

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 18/01566/RECON

Ward:
Penge And Cator

Address : 14 Anerley Station Road Penge London
SE20 8PY

OS Grid Ref: E: 534681 N: 169887

Applicant : Wickes Building Supplies Ltd

Objections : YES

Description of Development:

Variation of Condition 18 of ref: 14/03865/MATAND for a Minor material amendment to ref. 14/00957 (Refurbishment and part change of use of existing Class B8/sui generis cash and carry to Class B8/A1 use with alterations site layout and associated works) to create mezzanine floor area in order to allow the extension of the opening hours.

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 32

Proposal

The application is for the variation of Condition 18 of ref: 14/03865/MATAND for a Minor material amendment to ref. 14/00957 (Refurbishment and part change of use of existing Class B8/sui generis cash and carry to Class B8/A1 use with alterations site layout and associated works) to create mezzanine floor area in order to allow the extension of the opening hours.

Condition 18 is as follows:

The use shall not operate before 7am or after 8pm Monday to Saturday or before 10am or after 4pm on Sundays.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of the area.

The hours would be extended by an hour in the mornings Monday -Saturday and would be open from 6am. The varied condition would be as follows:

The use shall not operate before 6am or after 8pm Monday to Saturday or before 10am or after 4pm on Sundays.

During the life of the application the applicant supplied additional information in the form of a detailed maximum noise level impact assessment. Neighbours were consulted on this additional information.

Location and Key Constraints

The application relates to a large commercial warehouse, which is located on the south side of Anerley Station Road. There is large parking area to the front and the surrounding area comprises both residential and commercial properties.

Comments from Local Residents and Groups

Nearby owners/occupiers were notified of the application and the following representations were received which can be summarised as follows:

- Increase noise and disturbance
- Light pollution
- Sleep disruption
- Disagree with the findings in the planning application and question the claims made by the supporting noise report.
- Significant risk to neighbouring residents through various forms of pollution and concerned about the robustness of the noise-level evidence.
- WHO's Night Noise guidelines for Europe (2009) cited. WHO demonstrate that negative pollution impacts are seen at levels between 35-43db including impact to well-being, sleep disturbance (waking up in the night and/or too early in the morning). Other levels also cited and examples of other noise pollution causing issues are also highlighted.
- Figure of 40bB is a more appropriate WHO threshold that should be used to evaluate impacts.
- The noise assessment predictions are dubious, and maximum average noise data measurements (Appendix B) are shown to be well within the range of 60-80dB, which significantly exceeds WHO cited guidelines. Question the quoted 43dB measurement, this seems to underestimate measured noise.
- The predicted noise measurements do not adequately model increased traffic episodes Measurements in the planning application prove that with an increased traffic activity shown by times nearer 7am (when the store is open) there are increased noise levels, which would be more representative of the impacts this would cause and add further questions to the robustness of the study.
- Increased light pollution from signage. The store already has opened from 6am and signs on from 4.45am in breach of previous conditions.
- Do not believe that the proposal to extend opening hours "avoids significant impacts on noise and quality of life" cited under 7.15 of the London Plan and believe this proposal will increase noise pollution that will severely impact our health and wellbeing.
- Dissatisfied with analysis and the impact on neighbours has been massively underestimated.
- Increase harm to neighbouring amenity during unsocial hours.

- Increase traffic.

Comments received in respect of revised consultation:

- Maintain objection. Very convenient that this supposedly independent reassessment study has reassessed figures to fit into certain narrative, this puts into question the efficiency and robustness of the studies.
- Would generate unacceptable noise pollution and cite again WHO's Night Noise Guidelines for Europe. This evidences environmental noise pollution causing detrimental health and well-being impacts as noise levels between 35-43db. The modelled noise impact from earlier opening of the Wickes store still does not meet satisfactory and safe environmental noise pollution thresholds.
- According to guidelines, annual average night exposure should not exceed 40 decibels corresponding to the sound from a quiet street in a residential area. Persons exposed to higher levels over the year can suffer from health effects. Long term exposure above 55dB, similar to noise from a busy street can trigger elevated blood pressure and heart attacks.
- Increased air pollution and disturbance from light pollution.

