

WEST AREA PLANNING COMMITTEE

11th April 2012

Application Number: 12/00302/VAR

Decision Due by: 4th April 2012

Proposal: Variation of condition 2 of application 11/02123/FUL to extend the hours of opening to 10:00am to 3:00am, with last customer entry to the premises at 2:45am.

Site Address: 10 Park End Street Oxford Oxfordshire OX1 1HH –
Appendix 1

Ward: Carfax Ward

Agent: Kemp And Kemp

Applicant: Mr Sajjad Malik

The application is required to be determined by Planning Committee as the applicant is a Councillor of Oxford City Council.

Recommendation:

APPLICATION BE REFUSED

For the Following Reason:-

- 1 Park End Street is an area identified by Thames Valley Police as suffering from high incidences of primarily alcohol fuelled violent crime and anti-social behaviour resulting from the effects of the night time economy operating in the immediate area. The Council considers that by extending the opening hours of the take-away establishment such that it would operate until after many of the nearby pubs and clubs have closed it would act as a 'honey pot' drawing potentially rowdy and intoxicated people to it. This would be contrary to the crime prevention strategies and objectives of Thames Valley Police and the Oxford City Centre Neighbourhood Action Group which seek to encourage swift and safe dispersal of late night revellers so to reduce the opportunity for violence and anti-social behaviour. Consequently the proposals are considered to be contrary to policy CP1 and CP9 of the Oxford Local Plan 2001-2016, policy CS19 of the Oxford Core Strategy 2026 as well as Government guidance set out in PPS1 and Safer Places - The Planning System. The Council also considers that the refusal of the application complies with its duties under Section 17 of the Crime and Disorder Act 1998 which imposes an obligation on it to consider crime and disorder reduction in the exercise of its functions and the need to do all that it can to help prevent crime and disorder in its area.

Main Local Plan Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

HS19 - Privacy & Amenity

CP19 - Nuisance

CP21 - Noise

TR3 - Car Parking Standards

TR4 - Pedestrian & Cycle Facilities

Core Strategy

CS19_ - Community safety

Other Material Considerations:

National Planning Policy Framework

Crime and Disorder Act 1998

Safer Places – The Planning System and Crime Prevention

Relevant Site History:

00/00961/NF - Change of use of ground floor from retail (A1) to food & drink (A3) – Permitted October 2000

11/01820/VAR - Variation of condition 5 of planning permission 00/00961/NF to allow premises to extend hours of food sales operations from 10am to 4am every day. (Amended description) – Withdrawn August 2011

11/02123/FUL - Change of use from restaurant (A3) to a restaurant and take-away (A3 and A5 mixed use) and extension of opening hours to 10am – 1am every day.

11/02537/FUL - Installation of new extracting system and external ducting – Permitted December 2011

Representations Received:

Cantay Investments, Cantay House, Park End Street – Object to the application on the grounds that the extension of the opening hours to correspond with that for the local nightclubs would be ‘disastrous for the local area’ with it potentially generating an increase in anti-social behaviour and putting even greater pressure on police resources. It could also place the City Council in an unenviable position should it approve an application contrary to specific advice from Thames Valley Police. The recently granted planning permission overturned the original 11pm closing restrictions and the current application goes way beyond what was originally

intended and permissible for the premises. Those who are required to contend with the levels of anti-social behaviour on a regular basis should be offered a fair and reasonable hearing and their considered opinions taken into account in the determination of this application.

Oxford Civic Society – The hours of opening are already too generous and the current application should be refused as it would encourage noisy behaviour and increased disturbance to neighbours.

