

**Location**                      **1 Sussex Ring London N12 7HY**

**Reference:**                      **17/3180/S73**                      Received: 17th May 2017  
Accepted: 17th May 2017

Ward:                              Totteridge                              Expiry 12th July 2017

Applicant:                      tomer vanunu

Proposal:                      Variation to condition 4 (Trading hours) and condition 6 (Use of extraction equipment) pursuant to planning permission B/00095/13 dated 12.7.13 for "Change of use from A1 use to A3 use (bakery) and installation of flue to rear elevation". Variation include increase trading hours with extractor use

**Recommendation:** Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site location plan, existing and proposed plans (received 2 January 2013)  
Covering letter from GP Retail Services Ltd and specification for extraction fan and carbon filter (received 24 January 2013)  
Covering letter from GP Retail Services Ltd and plans of extraction equipment (Drawing FA.FEB.2013-218-A and 219-A (received 28 February 2013)  
Covering letter dated 15 June 2013, and plans and specification of silencer equipment (received 19 June 2013)  
Email from the applicant's agent dated 23 January 2013  
Emails from the applicant dated 19 June 2013, 20 June 2013  
Odour and Additional Noise Report dated September 2017

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 2 The level of noise emitted from the ventilation and extraction plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2015.

- 3 The level of noise emitted from the extraction and ventilation equipment hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 4 The use hereby permitted shall not be open to customers before 8:00am or after 8:00pm on Mondays to Saturdays or before 8.00am or after 7.00pm on Sundays and bank and public holidays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties, in accordance with Policies DM01 and DM04 of the Development Management Policies DPD.

- 5 No deliveries shall be taken at or dispatched from the site on any Sunday, Bank or Public Holiday or before 9:30am or after 4:30pm on any other day.

Reason:

To prevent the use causing an undue disturbance to occupiers of adjoining residential properties at unsocial hours of the day.

- 6 The extraction and fan equipment hereby permitted shall not be operated before 8:00am or after 8:00pm on Mondays to Saturdays or before 8.00am or after 7.00pm on Sundays and bank and public holidays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties, in accordance with policies DM01 and DM04 of the Development Management Policies DPD.

- 7 The extraction equipment and associated filters and silencing equipment shall be maintained in accordance with the recommendations set out in the 'Odour and Additional Noise Report' dated September 2017.

Reason: In order to protect the amenities of the occupants of neighbouring properties, in accordance with policies DM01 and DM04 of the Development Management Policies DPD.

**Informative(s):**

- 1 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The applicant is advised that this grant of planning permission does not infer or imply the right to undertake any works on land outside the applicant's ownership or control. The applicant should therefore ensure that consent is obtained from any landowners prior to any works taking place on their land.

## **Officer's Assessment**

### **1. Site Description**

The application site is located on the western side of Sussex Ring. Sussex Ring is a crossroad junction, with the western side comprising retail premises, and the eastern side residential premises. The area in the vicinity of the site is residential with the nearest neighbouring residents being above the shops along this shopping parade and to the rear of the site along Lullington Garth.

### **2. Site History**

Reference: 15/02651/S73

Address: 1 Sussex Ring, London, N12 7HY

Decision: Refused

Decision Date: 24 June 2015

Description: Variation to condition 4 (Trading hours) and condition 6 (Use of extraction equipment) pursuant to planning permission B/00095/13 dated 12.7.13 for "Change of use from A1 use to A3 use (bakery) and installation of flue to rear elevation". Variation include increase trading hours with extractor use

Reference: B/00095/13

Address: 1 Sussex Ring, London, N12 7HY

Decision: Approved subject to conditions

Decision Date: 12 July 2013

Description: Change of use from A1 use to A3 use (bakery) and installation of flue to rear elevation

### **3. Proposal**

This application proposes the variation to Conditions 4 (Trading hours) and 6 (Use of extraction fan) pursuant to Planning Permission B/00095/13, dated 12/07/2013. Under the original application (B/00095/13), the site was restricted to opening (to members of the public) at the following times though Condition 4:

**Monday - Friday:** 08:00 to 18:00

**Saturday** - 09:00 to 18:00

**Sunday** - 10:00 to 17:00.

On bank and public holidays, the site was restricted to operating on Sunday working hours.

