

# Officer's Report

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|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number</b> | <b>HGY/2022/3408</b>                                                                                                                                                                      |
| <b>Type</b>               | <b>Full planning permission</b>                                                                                                                                                           |
| <b>Location</b>           | Unit 21, Cranford Way, London, N8 9DG                                                                                                                                                     |
| <b>Proposal</b>           | Continued use of site as a commercial kitchen facility (Use Class Sui Generis) consisting of 8no. commercial kitchen units and 5no. ancillary units for a temporary period of five years. |
| <b>Case Officer</b>       | Eunice Huang                                                                                                                                                                              |
| <b>Valid Date</b>         | 23/09/2022                                                                                                                                                                                |
| <b>Applicant</b>          | Roofoods Ltd (T/a Deliveroo Editions)                                                                                                                                                     |
| <b>Agent</b>              | Mr Tim Humphries                                                                                                                                                                          |

## **RECOMMENDATION**

### **Approve with Conditions**

#### **1. PROPOSED DEVELOPMENT AND LOCATION DETAILS**

##### Proposed Development

This is an application for continued use of site as a commercial kitchen facility (Use Class Sui Generis) consisting of 8no. commercial kitchen units and 5no. ancillary units for a temporary period of five years.

##### Site and Surroundings

The application site is an irregular shaped lot comprising thirteen units which form a commercial kitchen facility. The site is located within industrial land centred around Cranford Way.

The site is part of a Designated Employment Area - Locally Significant Industrial Site as per Policy SA2 of Haringey's Site Allocations DPD.

It does not lie in any conservation area. To the north/north-west, the site bounds two industrial units which front Tottenham Lane (Nos 17-21 and 23-25).

To the east/north-east, the site bounds Cranford Way, which is a cul-de-sac leading off Tottenham Lane.

Industrial units on the far (east) side of Cranford Way, and the road passes the site to serve further units to the south. To the immediate south and south-west, the site is respectively bounded by an access road and the electricity substations which it serves. Rear gardens of terraced properties on Rathcoole Avenue lie beyond them to the south-west.

#### **2. RELEVANT PLANNING AND ENFORCEMENT HISTORY**

The most recent planning and enforcement history in relation to the site is as follows:

- HGY/2017/3207 – Installation of 10no. commercial kitchen units and 3no. ancillary units to form a commercial kitchen facility (use class B1c) for a temporary period of five years. Approved 20 December 2017.
- HGY/2018/0553 - Approval of details pursuant to condition 4 (ventilation systems) attached to planning permission HGY/2017/3207. Approved 12 April 2018.

### **3. CONSULTATION RESPONSE**

The following were consulted regarding the application:

Internal:

- Carbon Management (Pollution): No objections raised in relation to detrimental land contamination or air quality impacts.
- Waste Management: No objections raised, because the use has already been operating for several years and has established private waste storage and collection arrangements in place.
- Planning Enforcement: The Planning Enforcement and Appeals Manager has advised that there is no enforcement history in relation to this address.
- CIL: Advice states that there was no nil CIL Mayoral charge for HGY/2017/3207, because the approval was for a temporary period of 5 years. However, the applicant is seeking to extend the current use for another 5 years; beyond the approved 5 year period, they are thus of the opinion it should incur Mayor CIL.
- Transportation: No response.
- Noise: No response.
- Food and Hygiene: No response.
- Planning Policy: No response.

### **4. LOCAL REPRESENTATIONS**

The application was notified by way of neighbour consultation letters. No comments were received in response to neighbour notification.

### **5. MATERIAL PLANNING CONSIDERATIONS**

1. Principle of the development;
2. Impact on the amenity of neighbouring occupiers;
3. Parking, access and highway safety.

#### Principle of the development

Policy SA1 of the Haringey Site Allocations DPD (2017) notes that the application site lies within a 'Designated Employment Area' (No.9). It notes that its level of designation is as a 'Locally Significant Industrial Site' (LSIS), as set out in Policy SP8 of the Local Plan (2017).

Policy SP8 concerns the Council's aims to secure a strong economy and protect such sites in the Borough. It sets out how forecast demand for additional industrial floorspace will be met up to 2026. Of relevance in this instance is doing so through the re-configuration and re-use of surplus employment designated land in the B2 and B8 use classes, and the intensification of the use of existing employment sites where possible. It also voices general support for employment and regeneration aims, environmental policies to minimise travel to work, and a diverse North London economy. With particular reference to these LSIS's, it notes that the Council will safeguard a number of specific sites, including this site, for a range of industrial use (including former use classes B1 (b), (c)) where they continue to meet demand and the needs of modern industry and business.

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020, revising the use classes. While use classes B2 and B8 remain valid, use class B1 has been revoked. The new class E(g) is comparable to the former class B1, or alternatively, an industrial use may fall under Sui Generis.

