

<b>Item No.</b>  <b>1.1</b>	<b>Classification</b>  OPEN	<b>Decision Level</b>  DULWICH COMMUNITY COUNCIL	<b>Date</b>  10/11/09
<b>From</b>  Head of Development Management		<b>Title of Report</b>  DEVELOPMENT MANAGEMENT	
<b>Proposal</b> (09-AP-0804)  Variation of condition 7 of planning permission reference: 07-AP 2843 to extend opening hours of wine bar from 10:00-23:00 on Monday- Thursday, 11:00-00:00 on Friday and Saturday and 11:00-22:30 on Sunday to: 10:00-00:30 on Monday-Thursday, 10:00-02:00 on Friday and Saturday and 12:00-00:30 on Sunday and public holidays.		<b>Address</b>  52 LORDSHIP LANE, LONDON, SE22 8HJ  <b>Ward</b> East Dulwich	
<b>Application Start Date</b> 06/05/2009		<b>Application Expiry Date</b>	

## PURPOSE

- 1 To consider the above application which is before Dulwich Community Council owing to the number of objections received.

## RECOMMENDATION

- 2 Grant.

## BACKGROUND

### Site location and description

- 3 The application site is a three storey building with basement located on the western side of Lordship Lane. It has recently been refurbished and the use changed from an amusement arcade to a drinking establishment, following the grant of planning permission in September 2008 (reference:07-AP-2843). The site lies between a card / gift shop at 50 Lordship Lane and the Dulwich Tandoori restaurant at number 54.
- 4 The site is not located in a conservation area and the building is not listed. Lordship Lane is designated a Protected Shopping Frontage. The area is characterised by retail and commercial uses on the ground floor typically with residential above, and there are residential uses to the rear along Matham Grove. The site is located within the Lordship Lane Opportunity Area and Lordship Lane Neighbourhood Area (district town centre).

### Details of proposal

- 5 Pursuant to section 73 of the Town and Country Planning Act 1990 (as amended), planning permission is sought to vary condition 7 of permission reference 07-AP-2843 to extend the opening hours of the premises as follows:

From

- 6 10:00-23:00 Monday - Thursday, 11:00-00:00 Friday and Saturday and 11:00-22:30 on Sunday,

To:

- 7 10:00-00:30 Monday-Thursday, 10:00-02:00 Friday and Saturday and 12:00-00:30 on Sunday and public holidays.

### **Planning history**

- 8 09-AP-1141 - Details of Condition 8 - Ventilation on application 07-AP-2843 granted 11-09-2008 for Change of use from an amusement arcade (Sui Generis) to use as a wine bar (Use Class A4), alterations to the shopfront to provide a smoking area and insertion of a window to the rear elevation at ground floor level. Application to discharge the condition is UNDER CONSIDERATION.
- 9 09-AP-1066 - Display of back lit fascia sign and awning to drinking establishment (Use Class A4). Advertisement consent GRANTED in July 2009.
- 10 09-AP-1138 - Details of Condition 5 - Acoustic Insulation on application 07-AP-2843 granted 11-09-2008 for Change of use from an amusement arcade (Sui Generis) to use as a wine bar (Use Class A4), alterations to the shopfront to provide a smoking area and insertion of a window to the rear elevation at ground floor level. Condition DISCHARGED in June 2009.
- 11 08-AP-2485 - Erection of single storey rear extension, relocation of external staircase at rear and installation of new shopfront. Planning permission was GRANTED in December 2008.
- 12 07-AP-2843 - Change of use from an amusement arcade (Sui Generis) to use as a wine bar (Use Class A4), alterations to the shopfront to provide a smoking area and insertion of a window to the rear elevation at ground floor level. Planning permission GRANTED in September 2008.
- 13 Planning permission was granted on 7th November 1980 for installation of a new shopfront.

### **Planning history of adjoining sites**

50 Lordship Lane

- 14 05-AP-0823 - Erection of a single storey rear extension to existing ground floor shop, construction of a rear dormer window with roof lights to the front roof slope and conversion of first and second floors including loft space to form 2 flats, 1 x 1 bed and 1 x 2 bedrooms, and insertion of entrance door to ground floor front elevation. Planning permission was GRANTED in June 2005.

### **FACTORS FOR CONSIDERATION**

#### **Main Issues**

- 15 The main issues in this case are:
- a] the principle of the development in terms of land use and conformity with strategic policies;
  - b] amenity.

## **Planning Policy**

### Southwark Plan 2007 [July]

- 16 3.2 - Protection of amenity

PPG24: Planning and Noise (October 1994)

## **Consultations**

- 17 Site notice date: 18/05/2009 Press notice date: Not required.

Neighbour consultation letters sent: 24/06/09

Case officer site visit date: 18/05/2009

- 18 Internal consultees

Public Protection Team

Statutory and non-statutory consultees

Metropolitan Police

- 19 Neighbour consultees

Notification letters have been sent to properties on Lordship Lane and Matham Grove.

Re-consultation

N/A.

- 20 **Consultation replies**

- 21 Internal consultees

Public Protection Team

No comments to make. The PPT officer knows the area well and considers that the additional hours would not cause any problems.

Statutory and non-statutory consultees

Metropolitan Police

Referred to the Police Licensing Department who advised that the Council has already granted a premises licence for the proposed opening hours).

