



Officer Report

Application Number:	HGY/2023/1627
Application Type:	Change of use
Address:	31 Westbury Avenue, Wood Green, London, N22 6BS
Proposal:	Use of the existing rear extension as a Shisha Lounge (Sui Generis) in association with the existing Café/Restaurant Class E to the front of the premises and the retention of the retractable roof on the rear extension (Retrospective Application).
Case Officer:	Mercy Oruwari
Valid Date:	19/06/2023
Applicant:	Jani Gradica
Agent:	Mr Courtney Dawson

RECOMMENDATION

Refuse

1. SUMMARY OF RECOMMENDATION

REFUSE PERMISSION

2. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

2.1 This is an application for the retrospective use of the existing rear extension as a Shisha Lounge (Sui Generis) in association with the existing Café/Restaurant (Class E) to the front of the premises. It also includes the retention of the retractable roof on the rear extension.

Site and Surroundings/context

3.2 The site contains a ground floor unit with permission to be used as an Restaurant within a 3-storey mid-terrace building located on the northern side of Westbury Avenue, N22. The surrounding uses are mixed, with mainly retail uses at ground floor level and predominantly residential use on the upper floors. The site does not contain a listed building and is not located within a conservation area. The site is located within a Designated Secondary Shopping Frontage.

3.3 Planning permission was granted for the use of property as a restaurant and erection of a single storey rear extension therefore the rear of the restaurant has been extended into the rear courtyard.

Relevant Planning and Enforcement history

2.2 The most recent planning history in relation to the site is as follows.

- ENF/2022/0789 - 31 Westbury Avenue – New case – Unauthorised Shisha bar. In Progress
- HGY/2022/2358 - Installation of open canopy for existing sitting area. Granted
- HGY/2022/1518 - Installation of open canopy for existing sitting area. Refused
- HGY/2021/1737 - Installation of open canopy for existing sitting area. Refused
- HGY/2017/1107 - Retention of external flue and new cover over. Retention of wooden roof to the existing rear extension and extension of opening hours of cafe/restaurant to Mondays to Saturdays: 08:00 - 00:00; Sundays and Bank Holidays 08:00 - 22:00. Granted
- HGY/2016/2461 - Relocation of external flue. Retention of wooden roof to the existing rear extension and retention of use of rear part of the unit as electronic shisha lounge/bar. Refused
- UNW/2016/00363 – Unauthorised erection of extractor flue – Case closed following planning approval of ref: HGY/2017/1107. 22/09/2017
- HGY/2011/0431 - Installation of new shopfront incorporating roller shutter. Granted
- HGY/2011/0421 - Use of flat roof to restaurant extension as a roof terrace to first floor and terrace to incorporate 1.7 m high screen (on frosted glass). Refused
- HGY/2011/0422 - Non-material amendments following a grant of planning permission HGY/2010/2132 to incorporate forecourt seating and to include level screens. Not Determined
- HGY/2011/0299 - Variation of condition 2 (operating hours) attached to planning permission HGY/2010/2132 to allow the operating hours to be changed to 0700 - 2300hrs Monday to Saturday and 0800 - 1800hrs on Sundays and Bank Holidays Granted
- HGY/2010/2132 - Change of use of ground floor from A1 to A3 (restaurant) incorporating a single storey rear extension. Granted
- HGY/2010/0641 - Erection of single storey rear extension and change of use from A1 (shop) to A2 (financial and professional services) Granted

3. **CONSULTATION RESPONSE**

3.1 The responses below were received following consultation on the application:

Internal:

No consultees sought

4. **LOCAL REPRESENTATIONS**

4.1 The application has been publicised by way of 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:1

Objecting:1

Supporting:0

4.2 The following issues raised by representations were not in relation to this application but related to the previous application HGY/2022/2358.

5. **MATERIAL PLANNING CONSIDERATIONS**

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

1. Impact on neighbouring amenity;

Impact on neighbouring amenity

5.2 DPD Policy DM1 'Delivering High Quality Design' states that development proposals must ensure a high standard of privacy and amenity for a development's users and neighbours. Specifically, proposals are required to provide appropriate sunlight, daylight and aspects to adjacent buildings and land, and to provide an appropriate amount of privacy to neighbouring properties to avoid overlooking and loss of privacy and detriment to amenity of neighbouring resident.

5.3 The shisha lounge is located in the existing ground floor rear extension of the host site. A retractable roof has been installed for ventilation as well as high level metal railings in the rear wall of the space. A fire exit door has also been installed at the rear of the lounge.

5.4 The arrangement of the lounge as it exists wouldn't have a significant impact on the amenity of any of the neighbours. However, in order for the lounge to comply with the Health Act 2006 in relation to enclosed spaces provided for smoking (The smokefree legislation for England (1997) includes shisha), the rule for any shelter/room states that it cannot be substantially or fully enclosed. They must have openings to the outside. The gaps must be at least half the exposed area of the shelter's perimeter. Overall, any shelter/room must comply with the regulations by having at least 50% of the perimeter under the roof open to ensure proper ventilation. The area of the opening does not include doors, windows or any other fittings that can be opened or shut.

5.5 Although the refusal is not based on the Health Act 2006 legislation, in order to make the shelter/room compliant, due to the location there would be a conflict with the London Plan and Haringey policies. The close proximity to neighbours could potentially impact the amenity and living conditions of nearby residential properties from the noise and the fumes that would no longer be contained from the use of the shisha lounge.

Conclusion

5.6 The retrospective proposal would not be considered acceptable. Any alterations required to create a space that complies with the rules for enclosed shelters for smoking (which includes shisha lounges) would result in the amenity and living conditions of neighbouring residential properties being adversely impacted by noise and disturbance, contrary to London Plan Policies D13 & D14 and DM DPD Policy DM1.

5.7 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

6. CIL APPLICABLE

N/A

7. RECOMMENDATION

REFUSE PERMISSION

For the following reason(s)

Refusal Reasons:

The proposed shisha lounge, by virtue of its location adjacent to neighbouring residential

properties, and its open design would fail to adequately contain noise and pollution resulting in a level of noise, disturbance and pollution that would be detrimental to the residential amenity of neighbours contrary to Policies D13 & D14 of the London Plan (2021) and Policy DM1 of the Development Management DPD (2017).