

2024/4733/P – 42 Gloucester Avenue



Photographs – 42 Gloucester Avenue





Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:	24/12/2025
		N/A / attached		Consultation Expiry Date:	16/02/2025
Officer			Application Number(s)		
Connie Marinetto			2024/4733/P		
Application Address			Drawing Numbers		
42 Gloucester Avenue London NW1 8JD			See Draft Decision Notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Variation of condition 12 (opening/operational hours) of planning permission PE9900623 dated 19/06/2000 (for 'the redevelopment of the site by the erection of two three/four storey buildings to provide B1 offices, residential, retail and cafe floorspace with the retention of the accumulator tower and horse steps and tunnel), namely to extend opening hours and hours of operation.					
Recommendation(s):		Grant conditional planning permission subject to Section 106 legal agreement.			
Application Type:		Variation or Removal of Condition(s)			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Adjoining Occupiers:	No. of responses	05	No. of objections	04
Summary of consultation responses:	<p>A site notice was displayed from 06/11/24 to 30/11/24. A site notice was re-published and displayed from 22/01/25 to 15/02/25.</p> <p>A press notice was advertised from 07/11/2024 to 01/12/24. A press notice was re-advertised from 23/01/25 to 16/02/25.</p> <p>The application was reconsulted to correct a procedural issue, as the applicant initially sought variation to a 2008 permission that did not govern the retail unit, instead of the correct 1999 permission.</p> <p>Four local residents responded and objected, and one resident responded in support of the application stating that the Gail's will be a valuable service to the community, with many people in the immediate area up and out before 7am. The objections can be summarised as follows:</p> <ol style="list-style-type: none"> 1. Concerns that opening at 7am in a predominantly residential area could be disruptive; 2. Early operating hours may set a precedent to bake on premises at night; 3. Could create unfair competition to nearby businesses that open later; 4. Potential disturbance may arise from external tables and chairs. <p><u>Officer response:</u></p> <ol style="list-style-type: none"> 1. <i>For concerns relating to the impact on amenity, please see section 3 (Amenity) of this report;</i> 2. <i>The applicant has confirmed that no on-site baking will take place. All goods will arrive pre-baked and only require heating during regular business hours;</i> 3. <i>The impact on business profits and competition is not a material planning consideration;</i> 4. <i>External tables and chairs were initially proposed but are no longer proposed as part of this application. These would require a separate licensing application, which is separate from the planning regime. This has already been granted under reference 2024/5732/PVL and allows the use of external tables and chairs between the hours of 08:00 and 20:00, in line with previous operation at the site.</i> 			

Primrose Hill CAAC

An objection was raised by the Primrose Hill CAAC, summarised below:

1. The Primrose Hill Conservation Area's character is a viable mix of residential and commercial, and this area is densely residential so the proposal would impact residential amenity;
2. A 2003 application refused the change of use of the site from retail to restaurant;
3. The application is unclear on the exact closing time being sought;
4. An earlier start would mean not only staff working internally but associated deliveries and set up of external tables and chairs causing disruptive noise;
5. There have already been issues with contractors working out of hours at this site and causing noise and light disturbance;
6. The abandonment of limitations on working hours of staff on the premises as sought in this application is not consistent with Camden's policies.

Officer response:

- 1) *Please see section 3 of this report for consideration of amenity impacts;*
- 2) *As a result of changes to the Use Class Order, a number of uses including retail, restaurants, and bakeries now fall under Class E. As such, permission would not be needed to change from a 'retail' to a 'food and drink' use, as was previously refused, and the referenced refusal and subsequent appeal are therefore not relevant to the assessment of this application;*
- 3) *The application seeks to extend the consented opening hours by one hour but will operate with GAIL's typical opening hours of 7am to 8pm;*
- 4) *The applicant has confirmed there are typically 2 deliveries in a day with 1 delivery occurring whilst the bakery is open, and 1 that occurs prior to the bakeries opening, between 6am and 7am. This is not considered to create any harmful impacts on amenity – please see section 3 of this report for more detail on this subject;*
- 5) *Matters relating to contractor work and issues with building works causing disturbance are for the enforcement team to address and are not relevant to the assessment of this application;*
- 6) *No external seating is proposed under this application.*

Site Description

The application site comprises a ground floor commercial unit, forming part of a mixed-use scheme with residential and commercial office space above, which was constructed in the early 2000s on previously industrial land. The unit was previously occupied by an artisan grocery store and deli (Use Class E) and is now occupied by GAIL's, a café and bakery that has recently opened (also Use Class E).

