

West Area Planning Committee

12 October 2011

Application Number: 11/02123/FUL

Decision Due by: 7 October 2011

Proposal: Change of use from restaurant (A3) to a restaurant and take-away (A3 and A5 mixed use) and extension of opening hours to 10am – 4am every day.

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

Ward: Carfax Ward

Agent: N/A

Applicant: Mr Sajjad Malik

Application to be determined by Committee in accordance with the Council's Scheme of Delegation as the applicant is a City Councillor

Recommendation: APPLICATION BE REFUSED

For the Following Reasons:-

1. The proposal seeks the operation of a late night restaurant and hot food take-away business in an area identified by Thames Valley Police's Crime Prevention Design Advisor as suffering from high incidences of primarily alcohol fuelled violent crime and anti-social behaviour resulting from the night time economy operating in the immediate area. Section 17 of the Crime and Disorder Act 1998 imposes an obligation on the Council to consider crime and disorder reduction in the exercise of its functions and the need to do all that it reasonably can to prevent crime and disorder in its area. The Council considers that a late night restaurant and hot food take-away business operating after the closure of nearby pubs and clubs would act as a 'honey pot' drawing potentially rowdy and intoxicated people to it rather than encouraging their safe dispersal from the area in accordance with crime prevention objectives set out by Thames Valley Police and the Oxford City Centre Neighbourhood Action Group as well as guidance contained within Safer Places - The Planning System and Crime Prevention. Consequently the proposals are considered to be contrary to policy CS19 of the Oxford Core Strategy 2026 and Government guidance set out in PPS1 and Safer Places - The Planning System and Crime Prevention.

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
CP5 - Mixed-Use Developments
CP21 - Noise
CP19 - Nuisance
TR3 - Car Parking Standards
TR4 - Pedestrian & Cycle Facilities
RC12 - Food & Drinks Outlets
RC6 - Street Specific Controls

Core Strategy

CS18 - Urb design, town character, historic env
CS19 - Community safety

West End Area Action Plan

WE1 - Public realm
WE11 - Design Code

Other Material Considerations:

PPS1 – Delivering Sustainable Development
PPS4 – Planning for Sustainable Economic Growth
PPG24 – Planning and Noise

Crime and Disorder Act 1998
Safer Places – The Planning System and Crime Prevention
Licensing Act 2003

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

Representations Received:

Mr Philip Davidson – 6/9 Hythe Bridge Street – Objects to the planning application on the grounds that other existing businesses work hard to get members of the public away from the street at closing time yet the extension of opening hours will encourage lingering of rowdy people to the detriment of the local area.

Mr Tom Crampton-Smith – Royal Oxford Hotel – Objects to the planning application stating that, by extending the opening hours, it will encourage revellers to ‘hang around’ rather than disperse from the area with the likelihood that guests at the hotel

will have a reduced chance of sleeping well which should be of particular concern as tourism is so important to Oxford.

JPPC on behalf of Cantay Investments – Object to the planning application citing the following reasons:

- Park End Street is not wholly commercial and accommodates a number of residents at upper storey level and all deserve a decent standard of residential accommodation, especially at night-time;
- People are likely to eat and linger on the street causing noise and other anti-social problems, such as littering, with rowdy behaviour already being noted by the police with this proposal only likely to exacerbate policing problems on Park End Street;
- The hours of use indicate that a large number of the customers may be revellers under the effects of alcohol and it is considered that the numbers of people using the venue together with their state of mind, combined with their late hours of use would inevitably lead to additional anti-social behaviour which would be severely detrimental to the residential amenity of the area;
- No other planning permissions in Oxford permit such late opening for hot-food take-away use and the proposal will act as a 'honey pot' attracting people from the wider area;
- An additional related problem which is likely to occur is that of late night visitors arriving by car attempting to stop outside the site and there will be associated noise from cars pulling up and car doors slamming which is particularly disturbing late at night. There is already an existing problem of cars pulling up to access premises along Park End Street (notwithstanding the double yellow lines) which is reducing the free-flow of traffic along the road. If delivering were to take place from the site this too would lead to greater traffic problems and should not be permitted.

