

Location 847 High Road London N12 8PT

Reference: 21/6176/S73 Received: 24th November 2021
Accepted: 24th November 2021

Ward: Woodhouse Expiry 19th January 2022

Case Officer: Sinead Normoyle

Applicant: Merkur Slots UK Ltd

Proposal: Variation of condition 3 (Opening hours) of planning permission 20/2503/FUL, dated 22/07/2020 for `Change of use from Sui Generis (Betting Shop) to Sui Generis (Adult Gaming Centre).` Variation to include changing the wording of the condition to "hours of operation shall be restricted to 08:00 until 02:00 hrs Monday to Sunday and Public holidays only"

OFFICER'S RECOMMENDATION

Approve subject to conditions

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

Noise report - prepared by Archo Consulting dated 19/11/2021
Full observation report prepared by Leveche
Independent observation and crime data analysis report prepared by Leveche
Cover letter

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 Until the 30/04/2023 the use shall not be open to members of the public between 02.00am and 8.00am on any day.
After that date the use shall not be open to members of the public between midnight and 8am on any day .

Reason: To protect the amenities of the area and neighbouring residential occupiers from undue noise and disturbance in accordance with policies DM01 and DM04 of the Development Management Policies DPD 2012.

- 3 The amendment to condition 2 of planning permission 20/2503/FUL shall be for a limited period only, expiring on 30/04/2022.

Reason: To protect the amenities of the area and neighbouring residential occupiers from undue noise and disturbance in accordance with policies DM01 and DM04 of the Development Management Policies DPD 2012.

- 4 Prior to the commencement of the extended opening hours, a Management Plan shall be submitted to and approved by the Local Planning Authority which sets out the measures to be taken to ensure there is no congregation of patrons outside the shop during the period of the extended hours.

Reason: To protect the amenities of the area and neighbouring residential occupiers from undue noise and disturbance in accordance with policies DM01 and DM04 of the Development Management Policies DPD 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. 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 comprises the ground floor commercial unit of a 3-storey terraced property located on the western side of High Road in North Finchley Town Centre.

The site forms part of a larger retail parade, to the south of the site is an access leading to a solicitors (A2) and immediately to the north is a dry cleaners (A1). A Sainsbury's food store (A1) is located to the east on the opposite side of High Road. Residential dwellings fronting Woodside Road are located to the west. The site is located within North Finchley Town Centre's Secondary Retail Frontage.

The property is not listed nor is it located within a conservation area.

2. Site History

Reference: 20/2503/FUL

Address: 847 High Road, London, N12 8PT

Decision: Approved subject to conditions

Decision Date: 22 July 2020

Description: Change of use from Sui Generis (Betting Shop) to Sui Generis (Adult Gaming Centre)

Reference: 20/3600/CON

Address: 847 High Road, London, N12 8PT

Decision: Approved

Decision Date: 17 August 2020

Description: Submission of details of condition 5 (Sound insulation report) pursuant to planning permission 20/2503/FUL dated 22/07/2020

Reference: 20/3627/CON

Address: 847 High Road, London, N12 8PT

Decision: Approved

Decision Date: 15 September 2020

Description: Submission of details of condition 4 (Refuse/recycling) pursuant to planning permission 20/2503/FUL dated 22/07/2020

Reference: F/00948/13

Address: 847 High Road, London, N12 8PT

Decision: Approved subject to conditions

Decision Date: 19 April 2013

Description: Installation of new shop front. Installation of 2no. satellite dishes to side elevation.

Reference: F/00945/13

Address: 847 High Road, London, N12 8PT

Decision: Approved subject to conditions

Decision Date: 17 April 2013

Description: Installation of 1no. internally illuminated fascia sign and 1no. internally illuminated projecting sign.

3. Proposal

Variation of condition 3 (Opening hours) of planning permission 20/2503/FUL, dated 22/07/2020 for `Change of use from Sui Generis (Betting Shop) to Sui Generis (Adult Gaming Centre).` Variation to include changing the wording of the condition to "hours of operation shall be restricted to 08:00 until 02:00 hrs Monday to Sunday and Public holidays only".

4. Public Consultation

140 consultation letters were sent to neighbouring properties.

- 24 responses have been received, comprising 24 letters of objection

The objection received can be summarised as follows:

- The Lodge Lane N12 Residents Association object - the original constraints on hours were imposed for good reason, assuming a 'normal' night-time economy.
- External noise/ nuisance.
- Too many gambling and betting shops on a small stretch of suburban high road.
- Studying late night noise at a time where there are Covid restrictions does not give a true picture of what noise disturbance will be like when things return to normal.
- Disagree that adult gaming is for shift workers to relax.
- Concerns regarding nuisance.
- It will have an adverse effect on those suffering with addiction to gambling and is likely to affect the overall safety of the area.
- When this property was a Betting Shop open until late at night the access pathway under the archway from the High Road and also our private pathway to the office door, was subject to human fouling and urination. This brought rats into the close vicinity of our offices.
- Increased hours will encourage anti-social behaviour.
- This type of gaming shop will not enhance the local area nor will it benefit the local residents, or local economy.
- Safety

Comment on behalf of the Finchley Society.

