
Committee Date:	24/07/2014	Application Number:	2013/09522/PA
Accepted:	16/04/2014	Application Type:	Full Planning
Target Date:	11/06/2014		
Ward:	Nechells		

MCC, Warner Street, Digbeth, Birmingham, B12 0TJ

Retention of shisha lounge (Sui Generis)

Applicant: Havana
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Agent: Architecture Design Studio
17 Coleshill Road, Hodgehill, Birmingham, B36 8DT

Recommendation

Refuse

1. Proposal

- 1.1. Consent is sought for the retention of a shisha lounge which has been in operation for approximately 12 months.
- 1.2. The internal layout consists of a seating area, 2 stages, shisha preparation room, desert/tea/coffee area, kitchen and toilets. The entire rear elevation would be removed and a wall would be built 1m from the position of the original wall.
- 1.3. The proposed opening hours are 12 noon to 23:30 hours on any day.
- 1.4. There are 2 full time and 6 part time staff proposed and the premises would accommodate approximately 67 covers.
- 1.5. There are 22 off street car parking spaces and 4 cycles spaces proposed.

[Proposed Floor Plan](#)

[Proposed Warner Street and Car Park Elevation](#)

[Proposed Warwick Street and Rear Elevations](#)

2. Site & Surroundings

- 2.1. The single storey L shaped building is located at the corner of Warner and Warwick Street. The openings have been bricked up and the building is painted grey. There is an adjacent off street car park with access from Warner Street.
- 2.2. The immediate area consists predominantly of a mixture of uses including residential, commercial and light industry. The nearest residential being to south of the site at the Adam and Eve Public House.

[Location Plan](#)

Street View

3. Planning History

Application site

- 3.1. 22/03/2007 – 2007/00045/PA - Erection of 54 residential apartments, access and parking. Approved subject to conditions. Consent expired.
- 3.2. 22/09/2011 - 2010/01253/PA - Extension of time limit attached to planning application 2007/00045/PA for the erection of 54 residential apartments, access and parking. Refused due to the absence of a S106 Agreement.
- 3.3. 2013/0049/ENF – Retention of Shisha Lounge – action pending outcome of planning application.

Nearby sites:

- 3.4. 13/11/2008 - 2008/04106/PA – Site at the corner of Bradford Street and Warner Street. Demolition of existing motor dealership and erection of 5 storey commercial building with ground floor retail, basement car park and means of access (Class A1 shops and B1a business). Approved subject to conditions.
- 3.5. 30/10/2012 - 2012/04599/PA – Site adjacent to 41 Warner Street. Change of use of premises from industrial unit (Use Class B2) to shisha lounge (Sui Generis). Refused on the grounds that the physical changes proposed to the building would be detrimental to the architectural appearance of the building and therefore harmful to the visual amenity and character of the area.
- 3.6. 05/06/2009 - 2008/02038/PA – 215 Bradford Street. Erection of 100 new residential apartments within 4/5 storey building with ground floor commercial (A1) and basement car parking. Approved subject to conditions. Expired 05/06/2012.
- 3.7. 10/04/2012 – 2012/00208/PA - 215 Bradford Street. Application to replace extant planning permission 2008/02038/PA for the erection of 100 new residential apartments within 4/5 storey building with ground floor commercial (A1) and basement car parking. Approved subject to conditions expires 10/04/2015.

4. Consultation/PP Responses

- 4.1. Regulatory Services – No objection subject to hours being restricted to those proposed (noon – 23:30 hours on any day).
- 4.2. Transportation Development – Recommend a temporary consent in order to monitor the impact.
- 4.3. West Midlands Police – Object to the application due to the adverse impact of existing use.
- 4.4. West Midlands Fire Service – No objections.
- 4.5. Public Health – No response
- 4.6. Neighbours, Councillors and Resident Associations consulted. Site notice posted.

4.7. Digbeth Residents Association objected on the following grounds:

- Lack of public consultation especially with regard to Abacus building.
- Site notice disappearing.
- Over intensification of the use leading to alcohol related uses in the vicinity
- Too many shisha lounges in the area already
- Many shisha lounges do not co-operate with planning or building regulations, smoking regulations, fire safety, waste management and licensing.
- Noise from comings and goings
- Plans do not accurately reflect the existing elevations
- Exterior treatment to the building has an adverse impact on the surrounding area
- Crime in the area especially related to motors will be exacerbated by additional parking demands
- Parking problems and boy racers using the area particularly at the weekends
- Smoking has an adverse impact on health
- Should be a minimum age of young people/children allowed onto such premises
- Several crime and public disorder incidents associated with shisha lounges and 3 incidents of arson associated with existing shisha lounges in the area.
- Other shisha lounges burning their waste in car parks attracting vermin
- Litter
- Opening hours are extended through means of licensing.

