

APPLICATION NO: 18/02337/CONDIT		OFFICER: Mr Gary Dickens
DATE REGISTERED: 12th December 2018		DATE OF EXPIRY : 6th February 2019
WARD: Park		PARISH:
APPLICANT:	Mr Ryan Bennett	
LOCATION:	48 Suffolk Road, Cheltenham	
PROPOSAL:	Variation of condition 4 on 17/00960/COU for alternative hours of extractor fan use and additional attenuation measures	

REPRESENTATIONS

Number of contributors	5
Number of objections	4
Number of representations	0
Number of supporting	1

61 Glenavon Park
Sneyd Park
BRISTOL
BS9 1RW

Comments: 16th January 2019

I would like to make the following points:

1. I lived in the property (48a) directly behind and overlooking 48 Suffolk Road (Baker & Graze) from about 2004 the restaurant and rear garden were open until about 11pm. The restaurant fan did not cause me any disturbance and at night. I even had my windows open in the summer. I understand that with this application there will be a quieter fan fitted than the existing one and it even has a noise silencer.
2. The locality has been known for its specialist shops and restaurants since about 1870. Suffolk Road is now a desirable place to be, which has led to an increase in the people living at the rear of the shops. But the businesses, shops and restaurants were there first.
3. The application only seeks to allow evening operation of the restaurant fan, which is normal for a restaurant business.
4. The Suffolk's area would sorely miss the restaurant if it wasn't able to open in the evening just because it could not do cooking which relies on a kitchen fan. It's important for the area that local businesses can thrive and survive.

42B Suffolk Road
Cheltenham
Gloucestershire
GL50 2AQ

Comments: 7th January 2019

Our main window looks out onto Baker and Graze and we are disturbed by the noise from the extractor fan and noise from the garden. We do not believe it is fair to extend the fan usage hours and cause excess noise to all nearby neighbours. We already hear a lot of noise which should not be exacerbated by extended usage.

42 Suffolk Road
Cheltenham
Gloucestershire
GL50 2AQ

Comments: 6th January 2019

I am already disturbed by the noise of the fan and garden use from Baker and Graze, and am surprised that they may be able to make noise for even longer as it's a conservation area. My only window faces baker and Graze/ so I would like to be able to open this and not be disturbed by their continually noise. The noise is one issue along with the smell from cooking. There are 5 flats at this building and we all have issues with the noise and all flats only have windows facing Baker and Graze.

First Floor Flat
44 Suffolk Road
Cheltenham
Gloucestershire
GL50 2AQ

Comments: 6th January 2019

I hear the extractor fans and also noise from cooking and customers and want to be able to relax in my own home. It is not acceptable and before Baker and Graze came it was a very quiet area. Please do not allow this application

44 Suffolk Road
Cheltenham
Gloucestershire
GL50 2AQ

Comments: 29th December 2018

We are devastated to be having to fight this again. We find this situation very stressful indeed. We are affected by the noise, sights and smells from Baker and Graze almost every day of the year including Bank Holidays.

We have lived and worked here for over 15 years and never anticipated the change to a restaurant of 48 Suffolk Road. This is also a residential area, and although we appreciate people making a living, we do expect to be able to live peacefully as well.

A large structure has been built in the garden, less than 10 feet from our front room and bedroom, we believe without planning permission. It is used from 5am for the preparation and cooking of food, and is accompanied by the banging of doors, trays, oven doors, talking, alarms, access to bins and banging when using bins. We are unable EVER to have our windows open at night as the noise disturbs our sleep. Hence, we would like to stress that the noise problem does not only come from the use of fans .The fans often go on earlier than their allotted time . The fans are very noisy, and even with changes , will still cause noise and therefore disturbance. The cooking is on an industrial scale and therefore we question whether it should go on in a residential area.

We have no objection to the use of the premises in usual business hours, or even the use of the actual building in the evening, however, we do strongly object to the garden use in the evening (including the external cooking area). Alcohol is served, and once a group of people are present, it is impossible to prevent excessive noise. We have experienced this first hand when it was used as HPJ, and indeed complained on many occasions. The present restaurant has opened

on occasion in the evening with much excessive noise, continual banging of doors from kitchen into garden, smoke and BBQ smells feet away from our house making it impossible for us to open our windows, and fan use until 11pm. There has been a complete disregard for anything already put in place. Restaurant goers are also able to see directly into our bedroom windows, hence causing added distress.