Statutory and Internal Consultees:

Thames Valley Police – Object to the planning application on the following grounds:

The section of Park End Street in which the premises is located is considered by local police officers to be the busiest road for the night time economy in Oxford City and has been identified by Thames Valley Police as a hotspot for crime, violence, anti-social behaviour and public disorder. Much of this is caused by large crowds of often alcohol fuelled people congregating and moving through and around a confined area to access the pubs and clubs. During the evening this section of Park End Street develops into a pinch point with conflict arising between crowds of people. As a result of this, local police work with the existing licensed premises and their door staff and have established a series of control measures along Park End Street especially on a Friday and Saturday night in order to reduce the opportunity for crime and public disorder to occur. These measures include placing 'no parking' bollards along the roadside, lining the footpath with barriers and having dedicated high profile police patrols from around 11.30pm until the early hours of the morning. This joint approach ensures the generally quick, effective and safe movement of people in and out of this area throughout these times.

Thames Valley Police have serious concerns that extending the opening hours of the premises until 3am would have a detrimental impact on community safety by reducing the ability to safely and quickly disperse late night revellers from the area particularly as it is timed to 'catch' people leaving the nearby nightclubs. This would increase the opportunity for violent crime and anti-social behaviour to occur as people would be encouraged to stop and go into the premises and either eat inside or eat food in the street resulting in a congregation of intoxicated, rowdy and potentially volatile people. This would also cause an obstruction to other people trying to leave the area. Thames Valley Police consider that allowing the planning application would result in the premises being at odds with the overall aims of the local police force and existing licensed premises with respect to crime reduction and community safety objectives.

Issues:

Impact on Neighbouring Amenity
Crime and Community Safety
Highways/Parking

Officers Assessment:

Site Description

1. The application site relates to 'Bodrum', a Mediterranean restaurant and hot food

take-away premises (A3/A5 use) located on Park End Street approximately opposite the Oxford Conference Centre and about 80m from the junction with New Road, Worcester Street and Tidmarsh Lane. The hours of operation of the restaurant/take-away premises are currently limited by condition 2 of planning permission 11/02123/FUL to 10am – 1am every day of the week.

Description of Proposal

2. The application seeks consent for a variation of condition 2 of planning permission 11/02123/FUL so as to change the restriction on the hours of operation to 10:00am – 3am.

Impact on Neighbouring Amenity

3. There are now very few known residential properties located within close proximity to the site with just four flats above the Al Salam restaurant and one flat above The Duke's Cut public house within 100m either side of the premises. It is thought that the majority of the occupiers of these dwellings are landlords or staff associated with the operation of the bars and restaurants on the ground floors. With the loss of residential units over the past 25 years, the predominant character of Park End Street is now one of late night drinking and eating establishments (until as late as 3am) as well as some generally compatible commercial uses that are not significantly harmed by the activities of evening/night time revellers because the businesses are closed at these times.

4. The proposed operating hours of the premises are scheduled to attempt to capture people leaving the nearby bars and clubs, many of which have licenses to operate until between 2am and 3am on most days of the week. Policy RC16 of the Local Plan states that 'planning permission will only be granted for Class A3-5 uses where the Council is satisfied that they will not give rise to unacceptable environmental problems or nuisance from noise, smell or visual disturbance'. However, in the context of the significant number of other existing late opening premises, the potential increase in noise and disturbance to the occupiers of the small number of nearby residential properties is likely to be minimal though it is recognised that there is likely to be an increase in noise caused by the lingering and congregation of potentially rowdy people on the street whilst they eat their take-away food. No harm to nearby commercial activities will result given that they will not be in operation during these late night hours.

Crime and Community Safety

5. Park End Street experiences high recordings of crime and disorder incidents as recorded by Thames Valley Police and, between 1st August 2010 and 31st July 2011 there were 69 assaults and 103 public order incidents as well as other reports of rowdy behaviour and criminal damage. According to Thames Valley Police, many of the reported incidents are alcohol fuelled and are related to the night time economy operating in the immediate area.

