

**Location**                      **18 Ballards Lane London N3 2BH**

**Reference:**                      **20/0504/S73**                      Received: 31st January 2020  
Accepted: 31st January 2020

Ward:                              West Finchley                      Expiry 27th March 2020

Applicant:                      Mrs Dominique Faryabi

Proposal:                      Variation of condition 6 (Hours of Use) of planning permission 19/4043/FUL dated 30/09/2019 for 'Change of use from Professional and Financial Services (A2) to Cafes (A3).' Variation to include changing the opening hours to 08.30am until 11.00pm, Monday to Saturday and from 08.30am until 10.30pm on a Sunday, with the exception of Christmas Day, Boxing Day and New Year's Day, when the premises shall remain closed.

**Recommendation:** Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control 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:

Covering Letter (Ref. CTA/030) and supporting information relating to the opening hours , from Christopher Tredway Architects Ltd., dated 04/02/20 and received on the 05/02/20.

Amended Covering letter (Ref. CTA/030), with amended opening hours, from Christopher Tredway Architects Ltd., dated 07/02/20 and received on the 07/02/20.

And

Drg.no.030/S3\_01 (Site Location Plan), Drg.no.030/S3\_02, Drg.no.030/S3\_03, Drg.no.030/S3\_04, Drg.no.030/S3\_05, Drg.no.030/S3\_06, Drg.no.030/AP3\_02, Drg.no.030/AP3\_03, Drg.no.030/AP3\_04, Drg.no.030/AP3\_05, Drg.no.030/AP3\_06 and Drg.no.030/AP3\_07.

The above plans were received on the 23 July 2019 as part of the parent application (19/4043/FUL)

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 24.09.2019.

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

- 3 The level of noise emitted from any extraction and ventilation equipment 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 2016.

- 4 The hours of opening shall be from 08.30am until 11.00pm, Monday to Saturday and from 08.30am until 10.30pm on a Sunday, with the exception of Christmas Day, Boxing Day and New years Day, when the premises shall remain closed.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted October 2016).

- 5 The hours of deliveries/collections and external bin use is restricted to between 8:30am and 9pm.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted October 2016).

- 6 a) The development shall be implemented in accordance with the report in relation to the ventilation/extraction plant, and mitigation measures submitted and approved in writing in application 19/5648/CON.

b) The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and Policy 7.15 of the London Plan 2015.

- 7 a) The kitchen extraction unit to be provided for the proposed development shall be as approved in application 19/5648/CON.
- b) The development shall be implemented in accordance with details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the amenities of the neighbouring occupiers are not prejudiced odour and smoke in the immediate surroundings in accordance with policies DM01 of the Development Management Policies DPD (adopted September 2012) and Policy CS14 of the Local Plan Core Strategy (adopted 2012).

- 8 The refuse collection arrangements approved in application 19/5648/CON shall be implemented prior to the commencement of the use and maintained as such thereafter.

Reason

In the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

### **Informative(s):**

- 1 In accordance with paragraphs 38-57 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. 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 reminded that the extraction and ventilation equipment and refuse collection arrangements must be implemented in accordance with the details approved in application 19/5648/CON.

## **Officer's Assessment**

### **1. Site Description**

The application site is located on the southern side of Ballard's Lane, at the junction with Hervey Close. The existing building is an end of terrace property which forms part of the primary frontage within a local parade of shops and falls within the Finchley Church End Town Centre.

The site is being used as a Class A2 (Financial services) unit on the ground floor, which is currently vacant, with maisonettes occupying the first and second floors.

The rear of the site has recently received prior approval consent to convert the property into a residential unit.

The application site does not lie within a conservation area, however the property has very recently been designated as locally listed.

### **2. Site History**

Reference: 15/01093/FUL

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved subject to conditions

Decision Date: 21 April 2015

Description: Installation of external ATM to replace existing ATM including removal of stone step to allow wheelchair access

Reference: 18/3573/FUL

Address: 18 Ballards Lane, London, N3 2BH

Decision: Refused

Decision Date: 20 November 2018

Description: Sub-division of existing ground floor A2 use to create 1no self-contained flats and A2 use

Reference: 18/7387/PNJ

Address: 18 Ballards Lane, London, N3 2BH

Decision: Prior Approval Required and Approved

Decision Date: 28 February 2019

Description: Change of use of the rear part of the ground floor retail (Class A2) to residential (Class C3) (1 unit) (Amended Description and Plans)

Reference: 19/1574/CON

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved

Decision Date: 29 April 2019

Description: Submission of details of condition 5 (noise), 6 (noise insulation), pursuant to planning permission 18/7387/PNJ dated 28/02/2019

Reference: 19/4043/FUL

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved subject to conditions

Decision Date: 30 September 2019

Description: Change of use from Professional and Financial Services (A2) to Restaurants & Cafes (A3)

Reference: 19/5648/CON

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved

Decision Date: 4 December 2019

Description: Submission of details of condition 3 (Extraction/Ventilation), 5 (Extraction), 7 (Refuse) pursuant to planning permission 19/4043/FUL dated 30/09/19

Reference: C01689H/04

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved subject to conditions

Decision Date: 20 January 2005

Description: Removal of front entrance step and installation of new door to provide access for the disabled.