Policy DM37 of the Haringey Development Management DPD (2017) is also relevant, supporting proposals for the intensification, renewal, and modernisation of employment land and floorspace, where the development meets a number of criteria. These include, but are not limited to; consistency with the uses in Policy SP8; providing adequate space for on-site servicing and waiting goods vehicles; and; making a demonstrable improvement in the use of the site for employment purposes. Such improvements are considered having regard to the quality and type of employment floorspace provided, the quality and density of jobs to be accommodated on-site, and the proposal's contribution to economic objectives and outcomes identified throughout relevant planning policy documentation.

The application site has been operating as a commercial 'dark kitchen' under planning approval HGY/2017/3207. Under this planning application, approval was granted for food operators to share the commercial kitchen facilities to prepare food orders placed by customers on online delivery platforms, with bicycle and moped drivers delivering to customers within a nearby radius of the site.

In the assessment of HGY/2017/3207, the assessment officer found that the commercial dark kitchen proposal comprised an industrialised food preparation and dispatch/sale activity, falling with the now superseded B1(c) use class. This is due to the concentration and shared nature of the kitchen/food preparation units, intensity and scale of the operations, and the delivery arrangements, with no direct customer on-site collection.

The Planning Inspector for Appeal APP/P4605/W/22/3296172 determined, on 18 August 2022, that the dark kitchen use is now classified as a sui generis use that is appropriate for an industrial and employment area. The Planning Inspector described the cooking operations within a dark kitchen as an "industrial process" in part due to the noise and odour emissions, as well as delivery of raw ingredients. As for the frequent small deliveries generated by the food delivery platforms, this was found to be comparable to other industrial uses such as tool hire and vehicle parts delivery. The Planning Inspector concluded that a dark kitchen use comprises two parts – a commercial kitchen and frequent small deliveries – both of which are appropriate uses within an industrial area and do not require a consideration of exceptional justification on land classed as employment land.

The proposed industrial use is thus considered compatible with Policy DM37 of the Haringey Development Management DPD (2017). The dark kitchen use is an appropriate intensification, regeneration and modernisation of industrial land that facilitates a concentration of employment activity associated with 8 separate commercial food operators within the site and frequent small deliveries. The accessibility/servicing/delivery considerations are considered acceptable as outlined later in the report. The site is well-located in terms of public transport accessibility for employees. The siting of the dark kitchen within an established industrial area mitigates detrimental residential amenity impacts.

On this basis, the continued use of the site as a dark kitchen satisfies Policy SA1 of the Haringey Site Allocations DPD (2017), Policy SP8 of the Local Plan (2017) and Policy DM37 of the Haringey Development Management DPD (2017).

Therefore the proposal is acceptable in principle.

Impact of the proposed development on the character and appearance of the area

Haringey Development Management DPD (2017) DM1 'Delivering High Quality Design' states that development proposals should relate positively to their locality, having regard to, building heights, form, scale & massing prevailing around the site, urban grain, sense of enclosure and, where appropriate, following existing building lines, rhythm of any neighbouring or local regular plot and building widths, active, lively frontages to the public realm, and distinctive local architectural styles, detailing and materials. Local Plan (2017) Policy SP11 states that all new development should enhance and enrich Haringey's built environment and create places and buildings that are high quality, attractive, sustainable, safe and easy to use. Development shall be of the highest standard of design that respects its local context and character and historic significance, to contribute to the creation and enhancement of Haringey's sense of place and identity which is supported by London Plan (2021) Policies 7.4 and 7.6.

The existing and proposed site arrangement comprises 13no. temporary units within the site, primarily running linearly from rear (west) to front (east/entrance side) except for a small dispatch unit running parallel to the front wall. There are no changes to the visual appearance of the site. The site is surrounded by industrial and/or business sites of similar utilitarian character and appearance on all sides. In this context, the proposal is considered to not result in material harm to the character and appearance of the site or surrounding area, and is therefore acceptable in this regard.

#### Impact on the amenity of neighbouring occupiers

The London Plan (2021) Policy D3 states that development must not cause unacceptable harm to the amenity of surrounding land and buildings. DM Policy (2017) DM1 'Delivering High Quality Design' states that development proposals must ensure a high standard of privacy and amenity for the development's users and neighbours. The Council will support proposals that provide appropriate sunlight, daylight and open aspects to neighbouring residents, and which avoids overlooking and loss of privacy which would be detrimental to their residential amenity. Issues of vibration, noise, fumes, odour, light pollution and microclimatic conditions likely to arise from the use and activities of the development will be taken into account.

The proposal retains the existing site layout, with 13no. mobile units. Under HGY/2017/3207, 10 of the mobile units were designated as commercial kitchen units, and 3 of the units were for storage/ancillary uses. The proposal seeks to decrease the number of commercial kitchen units to 8; while 5 units will be used for storage/ancillary purposes. There are also no changes to ventilation system approved under HGY/2018/0553.

The applicant has submitted a Noise Assessment prepared by Sharps Redmore, dated July 2022, which concludes that the continued dark kitchen use is acceptable in relation to noise impacts.

No objections been raised by Council's internal departments or by members of the public as part of the consultation process for this application. The Planning Enforcement and Appeals Manager has also advised that there has been no enforcement history in relation to the development site or existing dark kitchen use.

