

Delegated Report		Analysis sheet		Expiry Date:		16/10/2012	
		N/A		Consultation Expiry Date:		25/10/12	
Officer				Application Number(s)			
Nicola Tulley				2012/5198/P			
Application Address				Drawing Numbers			
129 Kilburn High Road London NW6 6JJ				N/A			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Request from the London Borough of Brent for variation of condition 5 (to allow operating hours from 06:00 until 00:00 Monday to Sunday, outside of these times to permit the premises to be used by staff for preparation, cleaning and other administrative duties with the provision no customers will be permitted to be on the premises during these times) of planning permission reference M9094/81/0745 dated 30th of June 1981.							
Recommendation(s):		Raise no objection					
Application Type:		Request for Observations to Adjoining Borough					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:	No. notified	00	No. of responses	00	No. of objections	00	
			No. electronic	00			
Summary of consultation responses:	N/A						
CAAC/Local groups* comments: *Please Specify	None received.						

Site Description

The application site is located on the west of Kilburn High Road in close proximity to the junction with Quex Road to the east. It comprises a three storey building that is occupied as a restaurant/takeaway use (McDonalds) on the ground floor with residential flats above. The application relates to the ground floor unit.

The site lies within the London Borough of Brent. The boundary with the LB of Camden is on the east side of Kilburn High Road.

Relevant History

1) A request for observations, reference 2012/2929/P, to adjoining Borough application was submitted by Brent on 30/05/2012 for: variation of condition 5 (to allow operating hours from 06:00 until midnight Monday to Sunday and until 01:00 Friday and Saturday) of planning permission reference M9094/81/0745 dated 30th of June 1981. Camden raised objection for the following reason:

The proposed extension of opening hours, by reason of noise and disturbance, would be harmful to local residential amenity, contrary to policies CS1 (Distribution of growth), CS5 (Managing the impact of growth and development) and CS7 (Promoting Camden's centres and shops) of the of the London Borough of Camden Local Development Framework Core Strategy and policies DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses), DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies.

The application was refused by the London Borough of Brent, reference 12/1356, for the following reason:

The proposal to vary condition 5 of planning consent no. 90/0199, in order to allow extended opening hours for the restaurant fails to demonstrate that proposed opening hours would not cause problems including increased noise, nuisance and general activity in the locality, in particular late at night, and as such, would adversely affect the amenities of nearby residential occupiers, contrary to policy SH10 of Brent's Unitary Development Plan 2004.

2) A request for observations, reference 2008/3593/P, to adjoining Borough application was submitted by Brent on 22/07/2008 for variation of condition 5 (hours of opening) of planning permission 90/0199 granted on 17th October 1990 to allow opening times until 2am on Friday and Saturday (2008/3593/NEW). This was withdrawn by the Council on 02/09/2008.

Planning permission was refused, reference 08/2052, for variation of Condition 5 (hours of opening) of planning permission 90/0199 granted on 17/10/1990 to allow opening times until 2am on Friday and Saturday (08/2052). For the following reason:

The proposal to vary condition 5 of planning consent no. 90/0199, in order to allow extended opening hours for the restaurant would lead to increased late-night noise nuisance and general activity in the locality, and as such would adversely affect the amenities of nearby residential occupiers.

3) Planning permission, reference 90/0199, was granted by the London Borough of Brent on 17th October 1990 for: Variation of condition 5 (Hours of opening) M9094/81/0745.

Relevant policies

The London Plan: Spatial Development Strategy for Greater London: 2011

LDF Core Strategy and Development Policies

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centres and shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other

town centre uses)
DP26 (Managing the impact of development on occupiers and neighbours)
DP28 (Noise and Vibration)

Supplementary Planning Documents
CPG5 Town Centres, retail and employment
CPG6 Amenity

Assessment

Proposal & background

The London Borough of Camden has been consulted regarding the proposed variation of condition 5 (to allow operating hours from 06:00 until midnight Monday to Sunday of planning permission reference M9094/81/0745 dated 30th of June 1981. Condition 5 originally restricted the hours of opening to 11pm.

The Council raised objection previously, reference 2012/2929/P, to the extension of opening hours from 06:00 until midnight Monday to Sunday and until 01:00 Friday and Saturday. Following the subsequent refusal by the London Borough of Brent, reference 12/1356, the extension of time has been amended to midnight only.

Assessment

This part of Kilburn High Road is within the Town Centre however there are residential properties located within Camden that are approximately 23m to the northeast of the site at nos. 132 Kilburn High Road (4 flats on the 1st to 3rd floors) and 3 Quex Road (6 flats on the 1st to 3rd floors). There is a pub at no. 125 Kilburn High Road that also lies within Brent that does not appear to have any planning controls on hours of opening. The nature of the commercial activity along this part of Kilburn High Road within Camden is predominantly A1 with one other A3 use at no. 5 Quex Road (Tim's Café) within the immediate surroundings. There is a need to balance the needs of food, drink and entertainment uses which contribute to the vitality, viability and vibrancy of the town centre and to protect the amenity of those who reside within the area.

CPG5 (Town Centres, retail and employment) has specific guidance on Food, drink and entertainment uses which was adopted in 2011. The guidance does provide advice on hours of operation for A3/A5 uses. It acknowledges that "ambient noise levels reduce around midnight and consequently residential amenity can be badly harmed by amplified music, plant and machinery and on-street activity that continue late at night". Para 5.18 states that "in more commercial areas within the Town Centre, that have significant amounts of food, drink and entertainment uses, limited residential development and are well served by public transport during the late evening/night, later closing times (beyond midnight) may be applied.

The proposal would extend the opening hours by 1 hour Monday – Sunday and it is important for the Council to consider whether the extension of opening hours would be detrimental to the amenity of Camden residents. Camden Planning Guidance 5 'Town Centres, Retail and Employment' note that ambient noise levels reduce around midnight and consequently residential amenity can be harmed by noise generating activity after this time. Generally earlier closing hours are more appropriate in neighbourhood centres and residential areas than in town centres and other commercial areas. Given that ambient noise levels generally reduce around midnight and that the site is in a commercial area officers consider that the extension of opening by one hour would not be harmful to the amenities of Camden residents.

Recommendation

Raise no objection.

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