

Location **202 - 208 Regents Park Road London N3 3HP**

Reference: **18/2666/FUL** Received: 1st May 2018
Accepted: 8th May 2018

Ward: Finchley Church End Expiry 3rd July 2018

Applicant: Azzurri Group

Proposal: Creation of new outdoor seating area to front of restaurant

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:

Z745 002 (Location Plan)
Z745 003 (Pavement Licence Plan)

Noise Impact Assessment (dated 13.04.18)
Outside Seating Area Management Plan (received 01.05.18)
Planning Statement (dated April 18)
Seating Details (01.05.18)
Table Materials (received 01.05.18)

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 CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The use of the outside seating area hereby permitted shall be restricted to the following opening hours:

09:00 to 22:00 Monday to Saturday; and
09:00 to 21:00 on Sundays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 4 The use of the outside seating area must be fully implemented in accordance with the approved Outside Seating Area Management Plan (received 01.05.18).

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 5 Prior to first use of the outside seating area, all tables and chairs shall be fitted with rubber feet and must be retained as such thereafter.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

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.

Officer's Assessment

1. Site Description

The application site is located on the eastern side of Regents Park Road and comprises of a ground floor commercial unit in use as a restaurant. The unit forms part of a small parade containing a mixture of retail and commercial units, including others in A3 use.

Whilst this stretch of area is of mixed character located on a reasonably busy thoroughfare, the areas to the south, east and west of the application site are largely residential.

2. Site History

Reference: 17/3339/FUL

Address: 202 - 208 Regents Park Road, London, N3 3HP

Decision: Refused

Decision Date: 20 July 2017

Description: Creation of new outdoor seating area to front of restaurant with associated screening

Appeal Reference: APP/N5090/W/17/3187369

Appeal Decision: Dismissed

Appeal Decision Date: 31 January 2018

Reference: 17/2234/ADV

Address: 202 - 208 Regents Park Road, London, N3 3HP

Decision: Approved subject to conditions

Decision Date: 30 May 2017

Description: Installation of 1no externally illuminated hanging sign, 1no internally illuminated fascia sign and 1no internally illuminated menu box sign

Reference: 17/3340/ADV

Address: 202 - 208 Regents Park Road, London, N3 3HP

Decision: Pending Decision

Decision Date: No Decision Made.

Description: Installation of 1no internally illuminated and 1non illuminated fascia signs, 1no externally illuminated hanging signs and 2non illuminated awnings

Reference: F/00591/11

Address: 202 - 208 Regents Park Road, London, N3 3HP

Decision: Approved subject to conditions

Decision Date: 25 March 2011

Description: External alterations including frontage of restaurant to be painted white.

Reference: F/00415/11

Address: 202 - 208 Regents Park Road, London, N3 3HP

Decision: Approved subject to conditions

Decision Date: 9 March 2011

Description: 1 set of halo illuminated letters 1 x internally illuminated projection sign and awning.

Reference: C07125K/02

Address: 202 - 208 Regents Park Road, London, N3 3HP

Decision: Approved subject to conditions

Decision Date: 18 December 2002

Description: Single storey rear extension. New shopfront. Installation of new plant and extraction flue to rear.

3. Proposal

The application seeks to create a new outdoor seating area, which includes 7 tables and 14 chairs to the front of the restaurant. The associated barriers were approved under reference 17/3340/ADV.

It is sought to use the outdoor seating area between 09:00 - 22:00 Monday to Saturday and 09:00 - 21:00 on Sundays.

4. Public Consultation

Consultation letters were sent to 175 neighbouring properties.

10 responses have been received, comprising 5 letters of objection and 5 letters of support.

The objections received can be summarised as follows:

- Noise nuisance
- Loss of public pavement
- Security concern and anti-social behaviour
- Increased parking pressure from increased customers

The letters of support can be summarised as follows:

- The tables will not obstruct the walking area;
- Good addition for the summer months

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 2016

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.

The London Plan is currently under review. Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the adopted London Plan

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, CS9, CS13
- Relevant Development Management Policies: DM01, DM02, DM04, DM17

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted October 2016)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether the issues raised by the Planning Inspectorate about noise and disturbance affecting the living conditions of the neighbouring occupiers have been satisfactorily addressed.

