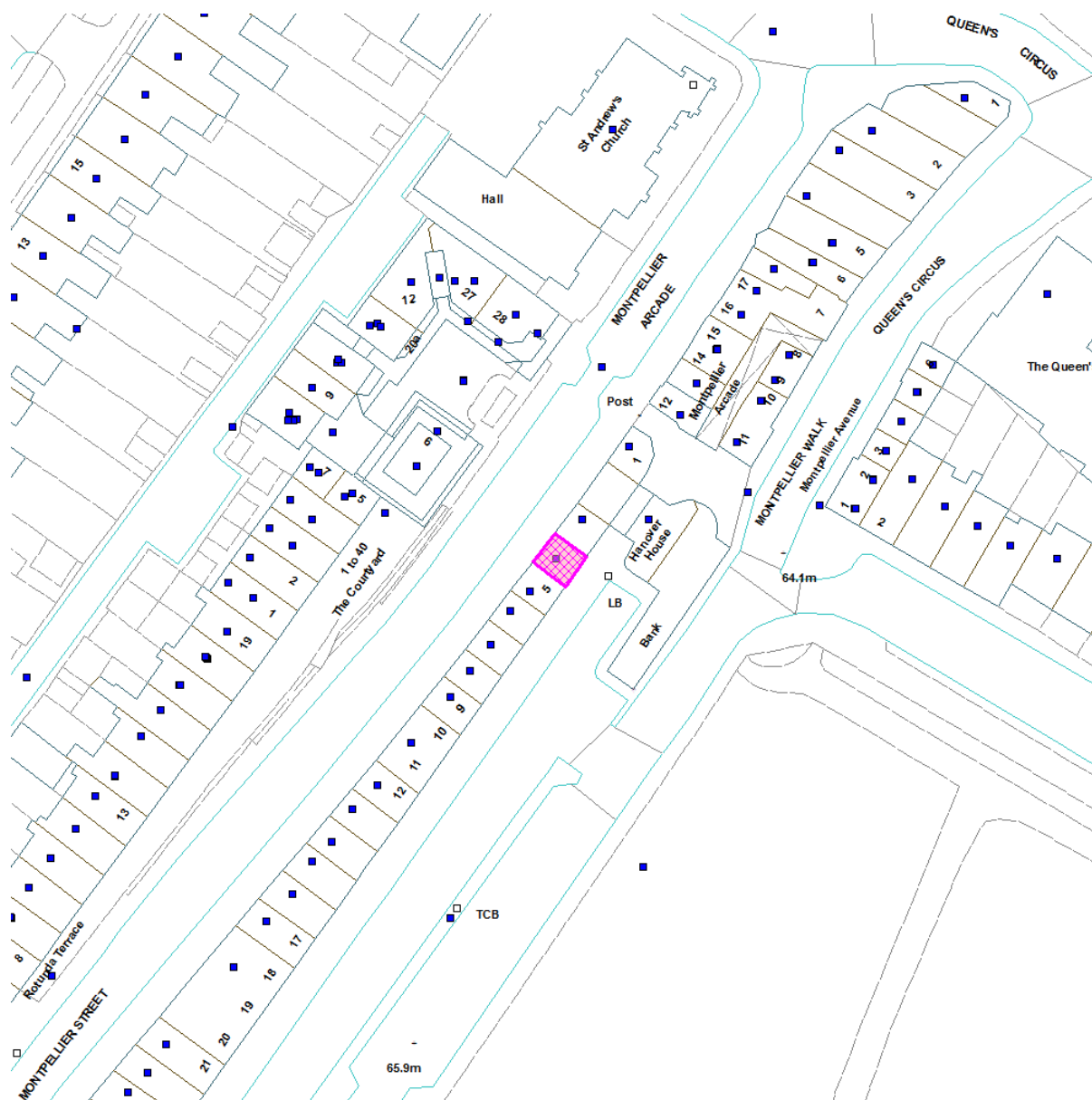


APPLICATION NO: 17/01566/CONDIT		OFFICER: Mrs Emma Pickernell	
DATE REGISTERED: 11th August 2017		DATE OF EXPIRY: 6th October 2017	
WARD: Lansdown		PARISH:	
APPLICANT:	Door 4 Montpellier Ltd		
AGENT:			
LOCATION:	4 Montpellier Walk, Cheltenham		
PROPOSAL:	Variation of condition 5 of 16/01888/FUL -to extend opening hours to 00:30 Thursday, Friday and Saturday nights and 01:00 on Bank Holiday Sundays, race days (up to 16 race days per calendar year), Christmas Day and New Years Eve		