Nonetheless, due to the limited scale and distance of the units from neighbouring properties, namely those beyond the electricity substations to the immediate south-west of the site, the physical impacts and presence of the proposal is considered insufficient to cause detrimental amenity impacts to neighbouring properties.

Noise and vibration/disturbance impacts from the proposal are considered insufficient to materially harm the residential amenity of those nearby residential occupiers to the south-west. In coming to this view, regard is made to the distances from neighbouring residential properties and rear gardens to the south-west, the surrounding land uses in this industrial area, the indoor nature of

the food preparation/cooking, and the fact that delivery vehicles/bicycles and associated movement of people and goods would take place to and from the site along the existing Cranford Way site entrance. That entrance/road already carries vehicle/goods/people movements serving this industrial area to and from the site off Tottenham Lane to the north.

With respect to residents along and near Tottenham Lane, the distance and siting of the site from nearby properties in that direction (north/north-west/north-east) is considered such that detrimental amenity impacts from the physical presence of the units and their associated noise/vibration/use is considered insufficient to cause material harm to residential amenity.

The proposed hours of operation of the site would be limited to between 9:00-23:00 daily, consistent with the HGY/2017/3207 approval. These hours are not considered unreasonable and would not result in vehicle movements to and from the site running into the early morning. Tottenham Lane is already a heavily trafficked route and given the size and intensity of the operations proposed, and their proposed hours of operation, it is considered that refusal on such grounds is not justified.

Subject to a condition controlling the hours of operation, the proposal is considered acceptable in this regard.

#### Parking, access, and highway safety

Local Plan (2017) Policy SP7 Transport states that the Council aims to tackle climate change, improve local place shaping and public realm, and environmental and transport quality and safety by promoting public transport, walking and cycling and seeking to locate major trip generating developments in locations with good access to public transport. This is supported by DM Policy (2017) DM31 'Sustainable Transport'. DM (2017) Policy 32 notes that development proposals will be assessed against the car parking and cycle parking standards set out in the London Plan. London Plan (2021) Policy T5 sets out minimum cycle parking standards.

For the light industrial use as proposed, the London Plan requires one long-stay cycle space per 250sqm and 1 short-stay cycle space per 1000sqm. The gross floor area of the site is 784sqm, therefore requiring 3-4 long-stay spaces and 1 short-stay space. 10no. long-term secure cycle parking spaces and a cycle shelter for delivery riders' short-term spaces. The proposal is therefore policy compliant.

There is no change proposed to the existing bicycle or motorcycle parking arrangements.

The applicant has submitted a Transport Report prepared by Transport Planning Associates, dated July 2022, which concludes that the continued dark kitchen use is acceptable in relation to transport impacts.

No objections have raised by Council's internal departments in regard to transport impacts.

As such, the proposal is considered acceptable in this regard.

## **6. CONCLUSION**

The proposal is considered acceptable in principle, and in terms of its impacts on the character and appearance of the area, the amenity of nearby residents, and parking, access and highway safety impacts.

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

## **7. CIL APPLICABLE**

Based on the information given on the plans, the Mayoral CIL charge will be £21,366.05 (331 sqm x £64.55) and the Haringey CIL charge will be £0 (N/A). This will be collected by Haringey after/should the scheme is/be implemented and could be subject to surcharges for failure to assume liability, for failure to submit a commencement notice and/or for late payment, and subject to indexation in line with the construction costs index. An informative will be attached advising the applicant of this charge.

## **8. RECOMMENDATION**

Grant permission subject to condition(s);

### **Conditions:**

- 1        The use hereby permitted shall be discontinued no later than 5 years from the date of this permission, by which time the temporary units shall have been removed from the site.  
  
Reason: In order to enable the Local Planning Authority to review and assess the use following experience after a period of operation.
- 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        The use hereby permitted shall not be operated before 09:00 hours or after 23:00 hours Monday to Friday, before 09:00 hours or after 23:00 hours Saturdays and before 09:00 hours or after 23:00 hours Sundays and 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 consistent with Policy DM1 of The Development Management DPD 2017.
- 4        The commercial kitchen units shall not be open to the general public/ customers either by visiting the units or by means of a pick-up service.  
  
Reason: In order to protect the amenities of nearby residential occupiers consistent with Policy 7.15 of the London Plan 2016 and Policy DM1 of The Development Management DPD 2017.

### **Informatives:**

- INFORMATIVE: Land Ownership  
The applicant is advised that this planning permission does not convey the right to enter onto or build on land not within his ownership.

- **INFORMATIVE : Community Infrastructure Levy**  
The applicant is advised that the proposed development will be liable for the Mayor of London CIL. Based on the information given on the plans, the Mayoral CIL charge will be £21,366.05 (331 sqm x £64.55). Haringey CIL does not apply to this type of development. This will be collected by Haringey after/should the scheme is/be implemented and could be subject to surcharges for failure to assume liability, for failure to submit a commencement notice and/or for late payment, and subject to indexation in line with the construction costs index.

Note: The CIL rates published by the Mayor and Haringey in their respective Charging Schedules have been inflated in accordance with the CIL regulations by the inflation factor within the table below