Statutory and Internal Consultees:

Thames Valley Police – Object to the planning application. Park End Street has a high level of crime and disorder incidents reported to the police together with other reports of rowdy behaviour and criminal damage recorded by the police. Many of the reported incidents are alcohol fuelled and are related to the night time economy operating in this area. There is a high concentration of late night entertainment venues in Park End Street and their closing times are staggered to assist with the quick and safe dispersal of people away from the area. The majority of the late night venues operate until 2am and 3am and when they close a large number of people (up to 2000 at a time) exit out onto Park End Street. As a consequence of this there is a high demand for police resources in this area and their aim is to assist in the natural dispersal of the crowds from the area as quickly as possible. These actions greatly reduce the opportunity for flash points of violence, aggression and anti-social behaviour and it also creates reassurance to members of the public and safeguards drunken vulnerable people.

It is the opinion of the Oxford City Centre Neighbourhood Police that the presence of a late night restaurant and take-away facility in Park End Street until 4am would have a severe impact on community safety. The proposed extended operating hours would give people a reason to congregate and remain longer in the area they would

normally do and the premises will act as a 'honey pot' drawing people to it rather than dispersing and moving away from the area. This will greatly increase the opportunity for violence, aggression and anti-social behaviour and raise the fear of crime in an area that already suffers from a high number of similar incidents.

Oxfordshire County Council Highways Authority – No objection - The location is a town centre one with on street parking controls. Given its city centre location, the main take-away element is likely to be busiest after many of the pubs and some of the clubs have closed. It is therefore likely that customers will be on foot and relatively few customers would come by car. The concerns of the Highway Authority are therefore not considered to be sufficient to object to the proposal.

Environmental Health – No objection - The premises are located in an established commercial area with existing entertainment activities continuing until the early hours of the morning. The proposed restaurant and take-away despite its proposed late opening hours is not considered to materially change the character of the area or have an adverse impact on amenity with regard to noise or smell issues.

Issues:

Principle
Impact on Surrounding Amenity
Highways/Parking
Crime/Community Safety

Officers Assessment:

Site Description

1. The application site relates to a currently vacant restaurant premises 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 premises are currently limited by condition 5 of planning permission 00/00961/NF to 11:00am - midnight from Monday to Saturday and 11:00am until 10:30pm on Sundays. The premises are also restricted by condition 3 of the same permission not to operate any form of take-away service. These conditions were imposed by the Council so that there would be planning control over changes to the future operation of the restaurant so that an assessment of the potential impact on local amenity could take place.

Description of Proposal

2. The application seeks planning permission for a change of use of the premises from its current A3 use (restaurants, cafes etc) to a mixed use incorporating A3 and A5 (hot food take-aways). The application also seeks to extend the hours of operation of the premises to 10:00am – 04:00am every day of the week. The premises is currently licensed by Oxford City Council under different and separate legislation (Licensing Act 2003) which accords with the conditions imposed by the existing planning permission. An associated application will also need to be made to the Council's licensing department to allow late night operation and food/drink sales regardless of any decision taken with respect to this planning application.

Principle

3. Park End Street is located within the City centre area and is characterised by a number of late opening drinking and eating establishments in addition to commercial/office premises. In recent years Park End Street has lost a significant number of retail premises and has also been reduced to including just a handful of residential properties which are all located at upper storey level and predominantly above existing pubs, bars and restaurants. Park End Street is subject to a street specific control under policy RC6 of the Local Plan. This policy states that the level of A1 uses should not fall below 35% of the total number of ground floor units. Since the premises is currently authorised as a restaurant (A3), no change to the proportion of A1 uses will occur and the proposal clearly complies with this policy.

4. The site is located within the city centre which is considered to be the most sustainable location for development within the City with the proposal compatible with the overall requirements of policy CS1 of the Oxford Core Strategy 2026 which seeks to reinforce the city centre as the main commercial centre with particular focus on the West End, in which the site is located.

Impact on Surrounding Amenity

5. There are now very few 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 as identified by Oxford City's Council Tax records. 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 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.

6. The operating hours of the premises (through the introduction of a hot food take-away) are scheduled to attempt to capture people leaving the nearby bars and clubs which have licenses to operate until between 2am and 3am on most days. However, the premises would represent the only hot food take-away operating in immediate proximity to the bars and clubs of this section of Park End Street and Officers anticipate that it would provide an immediate and sole focal point for a significant number of late night revellers leaving the surrounding bars and clubs delaying their natural dispersal from the area.