- 22 Neighbour consultees

Five representations have been received objecting to the proposal on the following grounds:

1. Late night noise and disturbance;

2. anti-social behaviour;
3. a police consultation is required and should be noted in any decision made by the Council;
4. there are too many late opening venues on Lordship Lane;
5. the existing conditions attached to planning permission reference 07-AP-2843 are not being adhered to (response - this matter has been referred to the Planning Enforcement Team for investigation).

#### Re-consultation

N/A.

### 23 **PLANNING CONSIDERATIONS**

#### **Principle of development**

- 24 The proposal is to vary a condition relating to an extant planning permission and this does not raise any landuse issues.

#### **Impact of proposed development on amenity of adjoining occupiers and surrounding area**

- 25 Policy 3.2 of the Southwark Plan seeks to ensure that developments achieve an acceptable standard of amenity for existing and future occupiers.

- 26 Local residents are concerned that the extended opening hours will lead to unacceptable levels of noise and disturbance late at night, anti-social behaviour and a general loss of amenity.

- 27 The adjoining properties in the terrace comprise the following uses:

46 - A1 (retail)  
 48 - A1  
 50 - A1  
 52 - A4 (drinking establishment - application site)  
 54 - A3/A5 (restaurant / takeaway, open until midnight daily)  
 56-62 - A1  
 64 - A2 (financial and professional)

- 28 There are understood to be flats on the upper floors of some of the buildings in this terrace, and 1 Matham Grove, the rear of which adjoins the application site, is a single dwelling.

- 29 The Council does not have any planning guidance regarding opening hours. However, Lordship Lane is a district town centre, where late night uses would be expected. The area is predominantly commercial in nature, with retail uses interspersed with late night restaurants, bars and takeaways which contribute to the vitality and viability of the centre. Other late opening venues on Lordship Lane include The Bishop, 27 Lordship Lane (open until 1:00am Sunday to Thursday and 2:00am Fridays and Saturdays), Sea Cow, 37 Lordship Lane (open until 12:30am Monday to Saturday and midnight on Sundays), Lord Palmerson, 91 Lordship Lane (open until midnight Sunday to Thursday and 1:00am Fridays and Saturdays) and The Magnolia, 211 Lordship Lane (open until 1am Mondays to Saturdays and midnight on Sundays).

- 30 In December 2008 the Council granted a licence enabling the premises to remain

open for the same hours for which planning permission is now sought (licence number: 828690); sale of alcohol and the playing of recorded music are to cease 30 minutes before closing time.

- 31 In considering whether to grant a premises licence, consultations are carried out with the Police, the Fire Brigade, Social Services and the Planning Department, and the likely impact in terms of public nuisance must be considered. Having gone through this process, the Council deemed it appropriate to grant a licence, and the application before Members seeks to vary the consented hours on the planning permission to tally with the terms of the licence.
- 32 The premises licence contains a number of conditions which seek to minimise disturbance to neighbouring properties, including that a sound limiting device be fitted, that notices be displayed asking people to leave quietly, that no more than 5 people be permitted to smoke in front of the building at any one time, and that the rear of the building cannot be used after 23:00hrs (note: planning permission 07-AP-2843 prevents the external rear amenity space from being used by customers at all).
- 33 In June 2005 planning permission for the conversion of the upper floors of 50 Lordship Lane into two self-contained flats was granted (reference:05-AP-0823). The approved plans show that there are livingroom windows at the front of the building at first and second floor level, with the bedrooms, which are considered to be more noise sensitive, located at the rear. There is a bedroom at the front of the building on the top floor and whilst there would be some additional noise, the fact it is at the top of the building would help to reduce this.
- 34 It is not known whether there is any residential accommodation on the upper floors of 54 Lordship Lane. However, given the commercial nature of Lordship Lane, which is the A2216 connecting to the south circular and consequently experiences fairly high levels of background noise, including from vehicular traffic, it could be assumed that many flats above commercial premises would have their bedrooms located at the rear.
- 35 It is accepted that the proposed increase in opening hours is likely to result in some additional noise and disturbance to neighbouring occupiers, but given the location of the site in a district centre and on a main road, because many flats are likely to have their bedrooms located at the rear, the lack of any adverse comments from the Public Protection Team and with regard to the fact the Council has already granted a premises licence for the extended opening hours, it is considered that the proposal would not result in a significant loss of amenity that would warrant the refusal of planning permission.

#### **Other matters**

- 36 There are no other matters arising from the proposal.

#### **Conclusion**

- 37 Given that the site is located in a district town centre of which late night uses form part of the character, its position on a main road, the lack of any adverse comments from the Council's Public Protection Team and because the Council has already granted a premises licence for the hours proposed, it is recommended that planning permission be granted.

#### **COMMUNITY IMPACT STATEMENT**

38 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a] The impact on local people is set out above.

#### **SUSTAINABLE DEVELOPMENT IMPLICATIONS**

39 There are no sustainable development implications arising from the proposal.

#### **HUMAN RIGHTS**

40 This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

41 The rights potentially engaged by this application, including a right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

LEAD OFFICER	Gary Rice	Head of Development Management
REPORT AUTHOR	Victoria Lewis	Senior Planner - Development Management [tel. 020 7525 5410]

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Papers held at: Regeneration and neighbourhoods dept.  
tel.: 020 7525 5403 email: [planning.enquiries@southwark.gov.uk](mailto:planning.enquiries@southwark.gov.uk)