Condition 6 also limited the use of the extraction equipment (the fan and the flue) to the times prescribed above. The only difference between the opening hours and the use of the extraction equipment is that the extraction facilities were not to be used on Sundays or public/bank holidays. The extraction equipment is located to the rear of the host site and is therefore not visible from the main highway of Sussex Ring.

This application originally sought to vary the above conditions in the following manner:

- Vary Condition 4 to allow for the site to be open to the public Monday through Sunday between 08:00-21:00 on the provision that no outdoor seating will be used by the public after 20:00.
- Vary Condition 6 to allow for the site to use the extraction equipment Monday through Sunday between the hours of 08:00-21:00.

However, given the close proximity of the premises to residential properties and given the character of this particular parade of shops, following discussion with officers, the application has been amended to propose the following hours:

- Vary Condition 4 to allow for the site to be open to the public Monday through Saturday between 08:00-20:00 and Sunday between 0800 - 1900.
- Vary Condition 6 to allow for the site to use the extraction equipment Monday through Saturday between 08:00-20:00 and Sunday between 0800 - 1900.

In summary this application seeks to vary the 2 conditions in the manner prescribed above. As such, aside from the increased trading hours and the increased hours of use for the extraction equipment, there would be no other changes between the proposal put forward under this application and the application approved under Barnet Planning Reference B/00095/13.

#### **4. Public Consultation**

Consultation letters were sent to 50 neighbouring properties.

6 responses have been received, comprising 5 letters of objection and 1 letter of support.

Environmental Health officers requested an Odour and Noise Assessment to be submitted. Further consultation was undertaken following receipt of this report.

The objections received can be summarised as follows:

- Concerns that the extraction equipment will not comply with permitted noise levels and that in conjunction with the noise from No. 3 Sussex Ring would cause impact to the amenities of the neighbouring residential sites.
- Concerns that the increased hours will allow the smell of food to affect residential properties to an increased level for prolonged periods of time thus affecting the ability of local residents to enjoy their outdoor amenity space in the summer period.
- Concerns that the increased hours would lead to increase littering even with the restrictions on outdoor seating after 20:00.
- Concerns that the additional opening hours could lead to increase levels of vermin in the surrounding vicinity as the proposal does not compensate for an increased level of food waste.
- Concerns that the extension of trading hours will exacerbate parking/congestion problems. Objectors also raised concerns that the increased hours and the increased traffic flow could impact on the timings of public transport thus causing unnecessary delays. Concerns were also raised that the increased congestion could lead to road traffic accidents at busy times.

- Concerns that the residential area could not provide the suitable infrastructure for the increased hours if other sites applied for a similar scheme in the future.

## **Internal /Other Consultations**

Environmental Health officers were consulted on this application and concluded that after careful consideration of the Odour and Additional Noise Assessment provided as part of this application (dated September 2017), any increase of noise/odour would not be harmful to the amenities of the surrounding residents and recommended approving the application, subject to conditions.

## **5. Planning Considerations**

### **5.1 Policy Context**

#### National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

#### The Mayor's London Plan 2015

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

#### Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02

states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

#### Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

### **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

### **5.3 Assessment of proposals**

#### **Impact on the character and appearance of the property and general locality:**

Any scheme for the site will need to respect the character and appearance of the local area, relate appropriately to the site's context and comply with development plan policies in these respects. This will include suitably addressing the requirements of development plan policies such as DM01, CS05 (both of the Barnet Local Plan), 7.4 and 7.6 (both of the London Plan).

It is noted the physical presence of the extraction equipment would have the most impact on the appearance of the host site and the surrounding area. As the equipment has already been deemed an acceptable addition to the host site through the original application, it is not found that increasing the hours of use of the extraction equipment would have a detrimental impact on the appearance of the host site or the surrounding area.

