

LIST OF RECOMMENDATIONS UNDER DELEGATED POWERS

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

1. APPLICATION DETAILS

Reference No: HGY/2022/0520

Ward: Noel Park

Date received: 25/01/2022

Drawing number of plans: Noise Impact Assessment Report (KP Acoustics, 23789.NIA.01), Covering Letter (JMS, 21/01/2022)

Address: 17 High Road N22 6BH

Proposal: Variation of condition 3 (hours of operation) of planning permission HGY/2020/2996 (Change of use from betting shop to adult gaming centre), to extend the hours of operation

Applicant: Chongie Entertainment Ltd

Ownership: Private

Officer contact: Emily Whittredge

2. SUMMARY OF RECOMMENDATION

REFUSE PERMISSION

Reasons for Refusal:

- 1) The proposed extension of opening hours would be unacceptable by reason of increased noise disturbance to local residents and would likely add pressure for extended hours from other premises in the area, which would have a detrimental impact on the character and function of the area. As such the proposal is contrary to Policy SD7 of the London Plan 2021, Policy SP10 of Haringey's Local Plan 2017 and Policy DM1 of the Haringey Development Management DPD 2017.

3. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

- 3.1 This is an application for variation of condition 3 (hours of operation) of planning permission HGY/2020/2996 (Change of use from betting shop to adult gaming centre), namely to allow an extension to the permitted hours of operation to 24-hours 7 days a week. Condition 3 prevents the permitted use from operating before 08:00 hours or after 23:00 hours Monday to Sunday and Bank Holidays.

Site and Surroundings

- 3.2 The application premises is a ground floor unit on the southwest side of the High Road in Wood Green, which is currently in use as an Adult Gaming Centre (AGC), recently granted planning permission. The upper floors of the building are residential. The site is within a Primary Shopping Frontage in the Wood Green Metropolitan Centre and is in a Growth Area, serving an important local function. The site does not relate to a listed building and is not within a conservation area.

Relevant Planning and Enforcement history

- 3.3 The most recent planning history in relation to the site is as follows.
- 3.4 HGY/2021/3006 - Details of Secured By Design measures and window display as required by conditions 5 and 6 of planning permission ref. HGY/2020/2996 for Change of use from betting shop (Sui Generis) to adult gaming centre (Sui Generis). - Grant permission
- 3.5 HGY/2021/2633 - Internally illuminated fascia sign - Grant permission
- 3.6 HGY/2021/2062 - Details of Secured by Design measures and window display pursuant to conditions 5 and 6 of planning permission ref: HGY/2020/2996 for Change of use from betting shop (Sui Generis) to adult gaming centre (Sui Generis) - Refused
- 3.7 HGY/2020/2996 - Change of use from betting shop (Sui Generis) to adult gaming centre (Sui Generis) - Grant permission

4. CONSULTATION RESPONSE

- 4.1 The responses below were received following consultation on the application:

Internal:

- 1) LBH Licensing Team:

As a Service we have come across instances where an AGC with 24 hour operation has impacted on residents living directly above or surrounding the venue. This has been mainly due to noise caused by the AGC be it the noise from the various machines in play or the interactive sounds coming from these machines as well as music being played within the premises late into the night and people noise as customers/staff come and go or stand outside to talk and smoke etc. Whilst the sound from the machines may not be considered a statutory nuisance there is no doubt that hearing that constant repetitive sound would be challenging for anyone that had to live above such a premises.

The location of High Road Wood Green is an area that has been named in the Local Area Plan as requiring greater attention from betting operators in identify any potential risk that can impact those at risk from gambling harm. In addressing this matter the licence has been granted to allow operation at the venue will be 08:00 to 23:00 hours Monday to Sunday, including bank holidays.