We invite the council to come and see the proximity, and how this affects our lives on a daily basis. We feel very strongly that this would have a huge negative impact on our lives, and would be left with no choice but to try and sell losing the business we have nurtured for 30 years, and the home we have brought our children up in for 15 years. (We are sure the value of our property has gone down because of it).

We feel very bullied but feel we must try and fight.

Comments: 31st January 2019

Further to my previous objection I have found the below on the council planning policies -

Section 5.5 of the 'The Suffolks Character Area Appraisal and Management Plan July 2008' states

'there are a number of public houses, restaurants and cafes in the Suffolks. They generate noise and activity levels during the daytime and evening, adding to the vitality of the area'.

No-where does the local policy encourage the addition of more noise for further vitality. The existing vibrancy is heard from Suffolk Road side of the property. There is no benefit to perceived vibrancy to add noise at the rear of the property where it can only be heard by neighbouring home owners with currently peaceful gardens.

Planning policies and decisions should aim to:

'avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development'

and

'identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason'.

Detrimental impact upon residential amenities

Cheltenham local plan Second Review, Adopted July 2006:

'Whilst the Council supports the provision of a wide range of recreational facilities, it will be concerned to ensure that the mix and location of facilities do not cause harm to the amenity of residential environments, from factors such as noise and anti-social behaviour'.

The Council will not permit proposals which are likely to give rise to such problems.

Cheltenham Borough Local Plan Second Review, Adopted July 2006:

'Objective 23 to secure a high standard of residential amenity'.

Regional Planning Guidance States in 3.30 Its policies for Cheltenham require that, amongst other things, *'the environment is conserved and enhanced'.*

Policy CP 1: *'promoting and enhancing quality of life'.*

Policy CP 3: *'Development will be permitted only where it would conserve or enhance the best (a*

feature within the built or natural environment, which makes a significant contribution to the character, appearance, amenity or conservation of a site or locality) of the built and natural environments; and not give rise to harmful levels of pollution (any harm or potential harm, which might occur, from fumes, smells, noise, light)'.

Policy CP 4: *'Urban areas have the potential to contribute to sustainable development by providing a high quality of life. In order to do so, they need to provide attractive, liveable environments for the whole community'.*

Policy CP 6: *'For mixed use development to be successful, the uses involved must be compatible (unlikely to cause harm to amenity by loss of privacy or disturbance from noise, smells, fumes, vibration, glare from artificial lights) with each other and with adjoining land uses'.* Policy BE 2, seeks to protect residential character in these areas.

Planning (Listed Buildings and Conservation Areas) Act 1990: Section 72 of the Act requires the Council to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas in the exercise of their planning functions. The Suffolks form part of the existing conservation area. They state that (5.17) *'the open and green character often depends as much upon smaller, less formal open spaces, often in private ownership. Private gardens are important in this respect. Even where the garden itself is not well kept or is hidden behind high walls or hedges, the sense of openness and spaciousness, which it provides, can make an important contribution to the character of a conservation area'.*

Policy CP4: Development will be permitted only where it would: *'not cause unacceptable harm to the amenity of adjoining land users and the locality. In assessing impact on amenity, the Council will have regard to matters including, loss of outlook, loss of privacy, and potential disturbance from noise, smells, dust, fumes, vibration, glare from artificial lights'.*

Human Rights Act: I would urge you to consider the responsibilities of the council under the Human Rights Act, in particular Article 1 of the first protocol which states that a person has the right to peaceful enjoyment of all their possessions which includes the home and other land. I believe that the proposed development would have a dominating impact on us and our right to the quiet enjoyment of our properties. The Human Rights Act means, amongst other things that it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

Article 1 of the First Protocol: Protection of property, this imposes an obligation on the State not to:

interfere with peaceful enjoyment of property; deprive a person of their possessions; or subject a person's possession to control. The concept of property and possessions includes land. The exercise of this right not only depends on the State's duty not to interfere, but it may also require positive measures to protect property to be taken. Any interference with this right must be subject to conditions provided for by law. Article 8 of the Human Rights Act states that a person has the substantive right to respect for their private and family life. Private and family life encompasses not only the home but also the surroundings. It means the State must not interfere with your right to privacy, it must take active steps to protect you. Privacy is closely linked to many rights like the right to respect for your property.