

Application Number

P/2012/1032

Site Address48 Torwood Street
Torquay
Devon
TQ1 1DT**Case Officer**

Mr Scott Jones

Ward

Wellswood

Description

Variation of condition 4 to application P/2012/0099/PA use hereby approved shall only be operational between the hours of 08:00 and 00:00 Sunday-Thursday and between the hours of 08:00 and 01:00 Friday and Saturday

Executive Summary/Key Outcomes

The proposals is a variation of a condition, in respect to previously established opening hours of an A3 Restaurant use, seeking to extend the Sunday to Thursday operating hours 1.5 hours each night from 22:30 to 00:00 and extend the weekend (Friday and Saturday) operating hours 1 hour from 00:00 to 01:00.

The key issue relates to the likely impact upon the amenities afforded neighbouring occupiers, which include upper floor flats within close proximity to and above the premises.

Environmental Health and Consumer Protection do not object to the proposal. However they have commented that any forthcoming licence application is likely to be limited at the weekend to a 00:30 closing time, inline with other such businesses in the area, to protect local amenities.

Recommendation

Approval; subject to revised operating hours to that proposed, of 08:00 – 00:00 Sunday to Thursday and between 08:00 and 00:30 Friday and Saturday.

Site Details

The site is a prominent town centre location close to the harbourside, located on the Northern side of Torwood Street above the traffic-lighted junction with The Terrace and Meadfoot Road. The area has an established commercial character and strong night time economy, with a number of restaurants and nightclubs located in close proximity of each other. The site sits in the designated Town Centre and a defined Secondary Shopping Frontage, and the terrace that it forms part of has upper floor residential use.

Detailed Proposals

The variation of condition in regard to opening hours seeking to extend the Sunday to Thursday operating hours 1.5 hours each night from 22:30 to 00:00 and extend the weekend (Friday and Saturday) operating hours 1 hour each night from 00:00 to 01:00.

Summary Of Consultation Responses***Environmental Health and Consumer Protection:***

In general the department has no objection to the extended opening times.

However Environmental Health and Consumer Protection have commented that many of the other restaurants within Torwood Street have closing times restrictions of 00:30 on a Friday and Saturday as governed by their Premises Licence.

If the premises wished to serve alcohol or food after 11pm then they would be required to apply for a premises licence for the establishment and due to the fact that other premises within the locality are restricted to 12.30 am, then this may be the time that would be deemed acceptable.

Summary Of Representations

One letter of representation has been received from an occupant of Imperial House (the upper floor flat building) that cites that the proposal will add to the noise nuisance already experienced in the area.

This representation has been reproduced on Page T.202.

Previously the application for the change of use of the premises to a restaurant received six letters of representation, which raised the following issues; noise, smell, residential, amenity, access, waste storage, impact on existing trade, fire hazard.

Relevant Planning History

P/2012/0099 - Change of use of ground floor and basement from class A1 to class A3 – Approved 08.05.2012 – Conditional approval that included opening hours restriction as follows – *“The use hereby approved shall only be operational between the hours of 08:00 and 22:30 Sunday-Thursday and between the hours of 08:00 and 00:00 Friday and Saturday unless otherwise approved in writing by the Local Planning Authority (To ensure that the change of use does not adversely impact on the amenity of the neighbouring occupiers in accordance with policy S4 of the Saved Adopted Torbay Local Plan 1995-2011)”*.

Key Issues/Material Considerations

The key issue with this proposal is whether the extension to the hours of operation would be harmful to the amenities of nearby residents, because of smell, noise and general disturbance through operations and patrons entering or exiting the business. These issues are considered under the four headings below:

Existing Use:

The business sits within an area with a prominent night time economy that offers a range of businesses with late opening hours. The proposal that established the restaurant (A3) use earlier in 2012 also established, through condition, that operating until 10.30 pm Sunday to Thursday and until midnight on Friday and Saturday would be acceptable. This was subject to, amongst other matters, the submission and approval of acoustic information in regard to sound insulation in order to protect local amenity. This condition has subsequently been discharged, ensuring that the use could operate aside residential properties.

Operation:

The matter is now the consideration of the possible impact upon amenity from the additional 1.5 hours Sunday to Thursday and the additional hour on Fridays and Saturdays. As the sound insulation detail has been acceptable for operating hours that

already extend to midnight, it is considered that the restaurant could operate using extended hours without any significant impact upon neighbour amenity.

Use:

The third issue is the impact on residential amenity through use, by customers of the premises, including patrons entering and exiting the site and the potential likelihood of additional vehicular movements in the vicinity. Environmental Health and Consumer Protection has advised that similar operations within the vicinity have a closing time licence no later than 00:30 over the two busier weekend nights. Consequently, residential amenity will not be significantly effected so long as the hours of operation/use on these nights are not extended to 01:00. The 'weekday' extension to midnight is not considered problematic as other similar businesses operate to similar times over these days.

Precedent:

It is important that the operation / hours of use are consistent with nearby commercial properties, in planning and licensing terms, which both consider amenity. If the hours of use were extended via a planning permission beyond those of other commercial properties it is likely that these other properties would also seek extended hours of operation. Cumulatively this would be likely to have a negative impact on residential amenity.

S106/CIL - Not applicable.

Conclusions

With appreciation of the operational context of other similar businesses in the area, together with the proximity to residential properties, it is considered appropriate to support a revised proposal to extend the hours, with opening hours of 08:00 – 00:00 Sunday to Thursday, but between 08:00 and 00:30 Friday and Saturday, rather than 01:00 as applied for.

Relevant Policies

S1 - Town Centres
S4 - Secondary shopping frontages
EP4 - Noise