
Appeal Decision

Site visit made on 8 January 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/Y5420/W/19/3235264

Shop, 72 West Green Road, Tottenham, London, N15 5NS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms F D'Souza against the decision of the Council of the London Borough of Haringey.
 - The application Ref. HGY/2019/1500, dated 5 May 2019, was refused by notice dated 2 July 2019.
 - The application sought planning permission for the change of use to sui generis – adult gaming centre (amusement arcade), the installation of air conditioning unit, CCTV monitored surveillance system and internal decoration, without complying with a condition attached to planning permission Ref. HGY/2017/1253 granted on appeal Ref. APP/Y5420/W/17/3180484 dated 1 December 2017.
 - The condition in dispute is No.3 which states that: "The use hereby permitted shall not be open to customers outside of the following times: 0900-2200 Mondays to Sundays".
 - The reason given for the condition is to ensure that the development is sensitive to the living conditions of the occupants of adjacent residential properties.
-

Decision

1. The appeal is dismissed

Main Issue

2. The main issue is whether the variation to the opening hours of the premises would harm the living conditions of the occupiers of residential properties near the site.

Reasons

Background

3. Planning permission was granted on appeal in 2017 for an adult gaming centre (amusement arcade) in the ground floor of the three-storey building which lies in a secondary shopping frontage in a district centre along West Green Road (A504). The site also lies in the Clyde Circus Conservation Area. The Inspector concluded that the proposed use would avoid harm to the vitality and viability of the centre nor was there evidence to demonstrate that the use would cause material harm to the living conditions of the occupiers of adjacent residential properties given that the hours of opening of the premises could be restricted by a condition.

4. The appellant seeks to vary the opening hours from 0900-2200 Monday to Sunday to: Friday 0900-2300; Saturday 0900-2400; Sunday 1000-2000, (Monday to Thursday to remain as permitted) so that they do not have to turn customers away when other premises, like a pub one door away, are open till midnight and other local businesses open much later.

Effect on living conditions

5. The Council's objection on this ground relates to the effect of the additional hours of opening in the evening on exacerbating anti-social issues in the area. The Council's representations on the appeal do not set out in planning terms what these anti-social problems are but refer to the advice from the Council's licencing team who say that 'the area has existing levels of deprivation and anti-social behaviour issues from street drinkers to men loitering in the area' and increasing the operating hours would only serve to provide another venue for this behaviour to continue. The concerns about anti-social behaviour is backed up by a single local representation at application stage which comments that such behaviour is getting worse along West Green Road and premises opening later are not needed as people will be hanging around outside later.
6. The appellant's evidence seeks to show that the premises have been improved by soundproofing and considerable raw data has been submitted to demonstrate that the level of noise within the premises vary during opening times but when compared to an underlying noise average, the difference is said to be less than 10dbA. The appellant says this shows 'no substantial impact.'
7. However, this analysis concentrates on the noise levels within the building itself whereas the Council's objection relates more to the activity of people outside of the building and within the street and the late hour at which this disturbance is alleged to occur.
8. The appellant also submits many photographs of premises taken in the evening but it is not clear to me where these premises are or when the photographs were taken. There is also considerable evidence submitted in the form of screen shots from the web on the opening hours of other premises. However, while the evidence provided appears to show many premises with longer opening hours into the evening, and some with 24 hour opening, I cannot tell if the premises mentioned are lawfully trading at such time or whether they are located in a mainly commercial centre with few residential properties or have similar surroundings to the appeal site.
9. Even with the late evening commercial economy that is obviously present in this part of West Green Road, I have concerns about the cumulate effect of the increased activity that would arise with the proposed extended opening hours for the gaming centre at the weekend. I noted at my site visit that the appeal site premises lie close to the junction with Beaconsfield Road and this street is principally residential in character. I consider that it is likely that the activity of people coming and going late at night and especially within the period till 2300 on Fridays and midnight on Saturdays would be likely to have an adverse effect on the occupiers of these houses through further disturbance in the street.
10. The proposal seeks to vary the opening hours that were imposed by the previous Inspector as part of his assessment of the impact of the use, however, while the Council's evidence to substantiate the degree of disturbance and anti-social behaviour is not extensive, it has not been demonstrated that the

increase in hours sought would not exacerbate the problem. Overall, I find that the proposal would conflict with the requirements of Development Management DPD Policy DM1 in terms of protecting the amenity of an area from a harmful level of activity. However, I find that the other policies mentioned by the Council in the reason for refusal are not relevant or are too general to have a bearing on the main issue in this case.

11. Finally, although the site lies in the Clyde Circus Conservation Area, I am satisfied that the specific proposal before me will have a neutral effect on the character and appearance of the Conservation Area.

Conclusion

12. I conclude that it has not been demonstrated that the increase in opening hours at the adult gaming centre will not have harmful effect on the living conditions and amenity of people living close to the site and this harm and the conflict with the development plan is not outweighed by other considerations. This indicates that the appeal should not be allowed.

David Murray

INSPECTOR