

Officer Report

Application Number: HGY/2023/1931
Application Type: Non-Material Amendment
Address: Unit 1, Hale Works Apartments, Daneland Walk, Tottenham, London, N17 9GW
Proposal: S.96a application (Non-Material Amendment) seeking a variation of Condition 4 attached to planning permission ref. HGY/2017/2005 to amend the opening hours of Unit 1, Hale Works Apartments, Daneland Walk N17 9GW
Case Officer: Martin Cowie
Valid Date: 18/07/2023
Applicant: Mr A. Cundale
Agent: Mrs Katherine Sneedan

RECOMMENDATION

Approve with Conditions

Proposal - Application for a Non-Material Amendment to allow for the variation of trading hours.

Approved development

Mixed use development ranging from 11 to 33 storeys comprising 1,588sqm commercial space (flexible A1/A3/A4/B1/D1 uses), 279 residential units including affordable housing, together with roof garden and associated landscaping, the provision of basement car parking, bicycle spaces, associated plant including building maintenance unit and internal refuse storage at Plot SW, Hale Village.

Approved - 02.05.2018

CONSULTATION

Public:

No public consultation undertaken given nature of submission - no material impact on surrounding residents.

Internal:

LBH EHS - Noise Nuisance:

Satisfied that we have sufficient information to approve the application for a variation in trading hours. We have determined that this is likely to be a low risk for complaints since deliveries are received in the basement. This is on the proviso that the servicing/ delivery times remain as they are currently (no earlier than 8:30am).

The applicant should be advised that in the event this variation results in an increase in complaints about noise nuisance the council will take enforcement action which could include the issue of an abatement notice to restrict specific activities at this premises.

SITE AND SURROUNDS

The site is located on the north side of Ferry Lane adjacent to Tottenham Hale Station. It is the south-west corner of the wider Hale Village Masterplan area. The Masterplan site has now been fully developed into a mix of flats, student accommodation, education, health, office, retail and other uses. The development plot subject to this application is a residential block with commercial ground floor uses. The ground floor includes 1588sqm of commercial floor space that is split into three separate units; one large unit facing west (the unit subject to this application currently occupied by Asda), a smaller unit facing north and another facing south.

ANALYSIS/ASSESSMENT

S96 of the Town and Country Planning Act 1990 (as amended) allows the Council to make a change to any planning permission if satisfied that the change is not material. An application for a non-material amendment can only be made by or on behalf of a person with an interest in the land to which the planning permission relates and the application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

The National Planning Practice Guidance (NPPG) sets out that there is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application. As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

The NPPG states that when making a decision the local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

ASDA Stores Limited are seeking to vary the trading hours permitted at Unit 1, which is currently vacant. The current restrictions on the hours within which the store would be permitted to trade are set out in Condition 4 of Planning Permission HGY/2017/2005 granted in 2018.

The condition states:

"The commercial units at ground floor level of the development hereby approved shall be open only between 0800h and 2400h on any day of the week, other than for uses within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) which may operate over 24 hours."

Reason: In order to safeguard residential amenity in accordance with Policy DM1 of the Development Management Development Plan Document 2017."

ASDA wish to have flexibility of trading an additional hour first thing in the morning and therefore are proposing the following variation to condition 4:

"The commercial units at ground floor level of the development hereby approved shall be open only between 0800h and 2400h on any day of the week, other than Unit 1 where 0600h and 2400h is permitted and for uses within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) which may operate over 24 hours."

The property is located within Tottenham Hale which is a significant transport node lying in close proximity to the busy (A503) Ferry Lane Road and Tottenham Hale Railway Station. The area now contains a large proportion of commercial uses as well as substantial residential property. As such the area is a hive of activity from early in the morning. Asda would like to offer the opportunity for

customers to shop between 6am and 8am before heading to work or picking up last minute essentials.

In consideration of the main application, HGY/2017/2005, the Council's Noise officer had no objection to the proposal subject to conditions which did not include any recommendation for a condition relating to the trading hours of the commercial units. Sound insulation between the commercial premises on the ground floor and residential units above has been provided and installed in the premises as part of the delivery of the development.

Having regard to the location of the premises, its use and current servicing/delivery times, and the views of the Environmental Services Noise Nuisance officer, the proposed changes in opening hours is considered reasonable, will not unduly impact local residential amenity and will provide local residents with greater flexibility in relation to their shopping habits.

Any noise nuisance that may arise in the future can be addressed by the relevant Environmental Health legislation.

CONCLUSION

Proposed change is considered acceptable.

Recommendation is to approve subject to the following condition:

The commercial units at ground floor level of the development hereby approved shall be open only between 0800h and 2400h on any day of the week, other than Unit 1 where 0600h and 2400h is permitted and for uses within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) which may operate over 24 hours.

Reason: In order to safeguard residential amenity in accordance with Policy DM1 of the Development Management Development Plan Document 2017.

Conditions:

- 1 The commercial units at ground floor level of the development hereby approved shall be open only between 0800h and 2400h on any day of the week, other than Unit 1 where 0600h and 2400h is permitted and for uses within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) which may operate over 24 hours.

Reason: In order to safeguard residential amenity in accordance with Policy DM1 of the Development Management Development Plan Document 2017.