

LIST OF RECOMMENDATIONS UNDER DELEGATED POWERS

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

1. APPLICATION DETAILS

Reference No: HGY/2021/2807

Ward: Noel Park

Date received: 23/09/2021

Drawing number of plans: Cover Letter dated 20/09/2021, OS Plan, 342-EXT-04, 342-EXT-03, 342-PRE-EXT-02 & 342-PRE-EXT-01

Address: Duke Of Edinburgh, 83 Mayes Road, N22 6TN

Proposal: Retention of change of use of public house to mixed use restaurant and shisha lounge (sui generis)

Applicant: Mr Abid Messaoudi

Ownership: Private

Site Visit Date: 09/11/2021

Officer contact: Laurence Ackrill

2. SUMMARY OF RECOMMENDATION

REFUSE PERMISSION

3. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

- 3.1 This is an application for retention of a change of use of a public house to a mixed-use restaurant and shisha lounge (sui generis). It is noted that proposed description involved the retention of only the restaurant part of the application site (Class E(b)). However, the shisha lounge to the rear is only accessed via the restaurant and would therefore form part of the same planning unit and use at the site and is considered for the purposes of this application.

Site and Surroundings

- 3.2 The site is located at the junction of Mayes Road with Coburg Road. Mayes Road and Coburg Road both have some characterful Victorian residential buildings in the area.

3.3 No 83 Mayes Road also known as The Duke of Edinburgh is a detached 3-storey masonry building which was built in the early 1900s and previously functioned as a public house on the ground floor.

3.4 The host property is not located within a conservation area, but the building is locally listed. The site is also located within the Wood Green Cultural Quarter.

Relevant Planning and Enforcement history

3.5 There is no relevant planning history in relation to the site.

4. CONSULTATION RESPONSE

4.1 The responses below were received following consultation on the application:

- No consultees

5. LOCAL REPRESENTATIONS

5.1 The application has been publicised by way of press & site notice displayed near the site and 85 letters. The number of representations received from neighbours, local groups, etc. in response to notification and publicity of the application were as follows:

No of individual responses: 26

Objecting: 24

Supporting: 2

5.2 The following local groups/societies made representations:

- Campaign for Real Ale (CAMRA) – Object to the loss of the public house

5.3 The following Councillor(s) made representations:

- None

5.4 The following issues were raised in representations that are material to the determination of the application and are addressed in the next section of this report:

- Loss of public house
- Noise and disturbance

6 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning considerations raised by the proposed development are:

1. Principle of development;
2. Design and impact on the character and appearance of the conservation area;
3. Impact on neighbouring amenity; and
4. Transport considerations.

Principle of development

Loss of Public Houses

- 6.2 Policy DM50 of the Development Management DPD sets out the Council's approach to assessing proposals for the change of use of public houses, stating that it will resist proposals unless they can demonstrate, amongst other things, that the public house is no longer financially viable, as set out through a marketing campaign. The supporting text provides a list of evidence required to demonstrate that the public house is no longer viable. These include:
- i Patronage levels and trading accounts over the past 4 years or from previous management;
 - ii The actions taken by the owner/operator to respond to falling profits/patronage, including maintenance, refurbishment and an evaluation of the potential for expansion, contraction and diversification;
 - iii Suitable marketing activity of the business as an on-going concern over the past 12 months; and
 - iv Adequate provision of public houses serving the local area.
- 6.3 London Plan 2021 Policy HC7 'Protecting public houses' states that applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.
- 6.4 Limited information has been submitted with the application in respect of the policy tests outlined above. As outlined below the Local Planning Authority (LPA) view that such information does not robustly and conclusively demonstrate that the public house that was previously on site was no longer viable.
- 6.5 The justification put forward by the applicant is that the public house *'does not hold any social significance, while the property is not listed as an asset of Community Value'*, that the proposed use would *'not be dissimilar'* and that *'there is adequate provision of alternative public houses with 8-7 minutes' walk from the application site.'* There is no comment from the applicant to suggest that the use of the property as a public house was not viable.

- 6.6 No information pertaining to the levels of patronage have been provided, nor any marketing activity of the site as a public house has been carried out. The information submitted is not conclusive and there remain sufficient concern to weigh against a change of use, which inevitably would be permanent.
- 6.7 As such further information and testing in the market is required to prove that the lawful use of the property as a public house would no longer be viable; as required under policy DM50A (a) and London Plan Policy HC7.
- 6.8 The applicant argues that the use of the property as a restaurant would weigh in favour of the application, as a restaurant would '*support the success of the cultural quarter.*' Local Plan Policy SP15 'Culture and Leisure' states that the Council wishes to ensure that community, cultural and leisure facilities are provided to meet local needs. However, the applicant has failed to explain how or why, the proposed use would contribute to the Wood Green Cultural Quarter, which is dominated by the Chocolate Factory, a complex of artist studios and small business units. Nor is the Local Planning Authority persuaded that it does so more than the retention of a public house at the site. As such, this element of the proposal would not weigh in favour of the proposal.

