **RECOMMENDATION**

GRANT PERMISSION subject to conditions

#### **Conditions:**

- 1 The development to which this permission relates must be begun no later than three years from the date of this decision notice, failing which the permission shall be of no effect.

Reason: This condition is imposed by virtue of Section 91 of the Town and Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.

- 2 The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 **Operation to be carried out in accordance with Management Plan**

The proposed use shall only be operated in accordance with the operating hours and other conditions set out in the approved Management Plan Version 002 dated 30th March 2023, unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interest of neighbouring amenity and public safety.

#### **Informatives:**

- **INFORMATIVE:** Environmental Health - Extract/Sanitation etc  
The applicant is advised to contact the Environmental Health Department (tel. 020 8489 1000) regarding the provision of adequate sanitary facilities, mechanical extract

ventilation, refuse storage facilities, fire requirements and compliance with the Food Safety (General Food Hygiene) Regulations 1995 that may be required in conjunction with this approval.

- **INFORMATIVE: The applicant must seek the continual advice of the Metropolitan Police Service Designing Out Crime Officers (DOCOs) to achieve accreditation.** The services of MPS DOCOs are available free of charge and can be contacted via [docomailbox.ne@met.police.uk](mailto:docomailbox.ne@met.police.uk) or 0208 217 3813.
- **INFORMATIVE: Mechanical Extract Ventilation**  
Any mechanical extract ventilation or other associated equipment installed in or on the building must be designed so as not to cause a nuisance through noise, vibration, or fumes. The grant of planning permission does not obviate the need to comply with relevant environmental protection legislation, nor imply that these other approvals will be given. The Council's Environmental Health Services (tel. 020 8489 1000) should be contacted on the detail of any such mechanical extract ventilation or equipment to be installed. Any new extraction/ventilation equipment requires planning permission. It is also pointed out that any changes to plant or equipment required to comply with other legislation may require further planning permission.
- **INFORMATIVE: Advertisements**  
Planning permission has been granted without prejudice to the need to get advertisement consent under the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.
- **INFORMATIVE: Food Safety and other requirements**  
The applicant is advised to contact the Council's Environmental Health Services (tel. 020 8489 1000) regarding the provision of adequate sanitary facilities, refuse storage facilities, fire requirements and compliance with the Food Safety (General Food Hygiene) Regulations 1995 that may be required in conjunction with this approval.