2) LBH Public Health:

Object. This proposal is at a vulnerable location with multiple gambling premises in the local area. The over-concentration of 24-hour gambling premises has a negative impact on the health and wellbeing of our residents and does not align with the Local Policy DM 42 of the Haringey Development Management DPD. Furthermore, Noel Park ward is ranked high in all risks associated with gambling-related harm and the vulnerable groups highlighted in this report suggests a strong need to safeguard the area from over-concentration of 24-hour gambling premises, where we help to promote a healthy high street and retain a vibrant mix of uses in the town centre. Due to these concerns, the license was granted from 8am and 11pm Monday to Sunday, including bank holidays. Therefore, Public Health object to this planning application.

Comments on Noise Assessment Report

The noise report submitted by the applicant does not provide sufficient assessment to ensure the noise levels will not transfer to the properties adjacent and above the premises. The noise level measurements were taken between 10.30am to 11pm when the application is proposing for the noise levels to be extended beyond the hours taken. Furthermore, the report makes a comparison with the Crawley Little Vegas branch, this is not viable as the two are geographically different with distinct characteristics and vulnerabilities. Furthermore, the proposal does not contribute to economic growth, an extra staff member being employed at night will not make a significant difference to the economy.

(Further comments on the principle of the AGC use are available on the case file online).

External:

3) None

5. LOCAL REPRESENTATIONS

- 5.1 The application has been publicised by way of letters to neighbouring addresses. 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

- 5.2 The following local groups/societies made representations:

- None

5.3 The following Councillor(s) made representations:

- None

5.4 The following issues were raised in representations that are material to the determination of the application and are addressed in the next section of this report:

- The existing hours of permitted operation are 8am to 11pm every day of the year. I object most strongly to the application. Such an extension would reduce the amenity of the High Road for other users of the High Road and residents.
- There are flats above and an AGC operating through the night has the potential to lead to unacceptable impact on the people living in those flats.
- Noise report: there is no reference or assessment based on potential patron noise and behaviours outside to the closest residential window. Also there is no reference to measured L_{Amax} levels within the site which occur from peak machine noise and people in the venue etc. There is also no reference to when the noise measurement equipment was calibrated and when it is due for next calibration. In addition, no assessment of the plant (I assume air conditioning) that will operate through the night has been undertaken.

5.5 The following issues raised are not material planning considerations:

- The AGC has already starting operating 24-hours and is therefore breaching their planning permission. (Officer Comment: Breaches of planning can be controlled by the Council's Planning Enforcement team, and opening hours in breach of a premises license can be reported to the Licensing Team.)

6 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning considerations raised by the proposed development are:

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

Background

6.2 The premises was granted planning permission for a change of use from betting shop (Sui Generis) to adult gaming centre (Sui Generis) (application reference HGY/2020/2996). The permission included Condition 3 which prevents the permitted use from operating before 08:00 hours or after 23:00 hours Monday to Sunday and Bank Holidays.

- 6.3 While the application originally sought opening hours up to Midnight, the condition restricting hours to 23:00 was considered necessary to make the development acceptable in planning terms. This was with regard to the established opening hours in the area, including premises in similar uses, and the applicant agreed to this amendment. The premises license granted to the site limits opening hours to 23:00.

Section 73 application

- 6.4 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.

Impact on the surrounding area

- 6.5 The application premises are situated within a vibrant shopping parade that benefits from low levels of vacancies. Most premises within the area typically close in the evening, which is considered appropriate given the significant number of residential units above the commercial premises in the area, and along adjacent roads in Whymark Avenue and Waldegrave Road.
- 6.6 The commercial activities associated with the shopping parade are expected to generate a high degree of noise and activity associated with its uses. However, there is reasonable expectation among residential occupiers that such daytime activity does not extend into the early hours of the morning when the nature of noise and activity is unpredictable and amplified given the lower levels of background noise.
- 6.7 The hours sought extend into unsocial hours, non-stop in an area with significant residential occupation. All night, non-stop activity within the Wood Green area is regarded as damaging and out of character given the residential surrounds. The Local Planning Authority is confident that the restricted hours imposed in planning permission HGY/2020/2996 are correct and reasonable, contrary to the proposed 24 hours, seven days a week. The current opening hours extend to late at night but are considered acceptable for this location. The operation of the AGC through the night would represent a focussed and targeted amount of additional activity at a time when local residents, particularly those living in the floors above it, would expect a modicum of peace and quiet, obviously contextual for the area.
- 6.8 Noise and activity does not have to be at a high volume to be disturbing. The arrival and departure of patrons at the ground floor of the premises would have the potential to be almost constant and at all times of the night and early morning. Numbers might not be anticipated as high but this cannot be guaranteed. Activity within the premises such as conversation, the operation of machines and other social activity might not be excessively loud but nevertheless constant and thus noticeable. There is also the possibility of the use of outside spaces for those wishing to smoke. This could lead to external congregation and further noise which is uncontrollable.