7. Officers consider therefore that a late operating restaurant and hot food take-away is likely to encourage a greater number of often intoxicated and potentially noisy people to linger in the Park End Street area after the neighbouring bars and clubs which will likely result in some people eating, shouting and causing greater disturbance on the street. There is also the possibility that a small number of customers will arrive by car (see paragraph 9 below) and park outside the premises on the roadside. The noise of car engines and the opening and shutting of car doors late at night also has the potential to cause additional disturbance to local amenity.

8. 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, given the existing character of Park End Street, its predominant night-time and commercial uses as well as the site's distance from residential areas, Officers concur with the views of the Council's Environmental Health Officers that the use of the premises as a late night restaurant and take-away will not cause material additional harm to nearby amenity above and beyond that experience at the present time. It is noted that The Royal Oxford Hotel and Central Backpackers Hostel are located along Park End Street and concern has been raised by the former that the proposals could result in harm to the experience of guests staying at the hotel. However, Officers consider that as a result of their city centre location it is to be expected that there could be some light noise nuisance caused to guests as a result of the surrounding night time economy. Nevertheless, some minor additional disturbance is a possibility as a result of the proposed restaurant/take-away though, on balance, Officers consider the distance of the hotel from the application site to be sufficient to prevent any unacceptable additional disturbance.

Highways/Parking

9. The existing restaurant premises, due to its location on a street with parking controls, does not have any associated parking spaces and no off-street parking is proposed as part of the application. 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. Planning Officers however concur with the views of the County Council Highways Officer in that it is considered likely that the vast majority of the take-away customers would be on foot due to the site's city centre location and because the main trading period is likely to be in the hours following when the pubs close and when the clubs close later on (i.e. 11pm – 3:30am). Consequently it is anticipated that there would be relatively few customers arriving by car and that any concerns over the occasional parking of vehicles on the roadside would not be sufficient to warrant refusal of the application on highway safety grounds.

Crime/Community Safety

10. Park End Street experiences a high level of crime and disorder 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.

11. 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. 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.

12. Officers consider that the proposed restaurant and take-away, with its extended opening hours until 4am, would act as a 'honey pot' drawing people to it rather than away from the area and give people a reason to congregate for a longer period of time than they presently do without the internal controls associated with the entertainment venues (doorman etc). The late opening hours and nature of a take-away ensure that many of the people using the take-away service are likely to be intoxicated, rowdy and potentially disruptive which cumulatively will increase the opportunity for violence and anti-social behaviour in an area that already suffers from a high number of similar incidents. Policy CS19 of the Oxford Core Strategy 2026 states 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'.

13. As a result of both the location of the premises in an area with identified anti-social behaviour problems as well as the proposed late night opening hours, Officers consider that the proposed change of use will undermine community safety, the priorities of the Oxford City Centre Neighbourhood Action Group and Thames Valley Police's wider crime prevention objectives. Consequently the proposals are considered to be contrary to policy CS19 of the Oxford Core Strategy 2026, national guidance contained in PPS1 and the obligations of the Crime and Disorder Act 1998 which imposes a duty on local authorities (amongst other specified bodies) to give due regard to the likely effect of the exercise of its functions on the need to do all that it can to prevent crime and disorder in its area.

Conclusion:

14. For the reasons set out above, the operation of a late night restaurant and take-away business on Park End Street is considered to undermine community safety and crime prevention objectives contrary to policy CS19 of the Oxford Core Strategy 2026 as well as national guidance set out in PPS1. The proposals are also considered to create an environment providing a greater opportunity for crime and anti-social behaviour contrary to government objectives guidance set out in Safer Places – The Planning System and Crime Prevention. Officers therefore recommend refusal of the application.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to refuse planning permission. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by refusing planning permission. Officers consider that the refusal is necessary to protect the rights and

freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

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 both crime prevention objectives and the promotion of community safety contrary to not only the requirements of the Act but also policies contained with the Council's development plan hence the reason for refusal of the planning application.

