

Application Number	15/0132/S73	Agenda Item	
Date Received	24th February 2015	Officer	Michael Hammond
Target Date	21st April 2015		
Ward	Market		
Site	70 King Street Cambridge Cambridgeshire CB1 1LN		
Proposal	Section 73 application to vary condition 7 of planning permission C/02/0699/FP to extend the opening hours Mon-Thurs 0900-0000, Fri-Sat 0900-0030 and Sunday 0900-2300.		
Applicant	Mr DENIZ KARAKAYA 70 KING STREET CAMBRIDGE CB1 1LN		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <ul style="list-style-type: none"> - The proposal would not significantly harm the amenity of neighbouring properties. - The proposal does not pose a threat to highway safety.
RECOMMENDATION	APPROVAL

1.0 SITE DESCRIPTION/AREA CONTEXT

1.1 The application site, no.70 King Street, is comprised of an A5 hot food takeaway situated on the corner of King Street and Milton’s Walk. The surrounding area is predominantly formed of A1 shops, although there are also some A4 drinking establishments in the vicinity of the area. The majority of the properties along King Street also have residential flats on the first and second floors.

1.2 The site falls within the Central Cambridge Conservation Area.

2.0 THE PROPOSAL

2.1 The existing opening hours, as stated in condition no.7 of C/02/0699, are as follows:

- Monday – Sunday; 09:00 – 22:00

2.2 Planning permission was approved to vary the opening hours for a temporary period up until 10th March 2006, under 05/0033/S73, to the following:

- Monday – Sunday; 09:00 – 23:00

2.3 As of the 10th March 2006, the opening hours were then reverted back to those permitted under planning permission C/02/0699, as listed in paragraph 2.1.

2.4 The proposal seeks planning permission to vary condition no.7 of C/02/0699 to extend the opening hours as follows:

- Monday – Thursday; 09:00-00:00
- Friday – Saturday; 09:00-00:30
- Sunday; 09:00 – 23:00

2.5 The application originally proposed the following opening hours, which have since been replaced by the proposed opening hours listed in paragraph 2.4 above:

- Monday – Thursday; 09:00 – 01:00
- Friday – Saturday; 09:00 – 02:00
- Sunday; 09:00 – 23:00

2.6 The application is accompanied by the following supporting information:

1. Floorplan
2. Location Plan

3.0 SITE HISTORY

Reference	Description	Outcome
C/02/0699	Change of use from Class A1 (Retail) to Class A3 (Food and	Approved with

	Drink) and alterations of shopfront.	conditions.
05/0033/S73	Variation of condition 07 of planning permission C/02/0699/FP to allow opening hours for members of the public between 0900 hours and 2300 hours.	Approved with conditions.
08/0810/FUL	Variation of condition 7 of permission C/02/0699/FP to allow opening hours for members of the public between 0900 hours and 2300 hours.	Withdrawn.

4.0 PUBLICITY

4.1	Advertisement:	No
	Adjoining Owners:	Yes
	Site Notice Displayed:	No

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2006 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge Plan 2006	Local	3/4 3/7 4/13 8/2

5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework March 2012 National Planning Policy Framework – Planning Practice Guidance March 2014 Circular 11/95
	<u>Area Guidelines</u> Cambridge Historic Core Conservation Area Appraisal (2006)

5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies in the emerging Local Plan are of relevance/the following policies in the emerging Local Plan are of relevance:

6.0 CONSULTATIONS Cambridgeshire County Council (Engineering)

6.1 No objection.

Head of Refuse and Environment

Original comments (19/03/2015)

- 6.2 Refusal of this application due to requested late hours which will harm local amenity. I have no objection to a future s73 application requesting my recommended hours below.

King Street has many residential units in close proximity to 70 King Street, however there are also several pubs in close proximity including The Cambridge Brewhouse, King Street Run and Champion of the Thames which are permitted relatively late opening hours. It is reasonable to allow 70 King Street the same opening hours as these to protect local amenity and keep in character with the local noise climate/late night economy at these times.

The opening hours for the local pubs are not as late as those applied for 70 King Street and therefore I recommend the following hours, as per the current pub permitted opening hours:

- Monday to Thursday = 0900hrs ' 0000hrs
- Friday and Saturday = 0900hrs ' 0030hrs
- Sunday = 0900 ' 2300hrs

Second comments (01/04/2015)

- 6.3 An amended application form (public access date 20 March 2015) has been submitted with amended hours of operation in accordance with my recommendations within my memo dated 19 March 2015.

I therefore have no adverse comments.

Urban Design and Conservation team

- 6.4 No objection.
- 6.5 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 Councillor Ratcliffe has commented on this application and asked for it to be determined by Committee on the grounds that noise disturbance needs to be considered carefully.

7.2 The owners/occupiers of the following addresses have made representations:

- 10 Manor Place, King Street
- 12 Manor Place, King Street
- 15 Manor Place, King Street

7.3 The representations can be summarised as follows:

- Increase in traffic and parking congestion
- Increase in noise
- Increase in pollution and litter
- Increase in anti-social behaviour
- This would set a precedent for other city centre takeaways to trade as a delivery business after midnight in a residential area.
- The takeaway is already operating until 2am.

7.4 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Residential amenity
2. Highway safety

Residential Amenity

8.2 It is noted that letters of representation have been received regarding the harm that the extended opening hours would have on the amenity of nearby residential properties. The table below lists the opening hours of drinking establishments along

King Street, and the proposed opening hours (as amended) for 70 King Street.

Address	Monday – Thursday	Friday – Saturday	Sunday
86 King Street (King Street Run)	11:00 – 23:00	11:00 – 00:00	11:00 – 23:00
68 King Street (Champion of the Thames)	10:00 – 23:30	10:00 – 00:00	10:00 – 23:30
1 King Street (Cambridge Brew House)	10:00 – 23:30	10:00 – 00:00	11:00 – 23:30
70 King Street (Super Kebab)	09:00 – 00:00	09:00 – 00:30	09:00 – 23:00

8.3 The proposed extended opening hours would include the delivery function of the service and if approved this could only be in operation during the approved opening hours.

8.4 Given that drinking establishments in the local vicinity of the site are able to open later than Super Kebab presently, I do not think it unreasonable that it's hours be extended. In line with advice from EH colleagues, the application has been amended and as proposed the unit would be able to remain open 30 minutes later than the majority of these public houses as shown in the table above. Whilst 30 minutes is not a substantial amount of time, I am conscious of the sensitivities of noise to neighbours. To ensure consistent and because the usage also includes deliveries, I consider it reasonable to restrict opening hours to 23:30 Monday – Thursday and 00:00 Friday – Saturday exactly in line with nearby PH's. On this basis, I do not consider that this would lead to any significant increase in noise and disturbance that would warrant refusal of the application. The concerns raised in the third party representations have been taken into account in coming to this conclusion and are fully addressed below:

Increase in waste and litter

8.5 I note that representations have been made regarding the increase in waste and litter that would occur as a result of the extended opening hours. However, I do not consider that the

additional opening hours are likely to generate a significant amount of litter compared to that of the existing opening hours.

Increase in traffic and parking

- 8.6 In relation to the increased noise and disturbance from taxis dropping off and picking up customers outside of the unit, I consider that this type of noise and disturbance already exists from people leaving the nearby drinking establishments. I do recognise that the delivery function of an A5 use introduces more vehicular movements than say a public house which is why I have imposed stricter opening times than those suggested by Environmental Health officers. This will not be a new form of disturbance introduced to the area.
- 8.7 In response to the concerns raised regarding illegal parking and blocking of the highway as a result of deliveries, this is a matter for the highway authority and not a planning consideration.

Increase in noise

- 8.8 Concerns have been raised regarding the noise associated with customers travelling to and from the takeaway late at night on-foot. However, in consideration of the city centre location of the site and the existing pedestrian movements from the nearby drinking establishments that take place late at night, I do not consider that the extension of opening hours as proposed by condition no.1 and subsequent increase in pedestrian movements would significantly exacerbate levels of noise pollution in this regard.

Increase in anti-social behaviour

- 8.9 The concerns regarding the potential increase in anti-social behaviour is a police matter and is not a planning consideration.
- 8.10 In summary, as this is a city centre location where there are other late night uses in the vicinity of the site, the variation of the condition to extend the opening hours to align with local public houses would not harm the amenity of nearby residential occupiers to such an extent as to warrant refusal of the application.

8.11 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with and Cambridge Local Plan (2006) policies 3/4, 3/7 and 4/13.

Highway Safety

8.12 The highway authority has not raised any objections to the proposals and I do not consider that the extended opening hours will have a detrimental impact on highway safety.

8.13 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

Third Party Representations

8.14 The majority of the third party representations have been addressed in the main body of this report.

8.15 A concern has been raised regarding the setting of the precedent for other city centre takeaways to extend their opening hours similarly in residential areas. In response, if future applications from other takeaways to extend their opening hours, these would each be judged on their own merits and the extension to opening hours under this application does not set a precedent.

9.0 CONCLUSION

9.1 In conclusion, it is considered that the proposal to vary condition no.7 and extend the opening hours is acceptable.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

1. The Class A5 takeaway shall not be open for members of the public or deliveries outside the following hours:

Monday - Thursday 09:00-23:30

Friday - Saturday 09:00-00:00

Sunday - 09:00 - 23:00

Reason: To protect the amenities of nearby properties.

2. If the premise is intended to provide alcohol at any time, or regulated entertainment/food after 11pm or before 5am it may require a Premise Licence under the Licensing Act 2003. The applicant is advised to contact The Licensing Team of Environmental Health at Cambridge City Council on telephone number (01223) 457899 for further information.