The property is located within the Primrose Hill Conservation Area and is not listed. The Primrose Hill Conservation Area Statement also predates the construction of the building, so there is no reference to it within. There is a Grade II listed building opposite the site, at 65 Gloucester Avenue (The Engineer Public House).

Relevant History

Application site

2024/4734/P – Display of 1x non-illuminated fascia sign and 1x non-illuminated projecting sign. **Granted 14/01/2025.**

2023/2037/P – Replacement of 2x existing access gates for the commercial and residential entrances. **Granted 17/07/2023.**

2018/3871/P – Installation of 1no. air conditioning unit at roof level (retrospective). **Granted 17/10/2018**

2007/0699/P – Variation to condition 12 of planning permission dated 19th June 2000 (reg. no. PE99006623/R1 for redevelopment of the site for B1 offices, residential, retail and café) to allow extended restaurant opening hours. **Variation of condition granted subject to a Deed of Variation 04/03/2008.**

PEX0300085 – Change of use from class A1 (Retail) to class A3 (Food and Drink). **Planning permission refused 17/02/2024 and dismissed at appeal 19/11/2004.**

Reasons for refusal:

- 1) The proposed A3 use would be likely to result in additional noise, disturbance, smells and fumes by reason of increased activity to the detriment of the amenity and living conditions of the occupiers in the area.
- 2) The loss of the retail unit (Class A1) would be detrimental to the retail character and function of the area, and be detrimental to local amenity, environment and transport conditions in the area by virtue of introducing increased traffic, noise and general activity to the presently quiet residential/shopping area.

PE9900623 – The redevelopment of the site by the erection of two three/four storey linked buildings to provide B1 offices, residential, retail and cafe floorspace with the retention of the accumulator tower and horse steps and tunnel. **Granted subject to a Section 106 legal agreement 19/06/2000.**

Relevant policies

National Planning Policy Framework (NPPF) (2024)

The London Plan (2021)

Camden Local Plan (2017)

- A1 Managing the impact of development
- A4 Noise and vibration

Camden Planning Guidance:

- Amenity (2021)

Primrose Hill Conservation Area Statement (2000)

Assessment

1.0 Background

- 1.1 Planning permission was granted in 2000 for the redevelopment of the site by the erection of two three/four storey linked buildings to provide B1 offices, residential, retail and café floorspace (Ref: PE9900623). Condition 12 attached to this permission restricted use of premises to 8.00 am to 11.00pm on Mondays-Saturdays and 8.00 am to 10.30 pm on Sundays or Bank Holidays. The condition also prevent any customers or members of staff to be on the premises outside the hours of 8.00 am to 11.30 pm on Mondays-Saturdays, and 8.00 am to 11.00 pm on Sundays and Bank Holidays. This permission is considered to apply to the whole premises unless explicitly varied.
- 1.2 Condition 12 was later varied to extend the opening hours of the immediately adjacent restaurant unit, located within the same building. This was granted on 04/03/2008 under reference 2007/0699/P. This section 73 application seeks to extend opening hours for the retail unit, now occupied by GAIL's, the new operator.

2.0 Proposal

- 2.1 Permission is sought to vary condition 12 of PE9900623.
- 2.2 Condition 12 is currently worded as follows:

“No food or drink shall be consumed on the premises outside the hours of 8.00am to 11.00pm on Mondays to Saturdays and 08.00am to 10.30pm on Sundays or Bank Holidays. No customers or members of staff shall be on the premises outside the hours of 08.00am to 11.30pm on Mondays to Saturdays and 11pm on Sundays and Bank Holidays.”

- 2.3 The applicant seeks to vary the existing permission so that Condition 12 is amended to read:

“No customers shall be on the premises outside the hours of 07.00 to 23.00 on Mondays to Saturdays and 07.00 to 22.30 on Sundays.”

- 2.4 The proposal does not involve physical alterations to the unit.

3.0 Assessment

- 3.1 The main considerations material to the determination of this application are summarised as follows:
- Impact to amenity

4.0 Impact to amenity

- 4.1 Policy A1 (Managing the impact of development) of the Camden Local Plan seeks to protect residential amenity. Policy A4 (Noise and vibration) also seeks to ensure that development will not adversely affect the amenity of local residents with regards to noise and disturbance, including by not granting permission for development that is likely to generate unacceptable noise and disturbance.