Comments from Consultees

Environmental Health

The Environmental Health Officer originally objected to the proposal due to potential issues with noise and disturbance; these comments are outlined below. In response to these objections the applicant provided additional information to the Council and this was subsequently reviewed by the EHO. The updated comments are as follows:

The consultant makes reference to the Maximum Noise Level Criterion in paragraph 2.1.1, the use of 45 dB LAmax is not disputed and was considered in my prior response. My reference to more recent research merely highlights its use as cautionary and somewhat arbitrary as a level. It is generally accepted that the value of 45 as a maximum is used within planning policy.

The previous noise survey did not include accurate measurement data and instead relied on unspecified data, which it later transpired was based on noise from cars. I considered this to be insufficient as evidence to demonstrate the extension of hours would not result in an impact on nearby residents. The consultants have now submitted a noise survey which specifically measures noise from a Ford Transit van, the results of noise measurements from this undertaking show a range between 79 and 88dB at a distance of 1m. These are within similar parameters to measurements taken by EHO's and are therefore not disputed.

In the revised report the consultants have restricted van parking to the spaces directly to the front of the store, and as such has altered the attenuation calculation based on a distance of 38m instead of 22m in the earlier report. The initial noise report noted 50 spaces are available in the car park and considered 50% usage

between the proposed hours of 06.00 and 07.00. The latest assessment is on the basis of designated van parking bays of which 6 appear to be available on the plan. Based on restricting vans only to the spaces at the front of the store the report concluded that maximum levels are up to 40 dB. In accordance with planning policy and guidance this would be considered acceptable. In reality it will be difficult to restrict use of the car park for vans to the designated bays.

My objection in relation to light remains a concern.

EHO (Original Comments). I have considered the above application and would recommend refusal in this instance on the basis of noise and light. The application states that the purpose for extending operating hours is to satisfy the demand for traders collecting items on the way to building sites. I do not consider that refusal in this case would add 'unduly to the costs and administrative burdens on existing businesses' (the London Plan), particularly as in accordance with the Control of Pollution Act 1974 building sites are generally prohibited from undertaking noisy works before 8am.

Noise:

Whilst Environoise have undertaken an appropriate assessment, I disagree with the report's conclusion concerning the impact of LA_{max} levels on nearby residents. This is an important parameter when considering instantaneous effects such as sleep disturbance and is therefore of importance for this application which seeks to vary opening hours to 0600.

Paragraph 5.3.6 calculates the level at Anerley Station Road as 59dB - 15dB for a partially open window equating to 44dB. However $66-20 \times \log(20/10) = 59.979\text{dB}$ and therefore it would be more appropriate for this figure to be rounded up to 60dB. 10 to 15dB is generally considered appropriate for attenuation for an open window, 15dB is therefore the upper limit for this adjustment. When rounding appropriately and allowing 15dB attenuation for a partially open window the resultant LA_{max} is 45dB.

In house data has been used to obtain an LA_{max} of 66dB for a car door. Tests undertaken by the Council show typical readings for slamming a van door of 95, 90 and 90dB LA_{max} for a rear, side and front door respectively at 1m. When considering a higher LA_{max} of 90dB, $90-20 \times \log(20/1) = 64\text{dB}$, this would result in an LA_{max} of 49dB. This therefore exceeds the level of LA_{max} events which may result in sleep disturbance for more than 10 instantaneous events a night. It is also worth noting that whilst 45dB is the stated threshold in the WHO Community Guidelines 1999, more recent evidence suggests a lower figure of 42dB based on health research.

Light:

A separate planning application ref: DC/15/01096/ADV restricts the use of artificial light by condition to the same hours as the current condition i.e 7am to 8pm Monday to Saturday. The light in this instance is an internally illuminated Wickes logo and therefore presumably indicates when the store is open as well as

providing a mean of advertisement. My concern is that an extension of opening hours would result in an application to extend the hours for lighting.

