



Appeal Decision

Site visit made on 16 July 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2024

Appeal Ref: APP/Y5420/W/24/3341466

513 Green Lanes, Hornsey, Haringey, London N4 1AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Luxury Leisure against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2023/2242.
 - The application sought planning permission for the change of use of the ground floor of 513 Green Lanes, from a Licensed Betting Office (Sui Generis) to an Adult Gaming Centre (Sui Generis) operating from 09:00 am to 23:00 pm seven days per week; Associated works including shopfront alterations and replacement plant without complying with a condition attached to planning permission Ref HGY/2021/0066 dated 10 March 2021.
 - The condition in dispute is No 3 which states that: *The use hereby permitted shall not be operated before 09:00 hours or after 23:00 hours Monday to Sunday.*
 - The reason given for the condition is: *This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished consistent with Policy DM1 of The Development Management DPD 2017.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted (LPA Reference: HGY/2021/0066) for the change of use of the appeal property to an Adult Gaming Centre which included a condition controlling the operating hours of the use in the interests of the amenities of adjacent residential occupiers. This appeal proposal seeks to vary this condition to allow the use to operate until 2:00 AM seven days a week.
3. The main issue therefore is the effect that varying the condition would have on the living conditions of nearby residential occupiers in relation to noise and disturbance.

Reasons

4. The appeal property comprises of the ground floor of a three-storey building on Green Lanes, a busy district centre that contains a range of shopping and commercial uses. Like the appeal property, the upper floors of many of the nearby buildings are in residential use.

5. The extended operating hours of the Adult Gaming Centre (AGC) would result in comings and goings from customers and staff into the early hours of the morning. The survey information provided by the appellant from a range of other AGC's, which are different in their operation to other betting shops, identifies a low number of visitors during later operating hours. Even so, such movements would generate disturbances associated with car doors opening and closing, noise from engines and vehicle movements to and from the site. Although the majority of customers may arrive alone, there is still potential for there to be people conversing outside, such as at closing time when staff are leaving. Whilst there is no specific evidence of anti-social behaviour associated with this AGC's operation, and operational measures can be used to mitigate any risks of anti-social behaviour, given the close proximity of the residential properties to this AGC, external noise associated with the later opening hours would likely be audible, particularly during summer months when windows may be open.
6. The appellant has submitted a Noise Assessment¹, but this was undertaken at the time of the Covid-19 Pandemic using predicted noise levels and also taking representative data from other Admiral AGC's whose site-specific circumstances may be different to that of the appeal site. Although the constraints the existing operating hours places on collecting data is recognised, it is not clear why more up-to-date noise evidence, following the noise assessment undertaken in 2020 has not been provided.
7. Although internal trading noise levels in AGCs are lower than corresponding noise levels from bars and restaurants and soundproofing works have already been undertaken at the property, the extended opening times proposed would introduce comings and goings late at night and into the early hours of the morning which would cause disturbance to nearby residential occupiers. Whilst there are other businesses in the area that are open until 2am or later, none from my site observations are in the immediate vicinity around the appeal site. Furthermore, the opening times of other commercial premises would not justify the proposed extended operating hours given the harm that would be caused to living conditions.
8. There have been no complaints since the beginning of this AGC's operation and nor has it experienced any issues in relation to noise or crime. There have also been no objections from the Metropolitan Police's Designing Out Crime Officer or from the Council's Environmental Health Officer, but objections have been made by residents expressing concerns over noise/disturbance. In any event, the absence of complaints or objections does not demonstrate the absence of harm. Rather, having regard to the evidence before me, the extended operating hours would result in an adverse impact in terms of noise and disturbance.
9. I do not doubt that the appellant successfully trades on extended trading hours from many premises nationally and employs suitably experienced and qualified staff. No alcohol is served or allowed at the appellant's AGCs. Despite this, and other operational measures enforced by the appellant, the extended operating hours would result in comings and goings at unsociable times which the appellant would have little or no control over.

¹ Hepworth Acoustics, July 2020

10. A temporary permission has been suggested, and although this approach has been utilised elsewhere by the Council, in this case, it would result in an unacceptable impact to the living conditions of nearby residential occupiers for the duration of that temporary period.
11. I therefore conclude that the proposal would result in unacceptable harm to the living conditions of nearby residential occupiers with regard to noise and disturbance. As such, the proposal would be contrary to Policy DM1 of the Council's Development Management DPD and Policy SP10 of Haringey's Local Plan Strategic Policies 2013-2026, which require, amongst other matters, development proposals to ensure a high standard of amenity. The proposal would also be contrary to Paragraph 135 of the National Planning Policy Framework which seeks a high standard of amenity for existing and future users.

Other Matters

12. The Council has raised concerns on the proposal setting a precedent which would increase pressure for similar extended operating hours on other premises in the area. However, each case must be assessed on its own merits, and any future application would be subject to its own assessment. The appellant has made reference to a number of appeal decisions in support of the proposal. The main issues in each of the referenced appeals were different to this proposal, and it is evident from the details presented that they turned on their own particular merits as does the appeal before me.
13. There is no substantive evidence that the additional operating hours would be detrimental to those vulnerable to gambling harms. This is however a neutral matter and not one which weighs in favour of the proposal.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR