



Officer Report

Application Number: HGY/2022/4434
Application Type: Removal/variation of conditions
Address: Cafe, 272 High Road, Wood Green, London, N22 8JY
Proposal: Variation of Condition 3 (The use hereby permitted shall not be operated before 0800 or after 2300 hours Monday to Saturday and not at all on Sundays or Bank Holidays) of planning permission ref. HGY/2001/1538 to allow opening of the premises between 07.00 to 02.00 Monday to Sunday and Bank Holidays.
Case Officer: Emily Whittredge
Valid Date: 22/03/2023
Applicant: MR ARDIT MEZINI
Agent: Mr Noel Samaroo

RECOMMENDATION

Refuse

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.

PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

Variation of Condition 3 (The use hereby permitted shall not be operated before 0800 or after 2300 hours Monday to Saturday and not at all on Sundays or Bank Holidays) of planning permission ref. HGY/2001/1538 to allow opening of the premises between 07.00 to 02.00 Monday to Sunday and Bank Holidays.

Site and Surroundings

The application site is located on the corner of Canning Crescent within a shopping parade in a predominantly residential area. The site is outside of the main Wood Green district center and is not within a primary or secondary shopping parade. There are currently no premises in the area that operate past midnight.

Policies and Constraints

Article 4 Direction for HMO's, DM DPD policy: DM17

Family Housing Protection Zone, DM DPD policy: DM16

Critical Drainage Area, DM DPD policy: DM26

Relevant Planning and Enforcement history

HGY/2001/1538 - Change of Use of the ground floor from A1 Use to A3 Use and the erection of an extract duct to the rear elevation. - Approve with Conditions
18/12/2001

CONSULTATION RESPONSE

Metropolitan Police Designing Out Crime Officer:

Having reviewed the available information relating to this development proposal we do not believe that it falls within our current remit, due to its size, position and use (the proposal does not appear to include any changes to the physical structure or security of the relevant building).

LOCAL REPRESENTATIONS

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: 6

Supporting: 0

The following local groups/societies made representations: None

The following Councillor(s) made representations: None

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 site has historically been subject to numerous complaints re: excessive noise and operating beyond permitted hours
- Harm to quality of life
- Increase in smoking around the vicinity of the venue
- Loss of privacy
- Lone women would be intimidated with large numbers of men outside smoking
- Customers already use the back alley with high music levels and late opening hours
- Customers use external terrace to the rear, constructed for smoking
- Increased foot traffic

- Rubbish generated
- The business is already a disturbance to the neighbours
- Mainly serves alcohol
- Will destroy the character of the area
- Customers park on double yellow lines
- Between a primary school and a park

MATERIAL PLANNING CONSIDERATIONS

The main planning considerations raised by the proposed development are:

1. Impact on the surrounding area

Impact on the surrounding area

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.

The site is located in an area north of Wood Green Station, which is principally residential. There are residential units above the parade, in the buildings opposite in the High Road and in Canning Crescent. Since the original permission was granted in 2001, a block of flats has been constructed to the rear of the site in Canning Crescent. The site is located at a significant distance from the Wood Green District Centre, and is not within a designated Shopping Frontage, Local Centre or Growth Area.

The application premises are situated within a small shopping parade that includes a mix of day and night time uses. All premises within the area close before midnight, which is considered appropriate given the significant number of residential units in the area, and surrounding the application site. The original permission limited the opening hours of the premises to no later than 23:00 on any day, with the reason given: "to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished."

The objections received from neighbours raise concerns about increased noise and disturbance, and state that they are currently affected by the operation of the premises by use of the rear of the property as a smoking area, noise, and congregation of customers. There are also objections to music at the site.

While there are some existing nighttime uses in the parade, there is reasonable expectation among residential occupiers that associated 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. The hours sought extend into unsocial hours, in an area with significant residential occupation. Early morning activity within this part of Wood Green, which is not within the District Centre, is regarded as damaging and out of character given the residential character and lack of any other businesses open to these hours. The Local Planning Authority is confident that the restricted hours imposed in planning permission HGY/2001/1538 are reasonable, contrary to the proposed 2:00 opening, seven days a week. The current opening hours extend to late at night but are considered acceptable for this location. The operation of the cafe through to the early hours would represent an unacceptable amount of additional activity at a time when local residents, including those living in the floors above it, would expect a modicum of peace and quiet, obviously contextual for the area.

Noise and activity does not have to be at a high volume to be disturbing. Neighbours state that the area outside the premises is currently used by customers wishing to smoke. External congregation into the early morning would lead to further noise, which is uncontrollable. While internal noise can

be controlled by means such as insulation, external activities and comings and goings from the premises and congregation outside are equally relevant and less able to be controlled. 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 a material change in the relevant circumstances since the determination of planning application HGY/2001/1538 in that additional residential units have been constructed to the rear of the site, which reinforces the Council's original reasons for restricting opening hours. The area is outside of the designated Wood Green Town Centre and is not specifically identified in the Local Plan (Policy SP10) as an appropriate venue for night-time economy development. It is appreciated that the ground floor units are in commercial use, but opening hours for businesses must be balanced against the character of the area and the expectations of the occupiers of the residential units.

As such, it is considered that the concerns raised by neighbouring occupiers about disruption to local amenity by extending the hours of operation 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

The proposed 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

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

CIL APPLICABLE

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

RECOMMENDATION

REFUSE PERMISSION for the following reason(s):

Refusal Reasons:

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.