5.3 Assessment of proposals

The application is identical in nature and layout to the previous application 17/3339/FUL which was refused by the Council and subsequently dismissed at appeal by the Planning Inspectorate.

Previously, the Council had concerns regarding the potential noise nuisance arising from the outdoor seating and without the submission of a noise impact assessment, there was no evidence to address or overcome this concern. As such the proposed level of harm was considered to be detrimental.

Within the appeal decision, the Inspector considered that the proposed seating area, being relatively close to the balconies of Coliseum Court, would have the potential to cause additional noise in the area. Without any evidence to indicate otherwise, the Inspector found that the proposal would have a harmful effect on the living conditions of the occupiers of Coliseum Court, with particular reference to noise and disturbance.

The applicant has since undertaken a formal Noise Impact Assessment (NIA). This study undertook a comparison of existing ambient noise levels at nearby residential premises and the predicted noise levels from the seating area during the proposed hours of use. They have taken that an increase of noise of more than 2 or 3 dB is considered likely to represent the threshold of acceptability. During an evening measurement between 19:00 to 22:00, levels of noise were recorded between 65.9 to 67.3 dB. The report acknowledges these levels as relatively high and reflects the busy nature of the vicinity. Typical maximum noise levels, from road traffic, were in the order of 75 to 80 dB. Using predicted noise levels from speech, the report finds the proposal would result in a negligible increase (0.4 dB) in noise levels at the nearest residential properties, with maximum noise levels significantly lower than the existing maximum noise levels from road traffic.

The applicant has also submitted an Outside Seating Area Management Plan (OSAMP) which sets out a number of measures such as:

- The outside area to be only used for dining;
- No parties larger than 4 persons to be allowed to be seated in the outdoor area;
- No outside music or speakers;
- The outside area will be designated as a non-smoking area;
- Last seating of guests will be at 21:00 (Mon-Sat) and 20:00 (Sun);
- The outside area to be cleared by 22:00 (Mon-Sat) and 21:00 (Sun);
- By 22:30 (Mon-Sat) and 21:30 (Sun), furniture is to be removed from the area quietly and placed inside.

In addition, the tables and chairs will be fitted with rubber feet.

The OSAMP and proposed operating hours were presented to the Planning Inspector during the appeal who commented that this document could help manage any 'rowdy' or particular noisy behaviour, and that the restricted opening times of this area could address concerns about noise in the late evening/early night period.

The Council's Environmental Health service has reviewed the submitted NIA and OSAMP and does not raise any objections to the details or results submitted.

Previously, without the submission of a NIA, the Council and Inspector had no evidence to demonstrate that the noise and disturbance generated would not be significant. This information has now been provided and has been assessed by the Council's Environmental Health service. In light of this and the proposed mitigation measures proposed, it is considered that the proposed harm would not be detrimental to the living conditions of the neighbouring occupiers.

The Council's Traffic and Development service has reviewed the proposal and comment that the proposed outdoor seating area will take up approximately 1.4m of the public highway and leave a remaining 3.3m width at the narrowest point of the footway. This is considered to be acceptable on highways grounds.

It is acknowledged that the proposal would have the potential to bring local economic benefits in supporting the provision of restaurants in town/local centres.

5.4 Response to Public Consultation

Noise nuisance - The applicant has undertaken a Noise Impact Assessment which has been assessed by the Council's Environmental Health service. They have raised no

objections in relation to any harmful effect on the living conditions of neighbouring residents in terms of noise and disturbance.

Loss of public pavement - The proposal will take up 1.4m of the existing footway, with 3.3m remaining. This is considered to be acceptable from a highways point of view and is not considered to be harmful to the users of the highway.

Security concern and anti-social behaviour - The applicant has submitted an Outside Seating Area Management Plan which sets out a number of measures which the restaurant has agreed to implement. These measures are considered to suitably mitigate any security or anti-social behaviour.

Increased parking pressure from increased customers - The proposal is not expected to generate an increased level of traffic or parking level which would have a detrimentally increased impact on the surrounding area.

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 is not considered to have a harmful impact on the amenities of neighbouring occupiers in terms of noise or disturbance. This application is therefore recommended for approval.

