



Appeal Decision

Hearing held on 24 November 2009

Site visit made on 24 November 2009

by **P E Dobsen MA (Oxon) DipTP MRTPI**
FRGS

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
30 November 2009

Appeal Ref: APP/Y5420/A/09/2111236

48 Grand Parade, Green Lanes, London N4 1AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Ablethird Ltd. against the decision of the Council of the London Borough of Haringey.
- The application (Ref HGY/2009/0094), dated 5 January 2009, was refused by notice dated 19 June 2009.
- The application sought planning permission for "change of use from Council offices to an adult gaming centre (sui generis) incorporating new shop front", without complying with a condition attached to the planning permission, granted on appeal (Ref. APP/Y5420/A/08/2068891), dated 6 October 2008.
- The condition in dispute is No. 6 which states that: "The use shall not be open to customers other than between the hours of 0900 and 2300".

Decision

1. I dismiss the appeal.

Main issues

2. The 2 main issues are the effect of the requested night-time extension to the appeal premises' opening hours on: i) the character of the Green Lanes local centre and the surrounding area; and ii) the residential amenity of persons living adjacent and near to the appeal site, particularly in terms of any increased noise and disturbance.

Reasons

3. *The site and its surroundings:* The appeal premises, shown in drawing AB-HAR-48-002, is the ground floor of a mixed use, terraced property located on the east side of Grand Parade, within a designated Town Centre primary frontage. It has a small, open yard at the rear, and 3 floors of residential accommodation above (currently in the process of conversion to 4 flats).
4. Grand Parade falls within a long, linear local centre which contains many commercial uses, generally with 2 or 3 storeys of residential accommodation above them. To either side is a residential area known as The Ladders, after its regular arrangement of parallel streets, which mainly comprise 2 or 3 storey Victorian dwellings. Some streets near the appeal site are also known as The Gardens area. During my site visit, I saw that the area is ethnically diverse, with a particularly strong Turkish and Mediterranean presence among the Green Lanes shops and commercial uses.

5. *Background:* Permission was granted on appeal in October 2008 for the use of the appeal premises as an adult gaming centre (one of the "Agora" chain). These are limited to customers over 18, and they are not normally licensed to sell alcohol. The permission granted was subject to 6 conditions, including the one which is the subject of the present appeal. The appellants now seek 24-hour opening during Mondays to Saturdays (inclusive), with the hours 0900-2300 operating on Sundays (as at present). Thus if the appeal is allowed, the premises would be permitted to open throughout the night, on 6 nights of the week, and throughout the year.
6. While the other 5 conditions imposed by my colleague are not the subject of this hearing, I note that both the Council and several local organisations/objectors allege that most of them have been breached since the use commenced, in late 2008. The appellants do not deny that contraventions have occurred, including the fact that Agora was open 24-hours for some time after permission was granted. According to the objectors, that only confirms a history of irresponsible management of the premises; I make no comment on that.
7. All that said, this is not a hearing into planning enforcement matters. Whatever the precise nature and history of any such breaches of planning conditions, I have considered the appeal in the light of the relevant, saved development plan policies in the Haringey Unitary Development Plan (UDP, 2006), and all the relevant evidence and representations.
8. *Planning policy:* On the UDP planning policy background, and to paraphrase somewhat, criterion a) of policy UD3 (General Principles) requires development proposals to demonstrate that there will be no significant adverse impact on residential amenity or other surrounding uses, in terms of noise (etc); and criterion b) requires them to complement the character of the local area, and be of a nature and scale which is sensitive to it. Likewise, policy TCR1 (Development in Town and Local Shopping Centres) requires developments in those centres to be appropriate to their scale, character and function (criterion a), and not to cause an unacceptable increase in noise (etc.) or other environmental harm (criterion c).
9. I have also taken into account relevant national policy advice in PPS 1, PPS 6 and Circular 11/95, *The Use of Conditions in Planning Permissions*. I note in general terms that while some of the guidance supports and encourages diverse and vibrant uses within local centres, this is balanced by the need to protect their character, as well as residential amenity, and to prevent or restrict any form of environmental nuisance.
10. Before I address the main issues, I should mention the appellants' view that the previous Inspector was not in a position to assess the advantages and disadvantages of all-night opening hours, since these were not being sought at that stage, and there was no discussion of the matter at his inquiry. While that may be so, it is clear to me from my reading of the decision that he nevertheless chose to impose hours that he judged to be appropriate, in all the circumstances of the application, and of the site and its surroundings. Furthermore, I agree with the Council that there has not been any material change in the relevant circumstances since the date of his decision.

