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Submitted via Planning Portal

Planning and Building Control
Camden Council

21 October 2024

Our Ref: 7782

Dear Sir / Madam,

S.73 Variation of Condition 1 & 2 of Planning permission Ref. 2007/0699/P - 42 Gloucester Ave. NW1 8JD

On behalf of our client Gail's Ltd (Gail's), please find enclosed an application pursuant Section 73 of the Town and Country Planning Act 1990 (As Amended) seeking to vary conditions 1 and 2 of planning permission ref. 2007/0699/P at the above address.

In summary, the above permission was granted in 2008 to meet the operational requirements of a traditional A3 restaurant use. However, the unit is now vacant, and Gail's are now seeking to occupy the floorspace as a bakery. It is therefore necessary to seek the variation of conditions relating to operating hours to meet Gail's particular operational requirements, and reflect the flexible nature and needs of modern Class E operators. This will allow the successful re-occupation of a vacant commercial unit by a popular brand seeking representation in Primrose Hill.

Application Site

Site Description

The application site comprises a ground floor commercial unit, forming part of a four-storey new build mixed-use scheme with residential and commercial office space above. The commercial floor space is currently vacant, having most recently been occupied by an artisan grocery store (Use Class E). The surrounding area is predominantly terraced residential housing, with commercial uses occupying a few ground floor units nearby.

The site itself is not statutorily or locally listed, but nearby buildings such as The Engineer Public House and Camden Incline Winding Engine House are both Grade II listed. The site is situated within the Primrose Hill Conservation Area: Central Area.

Relevant Planning History

Planning permission was granted in 1999 for the redevelopment of the site by the erection of two three/four storey linked buildings to provide B1 offices, residential, retail and café floorspace (Ref: PE9900623). Condition 12 attached to this permission restricted use of retail and café floorspace to 8.00 am to 11.00pm on Mondays – Saturdays and 8.00 am to 10.30 pm on Sundays or Bank Holidays. Further, no customers or members of staff were to be on the premise outside the hours of 8.00 am to 11.30 pm Mondays – Saturdays, and 11.00 pm on Sundays and Bank Holidays.

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Planning permission was then granted in 2008 (Ref: 2007/0699/P) for the variation of condition 12 of planning permission dated 19th June 2000 to allow extended restaurant opening hours. This allowed for customers to be on the premises between 8.00 am to 11.30 pm on Mondays – Saturdays and 8.00 am to 11.00 pm on Sundays. Further, members of staff are only to be on the premise between 8.00 am to 00.30 pm (the following day) Mondays – Saturdays and 8.00 am to 11.00 pm on Sundays. Condition 2 of this permission also restricted no customers to use the courtyard area outside the hours of 8.00 am to 11.00 pm daily.

Application Proposals

Gail's are seeking the variation of conditions 1 and 2 of permission Ref: 2007/0699/P, in order to facilitate the requirements of a modern Class E operator and allow Gails to successfully operate a bakery use from the site. The proposed variations to conditions are set out below:

Variation of Condition 1

Condition 1 is currently worded as follows:

"No customers shall be on the premises outside the hours of 08.00 to 23.30 on Mondays to Saturdays and 08.00 to 23.00 on Sundays. No members of staff shall be on the premises outside the hours of 08.00 to 00.30 (the following day) on Mondays to Saturdays and 08.00 to 23.00 on Sundays."

It is requested that Condition 1 is amended to read:

"No customers shall be on the premises outside the hours of 07.00 to 23.30 on Mondays to Saturdays and 7.00 to 23.00 on Sundays."

It must be considered that this condition was imposed on the basis that a traditional A3 restaurant use would be operating from the site, who can typically rely on later operating hours than bakeries and more general commercial operators. Gail's offer is reliant on their bakeries opening earlier on in the day, and preparing the store with fresh bread, cakes and confectionary prior to opening business in the morning. Gail's typically open their bakeries between 7.00am and close at 8.00pm, and it is these hours they wish to operate in Primrose Hill. The proposed extension of one hour to the morning opening hours will bring this site in line with both trading hours at Gail's bakeries nationwide and align them with other operators nearby.

The proposed additional hour will not give rise to any significant amenity impacts, and instead will allow for an operator with a notably earlier closing time to occupy the unit instead; indeed, the restaurant occupying the premise when this permission was granted stated their last seating began at 9:30pm, while Gail's stores are typically closed by 8.00pm. Considering the location of this commercial unit, with predominantly residential surroundings, the earlier operating hours will be better suited to the character of the area and amenity of the nearby residents.

The removal of the condition restricting staff on the premises is required to allow staff time to prepare the store before opening. This will not in practice result in an increase of impactful early morning activity, but will instead allow for additional time for staff to open the store before customers are permitted to be on site. As stated above with regards to permitted opening hours, it must be considered that this condition as imposed on the basis that a traditional A3 restaurant use would be operating from the site, who typically can rely on staff opening the store later than bakeries and similar commercial operators. The proposals to vary the site's current permission and extend operational hours will be entirely supportive of the principles of Camden Local Plan Policy A1, which supports proposals which seek to ensure that the amenity of communities by *"balancing the needs of development with the needs and characteristics of local areas and communities"*.

Variation of Condition 2

Condition 2 is currently worded as follows:

“No customers shall use the outside courtyard area outside the hours of 08.00 to 23.00 daily.”

It is requested that Condition 2 is amended to read:

“No customers shall use the outside courtyard area outside the hours of 07.00 to 23.00 daily.”

As stated above with regards to permitted opening hours, it must again be considered that this was granted to meet the operational requirements of a late-night restaurant operator, who can typically rely on operating later than bakeries. As stated above, Gail's will close significantly earlier than the restaurant associated with permission 2007/0699/P. This will mean that while operations will occur an hour earlier, there will be no customers or staff on site in the late evening, therefore reducing activity levels at unsociable hours which better suits the residential character of the area. The earlier hours will also provide greater convenience for residents, particularly those commuting in the morning. The proposals to extend operational hours will be entirely supportive of the principles of Local Plan Policy C2, which supports proposals which *“are modernised and developed to meet the changing needs of the community”*.

It is critical to consider that this delivery model for Gail's is currently in operation nationwide, and with effective in store management and coalition with local authorities, complaints of noise related to early morning operations are very rare. The proposals to vary the conditions and extend operational hours will be entirely supportive of the principles of A1 that seek to manage the impact of development, and Policy A4 which ensures development do not adversely affect the amenity of local residents, particularly with regard to noise and disturbance.

Summary

Gail's are seeking to make minor material amendments to permission Ref: 2007/0699/P in order to extend permitted opening hours at the site, to meet the operational requirements of a bakery. These minor alterations will be respectful of surrounding residential amenity, and fully coherent with the principles of the Camden Local Plan.

In support of the application, please find enclosed the following:

- Application Fee of £293.00
- Site Location Plan

I trust that this is satisfactory, and I look forward to receiving confirmation of validation in due course. Should you have any queries in the meantime, please don't hesitate in contacting the undersigned.

Yours sincerely,

Tamsin Penberthy

Assistant Planner

Planning Potential

London

Enc.