- Slots gained permission for this operation only last year with a clear condition that it should close at midnight. They should accept this condition and operate in accordance with it.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework

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 20th July 2021. 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 2021

The new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous Plan.

Barnet's Local Plan (2012)

Barnet's Draft Local Plan on 26th November 2021 was submitted to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Department of Levelling Up, Housing and Communities. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2021 (as amended).

The Regulation 22 Local Plan sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. 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 the policies and site proposals in the draft Local Plan and the stage that it has reached.

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11 September 2012.

- Relevant Core Strategy DPD (2012): Policies CS NPPF, CS1, CS5.
- Relevant Development Management DPD (2012): Policies DM01, DM02, DM04, DM11, DM17

Supplementary Planning Documents

- Sustainable Design and Construction SPD

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

No alterations or buildings works are proposed under the subject application. As such, the character and appearance of the area will not be impacted by the subject application.

The site currently operates between the hours of 8:00am until 12:00am Monday to Sunday and Public Holidays.

This application seeks to extend the opening hours from 8am until 02:00am Monday to Sunday and Public holidays only.

Metropolitan Police Design Out Crime Officer (DOCO) has no objection to increase in hours.

A detailed Noise Impact Assessment has been submitted with the application. This states the following:

"- An assessment of the internal noise levels at the application site (so rather than relying on internal noise levels from other sites, the actual noise levels within the AGC at 847 High Road have been assessed), confirming that the sound insulation measures have been fully implemented, the internal noise levels are low and there is no noise break out from the unit.

- An assessment of the external background noise levels outside 847 High Road up until 2am which shows exceptionally high background noise levels during this time period.

- An assessment of customer behaviour/ comings and goings at both 847 High Road and 3 operational 24-hour Merkur Slots sites during the early hours, which confirm customers are quiet and arrive and visit on their own/ in couples rather than large groups, and do not behave in an antisocial way.

All these additional assessments and empirical data together with the fact that there have been no noise complaints, demonstrates that the extension of the closing time for an additional 2 hours from midnight to 2am, is entirely acceptable in noise terms..."

Officers accept that on this basis the extended opening to 2am would be less likely to result in a harmful impact on the amenities of the residential units above or adjacent residents in terms of noise and disturbance.

However, there is no guarantee that visits to the premises would not increase, particularly as customers may have been restricted thus far by the pandemic. Appeals against the refusal of 2 similar proposals for Merkur Slots in Golders Green and Finchley Central were allowed last year, following refusal by the LPA. Inspectors restricted opening hours to midnight. In the Finchley Central case the Inspector stated: "Noise and activity does not have to be at a high volume to be disturbing. The arrival and departure of patrons at the premises would have the potential to be almost constant and at all times of the day and night. Whilst numbers might not be anticipated as high during the night and in the early morning, this cannot be guaranteed.....Moreover, there is a possibility of the use of

outside spaces for those wishing to smoke. This could lead to external congregation."

Environmental Health officers have been consulted on the subject application and advise; no complaints have been received regarding noise (internally) transferred to the flats above since the approval of application 20/2503/FUL. Furthermore, there are no complaints regarding patrons leaving the 'Adult Gaming Centre'.

Environmental health officers do still have concerns with the proposed increase in hours and the potential to cause nuisance/receive complaints particularly from those entering/leaving and congregating outside. Environmental health has requested management proposals to address possible congregation eg smoking, and proposed a temporary 1-year permission for extended hours until 2am. After the year officers can then assess if there was any nuisance caused as a result of the extended hours of operation.

Taking all of the above into account, it is considered reasonable to grant a temporary permission for extended opening hours to allow an assessment of any adverse impact on residential amenity.

Accordingly, the proposed development, on balance is considered acceptable in compliance with Policy DM01 and DM04 of the Development Management Policies DPD and policy CS5 of the Barnet Core Strategy.

5.4 Response to Public Consultation

With regard to the impact of the extended opening hours on the amenity of neighbouring residents, it is considered that there are residential properties in close proximity to the application site, and concerns have been raised from residents in respect of noise.

However, in this instance it has been assessed by the noise report submitted that the proposed extension to opening hours would not have an adverse impact on the amenity of neighbours to an extent that would warrant the refusal of the application on these grounds. However, to safeguard the amenity of neighbouring residents, a temporary 1-year permission has been agreed with the applicant.

Other matters raised are not relevant to consideration of the merits of this 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

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would have an acceptable impact on the character and appearance of the application site, the surrounding area and the locality. A temporary permission is considered appropriate to monitor any adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval on a temporary basis.



Indicates site in application
847 HIGH ROAD,
NORTH FINCHLEY,
LONDON, N12 8PT

Location Plan 1:1250