11. *Issue i) – effect on the character of the local centre and surrounding area:*
There can be no doubt that the proposal is to extend the operations of the adult gaming centre into and throughout what are often referred to as unsocial hours. The appellants point out that there are already a few all-night uses scattered within the lengthy Green Lanes commercial frontage, but I note that there are 4 at most, not a very high number compared with the total number of commercial premises, and that all of these are local grocery stores. Unlike the appeal site, none are in entertainment uses. Thus to my mind they are not comparable precedents for the case in hand.
12. The appellants also say that, according to their surveys, there would be relatively few customers during the night, limiting any potential harm or nuisance arising from an all-night use. However, they also accept that for normal reasons of commercial profitability they would try to attract as many customers as possible, and, if successful in this, that there would be no way of limiting the actual numbers.
13. At the hearing, a number of representatives of local organisations, as well as the Metropolitan Police, spoke strongly against the application and appeal. They described the situation a few years ago when the Green Lanes centre had a “24-hours culture”, with many unauthorised uses, and a high level of crime and anti-social activity, carried on through the night. As a result of the Council-led Green Lanes Strategy, the situation had significantly improved in recent years, with particular emphasis on planning and licensing enforcement. They all feared that to allow this appeal would be a wholly retrograde step, and would undo the positive results achieved. It would start to re-introduce all-night entertainment and related uses which would or could act as magnets for crime, disorder and prostitution, and generally undermine the community effort to improve the character and attractiveness of the neighbourhood.
14. I have no doubt that, along with the Council, these objectors all know the local area and its recent history very well. I am persuaded by the cumulative weight of their evidence that to allow this appeal might well start to unravel the apparently hitherto-successful Green Lanes Strategy. From all that I have read and heard, it seems to me that this is at present a relatively quiet local centre during the night-time, as is fitting for one which is closely embedded in a densely built-up residential area. In my view, to allow this appeal would be to begin a process whereby this character would change again for the worse, with more night-time activity, and potentially with the adverse effects that are so often associated with that. In short, I think that, on the balance of probability, allowing this appeal would harm the character of the local centre, contrary to UDP policies UD3 and TCR1.
15. *Issue ii) - effect on residential amenity – noise and disturbance:* The second issue is concerned more with the direct effect of extended hours on nearby residents, both in the upper floor flats in Grand Parade and in the nearest adjoining streets, Roseberry Gardens and Rutland Gardens.
16. The appellants maintain that Agora is essentially a quiet, “low-key” use, with low levels of internally-generated noise from the gaming machines and/or any amplified music inside the premises. While this may be so (and the previous permission includes a soundproofing condition, albeit not one which was fully

complied with), the objectors are more concerned about the comings and goings of customers throughout the night (i.e. externally-generated noise).

17. I think this is a valid and material concern, not because it would cause constant uproar, or anything approaching that, but because of its inherent unpredictability; while there might well be long quiet periods in the street at night, on the balance of probability there would also be times when noisy customers arrived or left the premises, potentially disturbing the nearest local residents. While this might be barely noticeable and of little consequence during the day time, it would be a different matter in the (so-called) dead of night. In addition, the premises has an outdoor smoking area at the back - a requirement of the previous permission - which is overlooked by several houses and flats, and the use of this by a group of customers could well cause a significant if intermittent noise-nuisance during the night. These factors add weight to my previously-stated concerns about the proposal's effect on the character of the area.
18. To summarise my findings, I find that, on the balance of probability, the proposed extension of opening hours would harm both the character of the local area, and the residential amenity of persons living near the appeal premises. Both effects would be contrary to policies UD3 and TCR1 of the UDP. I see no good reason to make an exception here to the policies, and accordingly the appeal must fail.
19. I have considered all the other matters raised both by the appellants, including references to employment opportunities at the appeal site, and the extended level of service it would provide for its customers. However, to my mind these claimed advantages to the night-time economy of Green Lanes would not outweigh the adverse impacts I have described. I have also considered other points made by all parties at the hearing, but there are none which alter or outweigh my conclusions on the 2 main issues.

Paul Dobsen

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr. R. Etchells DipLA FRICS Roger Etchells chartered surveyors

FOR THE LOCAL PLANNING AUTHORITY:

Mr. S. Cooke BA TP Planning Team Leader, South Area
Mr. D. Maliotis Green Lanes Neighbourhood Manager

INTERESTED PERSONS:

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|---------------------|---|
| Mr. I. Sygrave | Chair, The Ladder Community Safety Partnership, and local resident |
| Mr. P. Matebele | Membership Secretary, The Gardens Residents Association, and local resident |
| Mr. M. Petrou | The Heart of Haringey (local organisation), and local resident |
| Sergeant C. Michael | Metropolitan Police – Haringey Ward Safer Neighbourhoods team |
| PC G. Kelly | Metropolitan Police - Haringey Ward Safer Neighbourhoods team |
| Ms. V. Rolf | Local resident |

DOCUMENTS

- 1 List of persons present at the hearing
- 2 Council's letter of notification of hearing
- 3 Responses to Doc 2
- 4 Letter from The Council to Mr. Petrou dated 4 November 2009 re enforcement matters at the appeal premises

PLANS

- A The application plans