Environmental Health have received complaints in relation to the premises operating their illuminated signage throughout the night and therefore in excess of the hours restricted by condition. Upon investigation it was considered that the artificial light could give rise to the likelihood of a Statutory Nuisance. This matter was resolved through Planning Enforcement but it has demonstrated that light is an issue, which should be restricted to daytime hours only and therefore not before 0700 so as to not detrimentally impact upon the amenity of nearby residents

Policy Context

Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The Council is preparing a Local Plan. The submission of the Draft Local Plan was subject to an Examination In Public which commenced on 4th December 2017 and the Inspector's report is awaited. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

The development plan for Bromley comprises the Bromley UDP (July 2006), the London Plan (March 2016) and the Emerging Local Plan (2016). The NPPF does not change the legal status of the development plan.

London Plan

7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.

Unitary Development Plan

BE1 Design of New Development

Emerging Local Plan

Policy 37 General Design of Development
Policy 119 Noise Pollution

Planning History

The relevant planning history relating to the application site is summarised as:

93/01901/ADVILL One non-illuminated and one externally illuminated fascia. Permission.

94/02623/ADVILL 2 Non illuminated wall signs and free standing signs. Permission

14/00957/FULL3 - Refurbishment and part change of use of existing Class B8/sui generis cash and carry to Class B8/A1 use with alterations site layout and associated works. Permission

14/00957/CONDIT Details of conditions submitted in relation to planning permission ref: 14/00957/FULL3 Condition 3 - Boundary enclosures, Condition 4 - External materials, Condition 5- Drainage, Condition 9 - Turning areas, Condition 11 Refuse and recyclable, Condition 12- Bicycle parking, Condition 15 Surface water on to Highways, Condition 19 - Acoustic fencing

14/00957/CONDT1 Details of conditions submitted in relation to planning permission ref: 14/00957/FULL3
Condition 2 - Landscaping, Condition 13 - Lighting, Condition 14 - Construction Management Plan, Condition 21 - Energy

14/00957/AMD- Non material amendment: Alterations to the south west elevation are to remain as existing, internal staff amenity block to stay in its existing position, minor changes to the north west elevation, removal of approved bollards at the front of the store and two additional roof lights to be added as part of the refurbishment of the roof. Approved.

14/03865/MATAMD - Minor material amendment to ref. 14/00957 (Refurbishment and part change of use of existing Class B8/sui generis cash and carry to Class B8/A1 use with alterations site layout and associated works) to create mezzanine floor area. Permission

14/03865/AMD Non material amendment: Removal of fire door and replacing horizontal cladding to part vertical cladding with brickwork. Approved
09.04.2015

15/01096/ADV - 2 Internally illuminated box signs, 2 sets of individual non-illuminated letters, 1 non-illuminated welcome sign, 1 non-illuminated double side totem sign. Granted.

14/00957/CONDT2 Details of condition submitted in relation to planning permission 14/00957/FULL3 Condition 20 - Crime

Considerations

The main issues relating to the application are the impact of the extended hours on neighbouring residential amenities.

The application site is a large warehouse, currently used as a Wickes hardware/DIY store (Use Class B8/A1). The site is surrounded by a number of roads, residential properties and commercial uses. It is noted there are residential dwellings directly opposite the site entrance on Anerley Station Road and also on Minden Road. There is a railway line located to the west of these residential properties and a search of the TfL website indicates the first train departing from this station is at 5.20am. There is also a bus station to the north east of the Wickes building. Anerley Road in front of this station and surrounding residential properties appears to have unrestricted parking. The current opening hours are from 7am-8pm Monday Saturday. This would be extended by 1 hour in the mornings to 6am.

The applicant states the extended hours are needed to meet the business requirements and that 'The store, and the Wickes business as a whole has a strong 'trade' customer base and at present the existing hours do not satisfy the demands put of the store, particularly in the early mornings when trade people need to collect items on the way to building sites'.