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a mid terrace Grade II* listed building within the Montpellier Character Area of the central conservation area. Planning permission and listed building consent were granted in December 2016 to change the use of the building from A3 to A3 and/or A4.
- 1.2 The approved planning permission was subject to the following condition (condition 5):
- The premises shall not be open to customers between the hours of 00:00 (midnight) hrs to 0800hrs. The premises shall be vacated by all customers at 00:00hrs at the latest and there shall be no allowance for 'drinking-up time'.*
- Reason: To safeguard the amenities of adjoining properties and the locality in accordance with Local Plan Policy CP4 relating to safe and sustainable living.*
- 1.3 The approved consent has now been implemented and the bar is now operating under the name 'door 4'.
- 1.4 The applicant is now seeking to vary the above mentioned condition in order to allow the bar to be opened until 00:30 on Thursday, Friday and Saturday nights (i.e. an additional 30 minutes). In addition the applicant seeks permission to open until 01:00 on bank holiday Sunday nights, Christmas Day, New Year's Eve and up to 16 'race days' per calendar year.
- 1.5 The application has been amended since its original submission. Originally the application was seeking consent to open until 01:30 Thursday, Friday and Saturday nights with an additional 30 minutes for 'drinking up time'.
- 1.6 The application has been brought to committee at the request of Cllr Mason due to amenity considerations.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Conservation Area
Core Commercial Area
Listed Buildings Grade 2star
Montpellier Shopping Area
Smoke Control Order

Relevant Planning History:

16/01163/FUL 25th August 2016 WDN
Change of use from class A3 to Class A3 and A4

16/01163/LBC 25th August 2016 WDN
Change of use from class A3 to class A3 and A4 with internal alterations

16/01888/FUL 15th December 2016 PER
Change of use from class A3 to class A3 and A4 (resubmission 16/01163/FUL)

16/01888/LBC 15th December 2016 GRANT

Internal alterations associated with change of use from A3 to A3 and A4 (resubmission 16/01163/LBC)

17/00269/DISCON 8th March 2017 DISCHA

Discharge of condition 4 (scheme for the provision of refuse and recycling storage facilities) on planning permission ref. 16/01888/FUL

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 3 Sustainable environment

CP 4 Safe and sustainable living

Supplementary Planning Guidance/Documents

Central conservation area: Montpellier Character Area and Management Plan (Feb 2007)

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Ward Councillors

21st November 2017

Thank you for your letter dated 16th November 2017. As a Ward Councillor I have received a number of complaints about extending the licensing/opening hours of the bar "Door 4". As this part of Montpellier is a mixed area with a substantial number of residential properties I believe that there should be no variation of condition 5 of 16/01888/FUL. As a Council we want to encourage people to live in our town centre. Accordingly it is up to the Borough Council to ensure that residents have an acceptable quality of life. The knock on effect of agreeing to this variation must also be born in mind.

In summary I would like my objection to changing the the variation to be noted. Should the matter go to the Planning Committee I would like to address the Members.

Environmental Health

17th November 2017

I am of the opinion that the proposed extension by half an hour on Thursdays to Saturdays (to 0030 hrs the following day), and the extension to 0100 hrs on Bank Holiday Sundays, Race Days, Christmas Day, and New Year's Day, is acceptable.

Please note that these timings refer to the final closing of the premises and that there should be no customers on site after those times.

14th September 2017

With reference to this application I can confirm that the Council continues to receive complaints of excessive noise later than the time allowed via a planning condition, i.e. midnight.

For the above reason I OBJECT to the extension of the closing hours to 2am.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	20
Total comments received	16
Number of objections	16
Number of supporting	0
General comment	0

5.1 The application was publicised by way of a site notice, a notice in the paper and letters to 20 neighbouring properties. The consultation was repeated upon amendment to the proposal. 16 objections were received which relate to the following issues:

- Increased noise and disturbance
- Increase in litter
- Increase in commercial waste
- Increase in anti-social behaviour
- Imbalance of uses in area at expense of local residents
- Commercial viability arguments unconvincing
- Precedent

6. OFFICER COMMENTS

6.1 Determining Issues

As mentioned above the use of the unit has been approved and has been implemented along with the renovation of this Grade II* listed building. As such the determining issues here are those associated with the additional opening hours proposed.