As is made clear in the National Planning Policy Framework, the character of an area is made up of much more than its physical appearance, but includes how it functions and contributes to local identity and sense of place. It is noted that A1 retail units in the area have less restrictive opening hours. However, it is considered that the nature of an A3 use is such that, exacerbated in this case by the outdoor seating, the evening use is likely to generate noise and disturbance through the associated activity that would be out of character with this small parade.

#### **Impact on the amenities of neighbouring occupiers:**

It will be important that any scheme addresses the relevant development plan policies (for example policy DM01 of the Barnet Local Plan and policy 7.6 of the London Plan) in respect of the protection of the amenities of neighbouring occupiers. This will include taking a full account of all neighbouring sites.

DM01 states that noise can reduce the quality of life of people living or working in the borough. Planning controls can help to minimise noise disturbance in new developments with planning conditions used to control the operating hours of a particular source of noise. Planning conditions can also be used to reduce the effects of noise on nearby noise sensitive residential uses.

In addition, DM04 states that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted.

It is noted as part of application B/00095/13, dated 12/07/2015 that the restriction on the trading hours was a material consideration as part of the original application. The proposal as part of the originally approved scheme was considered not to be detrimental to the amenities of the occupants of any neighbouring property, subject to conditions. As part of that application the trading hours and use of the extraction equipment were restricted to no later than 6:00PM on Weekdays and Saturdays and 5:00PM on Sundays, and Bank and Public Holidays.

Following the submission of additional technical information, Environmental Health officers have raised no objections to the increased trading hours or the increased hours for the extraction equipment to be used, with specific reference to noise and odour. Given the limited increase in the hours now proposed, it is considered that the variations as proposed under this application would not prove detrimental to the amenities of the occupiers of the neighbouring residential properties.

## **Summary**

It is considered that the proposals, at the hours proposed, would not have any significant detrimental impact to the character of the host site or the surrounding area or on the amenities of the neighbouring residential occupiers.

### **5.4 Response to Public Consultation**

#### **Concerns that the extraction equipment will not comply with permitted noise levels and that in conjunction with the noise from No. 3 Sussex Ring would cause impact to the amenities of the neighbouring residential sites**

Environmental health officers have concluded that the noise levels would be acceptable and protective of neighbouring amenities and as such it is not found that the increased use of the extraction equipment would be detrimental to the residential neighbouring occupiers.

#### **Concerns that the increased hours will allow the smell of food to affect residential properties to an increased level for prolonged periods of time thus affecting the ability of local residents to enjoy their outdoor amenity space in the summer period**

Environmental health officers have concluded that the odour levels would be acceptable and protective of neighbouring amenities and as such it is not found that the increased use of the extraction equipment would be detrimental to the residential neighbouring occupiers.

#### **Concerns that the increased hours would lead to increase littering even with the restrictions on outdoor seating after 20:00**

Littering per se is not a material planning consideration and objectors are invited to submit their issues to the Environmental Health team if the littering proves to be a nuisance or to the Street Cleaning Team if the littering persists.

#### **Concerns that the additional opening hours could lead to increase levels of vermin in the surrounding vicinity as the proposal does not compensate for an increased level of food waste**



The potential of increased vermin activity is not a material planning consideration and objectors are invited to submit their concerns to the Environmental Health team if vermin levels become a nuisance to the surrounding sites.

**Concerns that the extension of trading hours will exacerbate parking/congestion problems. Objectors also raised concerns that the increased hours and the increased traffic flow could impact on the timings of public transport thus causing unnecessary delays. Concerns were also raised that the increased congestion could lead to road traffic accidents at busy times**

It is not considered that the limited additional activity would lead to congestion or delays to public transport.

**Concerns that the residential area could not provide the suitable infrastructure for the increased hours if other sites applied for a similar scheme in the future**

It is noted that each planning application must be decided on its' own planning merits.

## 6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

## 7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site and the general street scene. With conditions, the development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval.