Background Papers: 11/01820/VAR and 11/02123/FUL

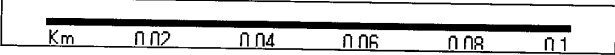
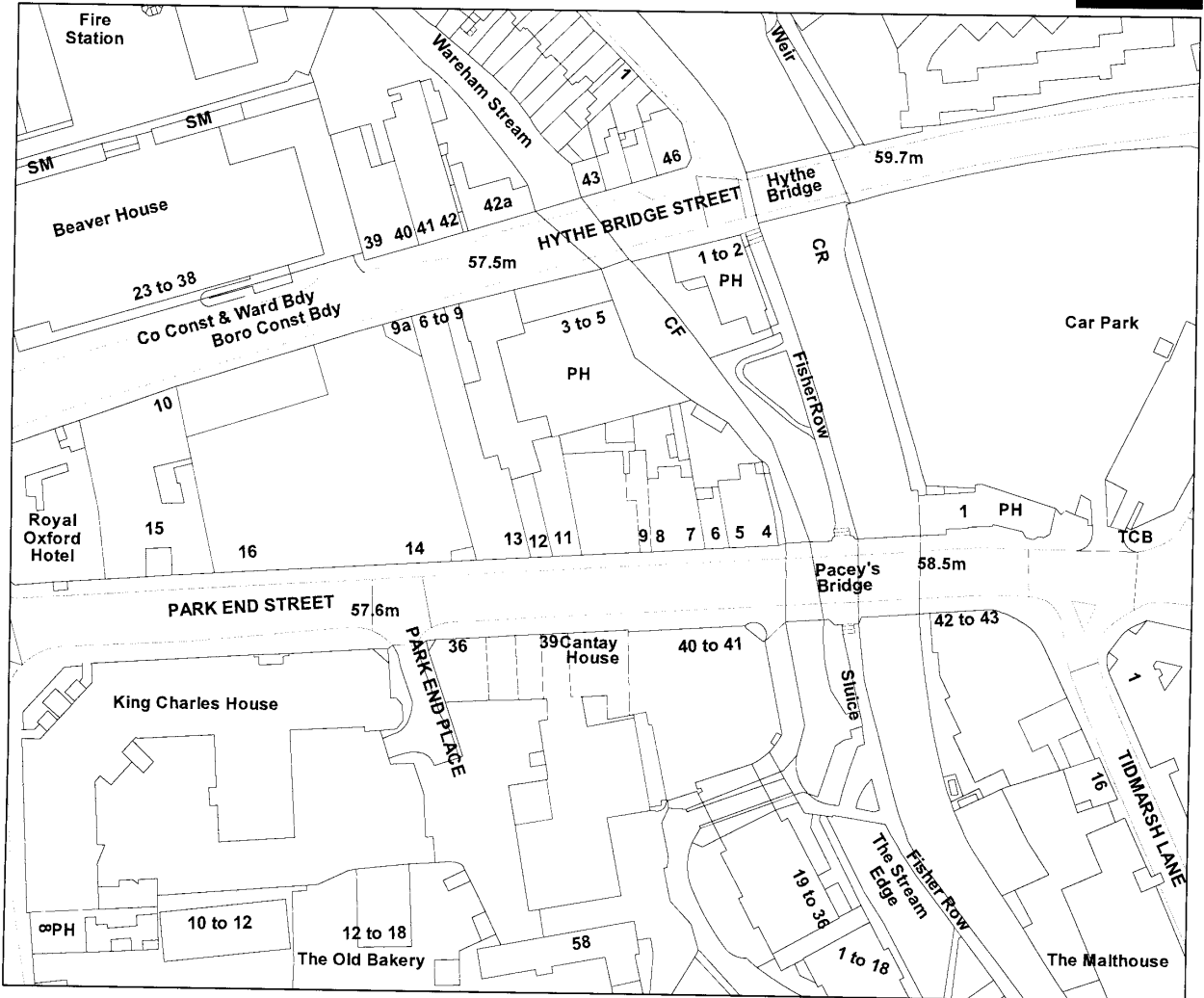
Contact Officer: Matthew Parry

Extension: 2160

Date: 27 September 2011

11/02123/FUL

10 Park End Street



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Organisation	Not Set
Department	Not Set
Comments	
Date	29 September 2011
SLA Number	Not Set

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