- 4.2 The site is within a mixed-use development comprising office, residential, and commercial floorspace. The wider area of Primrose Hill is mostly residential, however the immediate area is more mixed in nature, with residential dwellings and commercial uses including the Engineer Public House opposite and a row of shops to the west of the site from 67-77 Gloucester Avenue. To the north (rear) of the site, there are National Rail lines running out of Euston.
- 4.3 The proposal seeks to extend opening hours by one hour in the morning, allowing operation from 7am instead of 8am. The occupier of the unit, GAIL's, will operate between the hours of 7am to 7pm, which aligns with the hours of other GAIL's locations in Camden, with other stores opening between both 6:30am and 7am. Given the mixed use character of the area and the nature of the use, as well as 7am being considered daylight hours, this change would be considered reasonable and unlikely to generate significant additional noise or disturbance. The primary function of GAIL's is as a café and bakery, which would not be expected to adversely impact residential amenity, as the level of noise generated would not be significant or materially different than other retail uses. Furthermore, as the site is not directly bordered by residential properties, any noise generated is unlikely to have a direct impact on residential occupiers.
- 4.4 In respect of the variation of staff hours, the bakery will have only two staff members on-site before opening. One member of staff would arrive between 05:30 and 06:00 and another member of staff will arrive ahead of opening. The arrival of a limited number of staff members is typical of cafes and other units with similar uses, and is not expected to have a harmful impact on residential amenity. It should be noted that there will be no baking occurring at the site, with goods arriving at the site already pre-cooked, where they are heated up on site for customers. This would occur whilst the bakery is open, but irrespective of the specific time, would not be expected to generate a significant or harmful level of noise or disturbance. The applicant has confirmed that deliveries occur twice daily, with one delivery taking place while the bakery is open and another occurring between 06:00 and 07:00, before opening. Given the small-scale nature of deliveries, they are not expected to result in significant residential amenity impacts.
- 4.5 The proposal has been reviewed by the Council's Environmental Health Officer, who has confirmed that the change to the condition requirement would be acceptable. The change in timings would pose minimal environmental noise effects and the need for acoustic assessments is not required. As such, no objection to the variation in operating hours is made.
- 4.6 The proposed variation of opening hours is therefore considered acceptable in terms of amenity impact and complies with policies A1 and A4 of the Camden Local Plan 2017.

5.0 Conclusion

- 5.1 The change to the wording of condition 12 would extend opening hours by one hour in the morning and allow staff to enter the site prior to opening would have no significant impact on the amenity of residents. The proposal does not involve physical alterations to the unit and will therefore not impact the character and appearance of the conservation area. As such, the proposed development is considered a minor material amendment that accords with policies A1 and A4 of the London Borough of Camden Local Plan 2017. The development would also accord with the London Plan 2021 and the National Planning Policy Framework 2024.
- 5.2 As the original permission was granted subject to a Section 106 legal agreement, a Deed of Variation to the legal agreement would be required to reflect the change in condition, were the application to be approved. As such, the recommendation would be to grant the variation subject to a Section 106 legal agreement.

6.0 Recommendation

- 6.1 Grant variation to planning permission subject to Section 106 legal agreement.

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 24th February 2025, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.

Application ref: 2024/4733/P
Contact: Connie Marinetto
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Email: connie.marinetto@camden.gov.uk
Date: 20 February 2025

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DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Variation or Removal of Condition(s) Granted

Address:

Ground Floor Cafe
42 Gloucester Avenue
London
Camden
NW1 8JD

DECISION

Proposal:

Variation of condition 12 (opening/operational hours) of planning permission PE9900623 dated 19/06/2000 (for 'the redevelopment of the site by the erection of two three/four storey buildings to provide B1 offices, residential, retail and cafe floorspace with the retention of the accumulator tower and horse steps and tunnel), namely to extend opening hours and hours of operation.

Drawing Nos: Covering Letter (dated 14th January 2025), Site Location Plan.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 For the purposes of this decision, condition no.12 of planning permission PE9900623 dated 19/06/2000 shall be replaced with the following condition:

REPLACEMENT CONDITION 12

No customers shall be on the premises outside the hours of 07.00 to 23.00 on Mondays to Saturdays and 07.00 to 22.30 on Sundays.

Reason: To safeguard the amenity of nearby residential properties and the area generally in accordance with policies A1 and A4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with the National Planning Policy Framework. The council publishes its adopted policies online, along with detailed Camden Planning Guidance. It also provides advice on the website for submitting applications and offers a pre-application advice service.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

Yours faithfully

DRAFT

DECISION