Design and appearance

- 6.9 DPD Policy DM12 'Housing Design and Quality' states that extensions or alterations to residential buildings, including roof extensions will be required to be of a high, site specific, and sensitive design quality, and respect and/ or complement the form, setting, period, architectural characteristics, detailing of the original building, including external features such as chimneys, and porches. High quality matching or complementary materials should be used appropriately and sensitively in relation to the context. DPD Policy DM1 'Delivering High Quality Design' requires development proposals to relate positively to their locality, while Local Plan (2017) Policy SP11 requires the highest standard of design that respects local context and character and historic significance, which is equally supported by London Plan (2021) Policy D6.
- 6.10 London Plan Policy HC1 seeks to ensure that development proposals affecting heritage assets and their settings, should conserve their significance. This policy applies to designated and non-designated heritage assets. Local Plan Policy SP12 and DPD Policy DM9 set out the Council's approach to the management, conservation and enhancement of the Borough's historic environment.
- 6.11 DPD Policy DM9 states that proposals affecting a designated or non-designated heritage asset will be assessed against the significance of the asset and its setting, and the impact of the proposals on that significance; setting out a range of issues which will be taken into account. In relation to extensions or alterations to residential buildings, including roof extensions, Policy DM9 requires proposals to be of a high, site specific, and sensitive design quality, which respect and/ or complement the form, setting, period, architectural characteristics, detailing of the original buildings, including external features such as chimneys, and porches. The policy also requires the use of high-quality matching or complementary materials, in order to be sensitive to context.

- 6.12 No external alterations are proposed as part of the application. As such, there would be no visual impact from the proposed development on the character and appearance of the area arising from the change of use.

Impact on neighbouring amenity

- 6.13 London Plan Policy D6 outlines that design must not be detrimental to the amenity of surrounding housing, in specific stating that proposals should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, while also minimising overshadowing. London Plan Policy D14 requires development proposals to reduce, manage and mitigate noise impacts.
- 6.14 DPD Policy DM1 'Delivering High Quality Design' states that development proposals must ensure a high standard of privacy and amenity for a development's users and neighbours. Specifically, proposals are required to provide appropriate sunlight, daylight and aspects to adjacent buildings and land, and to provide an appropriate amount of privacy to neighbouring properties to avoid overlooking and loss of privacy and detriment to amenity of neighbouring resident.
- 6.15 It is noted that concerns have been raised by residents in relation to noise and disturbance in relation to the current use of the site. However, the proposed hours of use would not be excessive, being restricted to 11pm. A condition would be attached to this extent if the LPA were minded to recommend the application for approval.
- 6.16 Moreover, the proposed use would not result in a significant level of noise and disturbance above that of the use of the site as a public house. In any case, should noise and disturbance become a significant concern the Council can consider the matter through the statutory nuisance framework.

Transport considerations

- 6.17 London Plan Policy T1 requires all development to make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and to ensure that any impacts on London's transport networks and supporting infrastructure are mitigated. Policies T4, T5 and T6 set out key principles for the assessment of development impacts on the highway network in terms of trip generation, parking demand and cycling provision.
- 6.18 Local Plan Policy SP7 'Transport' states that the Council aims to tackle climate change, improve local place shaping and public realm, and environmental and transport quality and safety by promoting public transport, walking and cycling and seeking to locate major trip generating developments in locations with good access to public transport. This is supported by DPD Policy DM31 'Sustainable Transport'.
- 6.19 The proposed use of the site as a mixed-use restaurant and shisha lounge would not result in a significant increase in on-street parking pressure or highway safety over and above that of the lawful use of the site as a public house.

Conclusion

- 6.20 The proposed development is not acceptable as the applicant has failed to demonstrate robustly and conclusively that this premises is no longer viable in a public house use in the foreseeable future.
- 6.21 All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be refused for the reasons set out above. The details of the decision are set out in the RECOMMENDATION

7. CIL APPLICABLE

The increase in internal floor area would not exceed 100 sq.m. and therefore the proposal is not liable for the Mayoral or Haringey's CIL charge.

8. RECOMMENDATION

REFUSE PERMISSION

Registered No. HGY/2021/2807

Applicant's drawing No.(s) Cover Letter dated 20/09/2021, OS Plan, 342-EXT-04, 342-EXT-03, 342-PRE-EXT-02 & 342-PRE-EXT-01

For the following reason(s)

1. The proposed development would result in the permanent loss of social infrastructure and harm the character and vibrancy of the area. The applicant has failed to demonstrate robustly and conclusively that this premises is no longer viable in a public house use in the foreseeable future contrary to Policy HC7 of the London Plan 2021, Policies SP15 and SP16 of the Local Plan 2017 and Policy DM50 of the Development Management DPD 2017.