There is however residential properties within close proximity to the site and a number of objections have been raised to the extension of the opening hours. The proximity of these residential units could mean that there is an increase in noise and disturbance early in the mornings. Objections received in respect of this case indicate that there is already a level of noise and disruption from the existing arrangements.

The Council's Environmental Health Officer has reviewed the application, original noise assessment and subsequent noise survey. This updated survey has specifically measured noise from a Ford Transit Van and the results of noise measurements from this undertaking show a range between 79-88dB at a distance of 1m. These measurements are noted as being within similar parameters to measurements taken by EHO's and are not disputed. The EHO has however highlighted that 45dB is a general threshold for a noise event within the World Health Organisation Community Guidelines.

In the revised survey report, the consultants have restricted van parking to the spaces directly to the front of the store, and as such have altered the attenuation calculation based on a distance of 38m instead of 22m in the earlier report. The initial noise report noted 50 spaces are available in the car park and considered 50% usage between the proposed hours of 06.00 and 07.00. The latest assessment is on the basis of designated van parking bays of which 6 appear to be available on the plan. Based on restricting vans only to the spaces at the front of the store the report concluded that maximum levels are up to 40 dB. The EHO considers this to be generally in accordance with planning policy and guidance and

would be acceptable. However, this is based on vehicles parking towards to front of the store only. A car parking management plan could be conditioned and this could provide details of how the store managed parking during this period to limit the impact of noise on neighbouring residential properties.

There are concerns that the development would also lead to harm by way of increased light pollution during the early morning hours. However at present, the signage on the building is controlled by way of Condition 9 of planning ref: 15/01096/ADV which restricts the hours of operation to the current and un-extended hours.

Having had regard to the above it was considered that the proposal would on balance have an acceptable impact on neighbouring residential amenities.

as amended by documents received on 30.05.2018
RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 The development to which this permission relates was begun no later than the 11th June 2017**

Reason: To comply with Section 91, Town and Country Planning Act 1990.

- 2 Details of a scheme of landscaping, which shall include use of native plant species where possible, details of all boundary treatment, the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved scheme shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted. Furthermore all boundary treatments shall be maintained in perpetuity.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan to secure a visually satisfactory setting for the development and to protect neighbouring amenity.

- 3 The boundary enclosures set out and approved under ref: DC/14/00957/CONDIT shall be permanently retained thereafter.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of visual amenity and the amenities of adjacent properties.

- 4 The Materials shall be as approved under ref: DC/14/00957/CONDIT.**

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area

- 5 The drainage scheme and management details set out and approved under Condition 5 of ref: DC/14/00957/CONDIT shall be implemented, maintained and managed in accordance with the approved details**

Reason: To ensure satisfactory implementation of the sustainable drainage proposals and to accord with to London Plan policy 5.13

- 6 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Policy BE1 of the UDP and in the interests of visual and residential amenity.

- 7 Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the approved details and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.**

Reason: In order to comply with Policy T3 of the Unitary Development Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

- 8 Parking bays shall measure 2.4m x 4.8m and there shall be a clear space of 6m in front of each space (or 7.5m if garages are provided) to allow for manoeuvring and these spaces shall be permanently retained as such thereafter.**

Reason: In order to comply with Appendix II of the Unitary Development Plan and to the interest of pedestrian and vehicular safety.

- 9 The turning areas set out and approved under Condition 9 of ref: DC/14/00957/CONDIT shall be permanently retained in accordance with the approved details.**

Reason: In order to comply with Policies T3 and T18 of the Unitary Development Plan and to enable vehicles to enter and leave the site in a forward direction, in the interest of pedestrian and vehicular safety.

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- 10 While the development hereby permitted is being carried out a suitable hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles and any accidental accumulation of mud of the highway**

caused by such vehicles shall be removed without delay and in no circumstances be left behind at the end of the working day.