Reference: F/01846/10

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved subject to conditions

Decision Date: 24 June 2010

Description: Installation of 1no. external ventilation grill.

Reference: F/04337/09

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved subject to conditions

Decision Date: 22 January 2010

Description: Retention of existing fascia signage and proposed non-illuminated fascia signage extension to existing.

Reference: F/04336/09

Address: 18 Ballards Lane, London, N3 2BH

Decision: Approved subject to conditions

Decision Date: 22 January 2010

Description: Removal of existing stepped access to the building to create new disabled accessible level and ramp, threshold entrance and new accessible entrance door.

### **3. Proposal**

This application seeks to vary condition 6 (Hours of Use) of planning permission 19/4043/FUL dated 30/09/2019 for 'Change of use from Professional and Financial Services (A2) to Restaurants & Cafes (A3).'

Variations include extending the opening hours from 08.30am until 11.00pm, Monday to Saturday and from 08.30am until 10.30pm on a Sunday, with the exception of Christmas Day, Boxing Day and New Year's Day, when the premises shall remain closed.

### **4. Public Consultation**

Consultation letters were sent to 177 neighbouring properties.

6 objections have been received.

Objections have been summarised below;

- Noise Nuisance
- Smell Nuisance
- Waste disposal
- Stress on existing parking
- Too many restaurants and Cafes
- Installation of cameras to monitor the parking of cars
- Lack of adequate sound proofing

### Environmental Health

No objections, subject to the imposition of conditions;

### Highways

"The extension in opening hours would potentially increase the number of visitors who park in adjoining residential roads at night. However, there is insufficient information to demonstrate that the additional parking demand can be accommodated on-street".

## **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 revised National Planning Policy Framework (NPPF) was published on 19th February 2019. 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, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. 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.
- Relevant Development Management Policies: DM01, DM02, DM04, and DM17.

The Council's approach to development as set out in Policy DM01 is to minimise their 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.

### Barnet's Local Plan (Reg 18) 2020

Barnet's Local Plan -Reg 18 Preferred Approach was approved for consultation on 6th January 2020. The Reg 18 document sets out the Council's preferred policy approach together with draft development proposals for 67 sites. It is Barnet's emerging Local Plan. The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of emerging policies and draft site proposals.

### Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted April 2013)

- 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:

1. Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality
2. Whether harm would be caused to the living conditions of neighbouring residents
3. Whether the proposals would have an acceptable impact on the vitality and viability of the town centre

## **5.3 Assessment of proposals**

The parent application was approved under ref.no. 19/4043/FUL dated 30/09/2019, for 'change of use from Professional and Financial Services (A2) to Restaurants & Cafes (A3)'. Condition 6 restricts the opening hours from '6.30am until 8.00pm, 7 days a week, with the exception of Christmas Day, Boxing Day and New year's Day, when the premises shall remain closed'.

Since this application condition 3 (Extraction/Ventilation), 5 (Extraction), 7 (Refuse) pursuant to planning permission 19/4043/FUL dated 30/09/19, were discharged under ref.no. 19/5648/CON dated 04/12/19.

The variation requested under this application is changing the opening hours to 08.30am until 11.00pm, Monday to Saturday and from 08.30am until 10.30pm on a Sunday, with the exception of Christmas Day, Boxing Day and New Year's Day, when the premises shall remain closed.

Considering that the application site is located within a town centre and the proposed timings are similar to the timings of other restaurants and other cafes operating on the same high street, the hours and days of operation are considered to be acceptable.

No part of the approved proposal will be changed or altered as a result of this variation to the opening hours and therefore it will not have an impact on the appearance of the street scene or the character of the area. Furthermore, any noise and disturbance created by the variation would not have a significantly greater impact on neighbouring amenity above, given the high street location and conditioned opening hours.

The previous application imposed conditions concerning noise mitigation for the extraction and ventilation equipment. The details have been approved in application 19/5648/CON.

Highway officer comments are noted, however given the town centre location and previous approval, the application is considered acceptable on highway grounds.

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

- Noise Nuisance
- Smell Nuisance
- Waste disposal
- Stress on existing parking
- Too many restaurants and Cafes

The above objections have been previously assessed under ref. no. 19/4043/FUL dated 30/09/2019. This application only relates to the varying of the opening hours.

- Installation of cameras to monitor the parking of cars. - there is no on-site parking.
- Lack of adequate sound proofing - Conditions attached to the original permission related to noise from the extraction and ventilation system. Any changes to the approved details would require a further application.

#### **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**

It is considered that the proposed variation would not adversely impact the living conditions of those occupiers of the existing and neighbouring building or the character of the area. As such, this application is recommended for approval.