- 6.2** Policy CP4 of the Local Plan states that development will be permitted only where it would, amongst other things, not cause unacceptable harm to the amenity of adjoining land users.
- 6.3** The NPPF requires that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 6.4** The site is located within the Montpellier area which has a mixed character comprising shops, restaurants and bars as well as dwellings, generally in flats above ground floor commercial premises and flats within The Courtyard development.
- 6.5** When the application for the change of use was made originally the applicant did not request specific opening hours and officers attached the condition stated above as this was considered to be sufficient to allow the bar to operate whilst protecting the amenity of local residents. The applicant now wishes to extend these hours in order to improve the viability of the business. No figures have been submitted in support of the viability argument and it is noted that the bar is seemingly operating successfully within the existing restrictions. However the NPPF requires that Local Authorities facilitate sustainable development and there would be economic benefits as well as an increase in

consumer choice. Furthermore it must be remembered that the building is Grade II* listed and it is advantageous to have such buildings in viable use, although the fact that it is currently in use, having recently been refurbished means that limited weight can be attached to this argument.

6.6 Therefore the consideration of this proposal boils down to a balance between the benefits of the proposal and the potential harm to neighbour amenity. It is clear from the objections that have been received that noise and disturbance from late night drinking establishments in the area does impact in amenity and in light of this the original request to open until 2am resulted in an objection from the Environmental Health team.

6.7 However the revised request for an additional 30 minutes on Thursday, Friday and Saturday nights and an additional hour on bank holidays and race days is considered to be much more modest and reasonable and has resulted in the withdrawal of the objection from the Environmental Health team. Whilst the additional opening hours may result in a minor negative impact on neighbour amenity officers are of the view that this impact is not sufficiently harmful to warrant the refusal of the application. In the view of officers this proposal strikes an appropriate balance between neighbour amenity and the economic benefits of the proposal.

6.8 Other considerations

6.9 Concerns have been raised in relation to anti-social behaviour, however it is not considered that there is anything inherent in this proposal which would result in anti-social behaviour and any such issues would be most appropriately dealt with through separate legislation.

6.10 Concerns have also been raised in relation to the treatment of commercial waste. The original consent was subject to a condition requiring the submission of a waste management strategy. This condition has been discharged and as part of this process it was confirmed that movement of bins could only take place between 08:00 and 20:00 Monday to Saturday. This proposal would result in a new permission being issued and as such a condition is suggested which ties it back to that condition.

7. CONCLUSION AND RECOMMENDATION

7.1 In taking into account the planning balance it is considered that the revised proposal strikes an appropriate balance between the competing interests. As such it is recommended that the application is permitted. The conditions which relate to the on-going operation of the premises, in addition to the revised opening hours condition are recommended as detailed below.

8. CONDITIONS / INFORMATIVES

- 1 No cooking of hot food shall take place within the premises unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the amenity of adjoining properties and the general locality, having regard to Policy CP4 of the Cheltenham Borough Local Plan
- 2 The approved use shall not operate unless in accordance with the approved scheme for the provision of refuse and recycling storage facilities which was approved in writing in connection with 17/00269/DISCON which shall be retained as such at all times.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 3 The premises may only be open to customers between the following hours:
- Sunday to Wednesday 08:00 - 00:00 (midnight)
 - Thursday to Saturday 08:00 - 00:30 the following morning

On the following occasions the premises may only be open to customers between the hours of 08:00 - 01:00 the following morning:

- Bank Holiday Sundays
- Christmas Day
- New Years Eve
- Up to 16 days per calendar year upon which there are horse racing events being held at Cheltenham Race Course.

The premises shall be vacated by all customers at the closing time stated above and there shall be no allowance for 'drinking-up time'.

Reason: To safeguard the amenities of adjoining properties and the locality in accordance with Local Plan Policy CP4 relating to safe and sustainable living.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, the authority sought revisions to the proposal in order to make it acceptable.

Following these negotiations, the application now constitutes sustainable development and has therefore been approved in a timely manner.