6. At present there is a high concentration of late night entertainment venues in Park End Street and their closing times, as regulated by the Council's Licensing department (through consultation with Thames Valley Police), are staggered to assist with the quick and safe dispersal of people away from the area. The majority of the late night venues currently operate until either 2am or 3am and when they close a large number of people exit out into Park End Street. The application premises sits

almost directly at the axis between Park End Street, Tidmarsh Lane and Holybush Road and this has the tendency to develop into something of a pinch point with conflict arising between crowds of people. This surge in people onto the street creates a high demand for police resources and their aim is to assist in the rapid dispersion of people from the area and therefore reduce the opportunity for violence, aggression and anti-social behaviour as well as safeguarding members of the public.

7. Officers have taken account of the views expressed in consultation on the application and concur with the representations made by Thames Valley Police, a statutory consultee, that an extension to the hours of operation of the business would act as a 'honey pot' drawing people to it rather than away from the area as is the current strategy employed by local police officers and door staff. The late opening hours and nature of a take-away business ensure that many of the people using the premises at these extended hours are likely to be intoxicated, rowdy and potentially disruptive which will cumulatively increase the opportunity for violence and anti-social behaviour in an area that already suffers from a high number of such incidents. In addition, many of the customers will leave the premises eating hot food and are likely to linger in the immediate vicinity for some time without the internal controls associated with the existing entertainment venues (doorman etc).

8. The premises has been operating under the current 10am-1am operating time restriction for approximately five months now following the granting of planning consent at the West Area Planning Committee in October against the advice of Thames Valley Police at the time. This was considered by Committee to represent an acceptable compromise position though importantly the 1am closing time was agreed upon as it was before the majority of people leave the nearby nightclubs therefore preventing the premises from becoming a potential focal point for large numbers of people. Officers consider it important that this limit on the hours of operation remains as, not only would any extension to the opening hours be contrary to the overall strategy employed by the police and existing licensed premises, but also because the current premises has been operating for an insufficient period of time for Thames Valley Police to have fully recorded or assessed any harm created by the most recent extension of the closing time until 1am.

9. Policy CS19 of the Oxford Core Strategy 2026 states that 'new developments are expected to promote safe and attractive environments which reduce the opportunity for crime and the fear of crime'. In addition to this policy, Government guidance set out in PPS1 states that key objectives of development should include 'creating safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion'. Notwithstanding the above planning policy framework, the Council has a duty imposed on it by the Crime and Disorder Act 1998 to give due regard to the likely effect of the exercise of its functions on the need to do all it reasonably can to prevent crime and disorder.

10. In light of the above, officers have concluded that an extension to the operating hours of the premises would not only be contrary to development plan policy and Government guidance but would also undermine the priorities of the Oxford City Centre Neighbourhood Action Group and Thames Valley Police's wider crime prevention objectives.

Highways/Parking

11. The existing restaurant/take-away premises does not benefit from any off-street parking and, due to its location on a street with parking controls, is not served by nearby on-street parking spaces. Worcester Street public car park is however located approximately 75m away from the site albeit officers recognise that it is unlikely that potential customers would be willing to pay the necessary parking charges in order to park for just a few minutes to pick up food from the take-away though they may do if they were using the restaurant. However, the increase in the trading period is to cover the hours after the pubs close and when the nightclubs close later on where it is anticipated that there would be very few, if any, customers arriving by car as they will be mostly on foot. As a result, little or no impact on the functioning of the highway is anticipated and indeed Highways Officers at the County Council have not objected to the application.

Conclusion:

The proposal is considered to be contrary to policies CP1 of the Oxford Local Plan 2001-2016, CS19 of the Oxford Core Strategy 2026 as well as Government guidance contained in the National Planning Policy Framework. In addition, the Council has a duty to consider the impact of exercising its functions on the requirement to prevent crime and disorder within its area. Officers therefore recommend that Committee refuse the application both so as to accord with its statutory duties as well as to prevent harm to wider community safety objectives in accordance with the above policies of the development plan.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to refuse officers consider that the proposal will indeed undermine crime prevention and the promotion of community safety.

Background Papers: 00/00961/NF, 11/01820/VAR & 11/02123/FUL

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