- 6.9 The Local Planning Authority notes the concern raised by the Licensing Team who have pointed out the restricted hours of the premises license to 23:00. Two nearby gambling premises, no. 9 and no. 13 High Road, do not have planning histories for their current uses although they have been in place for some time, and are therefore not subject to planning conditions restricting their opening hours. The Licensing team has confirmed that both premises are licensed, but these were granted in 2011 and 2007 respectively and prior to the requirements of a local area profile and risk assessment and the wider consideration of the impact of gambling harm in the community. The licenses allow the operation of no. 9 as 24-hours, while no. 13 can trade until 10pm daily. New requirements since 2016 have reduced opening hours on newer applications, such as was the case for the application site.
- 6.10 Public Health have pointed out that the submitted noise report does not measure noise within the extended hours proposed for opening. Notwithstanding the noise assessment provided, the original planning permission restricts the noise generated within the site with condition 4, which states: "At no time shall any amplified speech or music generated from the site be audible within the adjoining residential premises." While internal noise can be controlled by means such as insulation, external activities and comings and goings from the premises are equally relevant and less able to be controlled.
- 6.11 Development Management DPD policy DM1 seeks to ensure that development does not cause harm to neighbours or local areas, specifically mentioning noise. There has been no material change in the relevant circumstances since the determination of planning application HGY/2020/2996, nor from those in which the hours were originally imposed. Policy SP10 of the Local Plan specifically identifies Wood Green as an appropriate venue for night-time economy development but opening hours for businesses must be balanced against the area and the expectations of the occupiers of the residential upper floors and surroundings.
- 6.12 As such, it is considered that the concerns raised by neighbouring occupiers about disruption to local amenity are justified and as such the proposal would conflict with policy DM1 of the Development Management DPD, policy SP10 of the Local Plan, and policy SD7 of the London Plan.

Conclusion

- 6.13 The proposed extension of opening hours would be unacceptable by reason of increased noise disturbance to local residents and would likely add pressure for extended hours from other premises in the area, which would have a detrimental impact on the character and function of the area. As such the proposal is contrary to Policy SD7 of the London Plan 2021, Policy SP10 of Haringey's Local Plan 2013 and Policy DM1 of the Haringey Development Management DPD 2017.
- 6.14 All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be refused for the reasons set out above. The details of the decision are set out in the RECOMMENDATION

7. CIL APPLICABLE

There is no increase in floor area and therefore the proposal is not liable for the Mayoral or Haringey's CIL charge.

8. RECOMMENDATION

REFUSE PERMISSION

Registered No. HGY/2022/0092

Applicant's drawing No.(s) Noise Impact Assessment Report (KP Acoustics, 23789.NIA.01), Covering Letter (JMS, 21/01/2022)

For the following reason(s):

1. The proposed extension of opening hours would be unacceptable by reason of increased noise disturbance to local residents and would likely add pressure for extended hours from other premises in the area, which would have a detrimental impact on the character and function of the area. As such the proposal is contrary to Policy SD7 of the London Plan 2021, Policy SP10 of Haringey's Local Plan 2017 and Policy DM1 of the Haringey Development Management DPD 2017.