Reason: In the interest of pedestrian and vehicular safety and in order to comply with Policy T18 of the Unitary Development Plan.

- 11 The arrangements for the storage of refuse and recyclable materials set out and approved under Condition 11 of ref: DC/14/00957/CONDIT shall be permanently retained in accordance with the approved details.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in order to provide adequate refuse storage facilities in a location which is acceptable from the residential and visual amenity aspects.

- 12 The bicycle parking (including covered storage facilities) set out and approved under Condition 12 of ref: DC/14/00957/CONDIT shall be permanently retained in accordance with the approved details.

Reason: In order to comply with Policy T7 of the Unitary Development Plan and Policy 6.9 of the London Plan and in order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport.

- 13 Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. The approved scheme shall be self-certified to accord with BS 5489 - 1:2003 and be implemented before the development is first occupied and the lighting shall be permanently retained thereafter.

Reason: In order to comply with Policy T3 and Appendix II of the Unitary Development Plan in the interest of visual amenity and the safety of occupiers of and visitors to the development.

- 14 Prior to the commencement of the development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include measures of how construction traffic can access the site safely and how potential traffic conflicts can be minimised; the route construction traffic shall follow for arriving at and leaving the site and the hours of operation, but shall not be limited to these. The Construction Management Plan shall be implemented in accordance with the agreed timescale and details.

Reason: In order to comply with Policy T5, T6, T7, T15, T16 & T18 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.

Reason: In order to comply with Policy T5, T6, T7, T15, T16 & T18 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.

- 15 Surface water from private land shall not discharge on to the highway. The system for surface water drainage to prevent the discharge of surface water from private land on to the highway as set out and approved under

Condition 15 of ref: DC/14/00957/CONDIT shall be completed and permanently retained in accordance with the approved details.

Reason: To ensure satisfactory implementation of the surface water drainage proposals and to accord with London Plan Policy 5.13 Sustainable Drainage

16 No loose materials shall be used for surfacing of the parking and turning area hereby permitted.

Reason: In order to comply with Policy T18 of the Unitary Development Plan and in the interest of pedestrian and vehicular safety.

17 There shall be no deliveries to or from the premises except within the hours of 7am to 10pm Monday to Friday or 8am-6pm on Saturdays.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of the area.

18 The use shall not operate before 6am or after 8pm Monday to Saturday or before 10am or after 4pm on Sundays.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the amenities of the area.

19 The acoustic fencing for the southern boundary set out and approved under Condition 19 of ref: DC/14/00957/CONDIT shall be permanently maintained and retained in accordance with the approved details.

Reason: In order to comply with Policy BE1 of the Unitary Development Plan and Policy 7.15 of the London Plan and to ensure a satisfactory standard of residential amenity.

20 The security measures for secure by design set out and approved under Condition 20 of ref: DC/14/00957/CONDIT2 shall be permanently retained in accordance with the approved details.

Reason: In the interest of security and crime prevention and to accord with Policy BE1 of the Unitary Development Plan.

21 Before any works on site are commenced, a site-wide energy assessment and strategy for reducing carbon emissions shall be submitted to and approved by the Local Planning Authority. The results of this strategy shall be incorporated into the refurbishment of the building prior to first occupation. The strategy shall include measures to allow the development to achieve a reduction in carbon emissions of 25% above that required by the 2010 building regulations.

Reason: In order to seek to achieve compliance with the Mayor of London's Energy Strategy and to comply with Policy 5.2 and 5.7 of the London Plan 2011.

22 A) A car park management plan shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the extended opening hours hereby permitted.

B) The use shall operate in full accordance with the details approved under Part A in perpetuity.

Reason: In the interest of neighbouring residential amenities and in order to comply with Policy BE1 of the Unitary Development Plan (2006)

You are further informed that:

- 1 For the avoidance of doubt, the car parking management plan outlined within Condition 22 shall provide measures to manage vehicular parking during between the hours of 6am-7am in order to mitigate potential noise.**