4.8 A further 8 objections were received from local residents and business owners raising the following issues:

- Gangs of youths loitering outside the premises
- Car parking issues
- Noise and disturbance
- Antisocial behaviour
- Use of drugs in nearby sites
- Litter, broken glass and vomit around the site
- Vermin
- More break ins to cars in the vicinity
- Adjoining businesses have had to install CCTV
- Existing business owners planning on moving out of Birmingham when their lease expires.
- Business in operation for 18 months with no regulations
- Customers of nearby businesses threatened and intimidated
- Adam and Eve Public House have had to move their main entrance from Warwick Street to Bradford Street to increase distance from the shisha lounge
- Refuse burnt in steel bins
- Same operators as previously burnt down Diamond Shisha Lounge on Digbeth High Street
- Above the Adam and Eve there are 7 bed and breakfast rooms and the owner's place of residence. The rooms can only be let out during the week and with the noise from the shisha lounge residents cannot get to sleep with the noise therefore the rooms are mostly disused.
- The shisha lounge is open to 3am 7 days per week.
- There is a complete lack of co-operation from the managers of the shisha lounge
- Shisha lounges are blighting the area and there is an over concentration
- An industrial area is not a suitable location for a shisha lounge
- Operates as a night club

- Car park inadequate size
- Alcohol consumption on/around the premises.

5. Policy Context

- 5.1. Birmingham UDP 2005; Draft Birmingham Development Plan; Places for All SPG 2001; National Planning Policy Framework 2012.

6. Planning Considerations

- 6.1. Paragraph 56 of the NPPF states that the government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 6.2. Paragraph 58 states that planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder and the fear of crime, do not undermine quality of life or community cohesion.
- 6.3. One of the principles outlined in paragraph 3.8 of the UDP states that there is a need to protect and enhance what is good in the City's environment and to improve what is less good. Paragraph 3.10 of the UDP states that proposals that would have an adverse effect on the quality of the built environment will not normally be allowed.
- 6.4. Paragraph 3.16 of the UDP states that the design of the environment influences both the actual and the perceived threat of crime which are two significant factors affecting the quality of life.
- 6.5. In addition, whilst there are no specific policies relating to shisha lounges, policy 8.7 of the UDP relates to hot food shops, restaurants and cafes and sets out a number of criteria that can equally be applied to shisha uses, including that such uses should be confined to shopping areas or areas of mixed commercial development.
- 6.6. The site is located within a mixed area where there are a variety of uses and the unit is one of a number which has been vacant for some time. Given the general mixed nature of the area I would not raise any objections to the provision of a shisha lounge in this location subject to its impact on the character and visual amenity of the area, including crime and noise, and parking and highway safety issues being acceptable.

Amenity

- 6.7. Noise - the closest residential accommodation is located above the Adam and Eve Public House approximately 30m to the south of the application site and includes bed and breakfast accommodation. The shisha lounge is currently with no regulation and the police evidence demonstrates that they can be opened to as late as 3am. Whilst the current hours of operation are not acceptable and would be likely to adversely affect the amenities of residents within the vicinity the current proposal seeks to restrict the hours of use to noon to 23.30. Regulatory Services raise no objection and note that the pub itself operates until such a time.
- 6.8. However I note that there are wider regeneration aspirations for this area and includes an extant permission for 100 residential units at 215 Bradford Street which is only 38m from the application site and I am mindful the amenities of future residents should also be safeguarded.

- 6.9. However taking all things into consideration including the concerns raised by local residents and the police, I do not consider it would be sufficient to warrant refusal.
- 6.10. Crime and anti-social behaviour - the shisha lounge has been in operation for approximately 18 months and during this time West Midlands Police have received reports of eight offences committed at the location, including victims suffering serious woundings, grievous bodily harm or robbery. Consequently the Police associate the operation of this site as a Shisha Lounge with high levels of serious crime. Further, during the same time period there have been a further six reports of anti-social behaviour relating to reports of disorder involving up to 20 people fighting.
- 6.11. In addition a number of local residents/business owners have raised concerns as they believe the existing use has been lead to groups congregating and lingering outside the application site which has resulted in a perceived intimidating environment being created to the detriment of the character of the area which is of particular concern in relation to future regeneration opportunities in this location.
- 6.12. Paragraph 58 of the NPPF states that decisions should aim to ensure that development create safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion. However, the level of objection received on this application and the issues raised demonstrate that the quality of life of residents and business owners alike has been undermined and cohesive community spirit compromised due to the unauthorised shisha lounge.
- 6.13. I do not therefore consider the shisha lounge has an adverse impact on the amenity of the character of the area and the amenities of occupiers in the vicinity and its continued operation would therefore be contrary to policy.

Design

- 6.14. The applicant has also carried out unauthorised changes to the building including bricking up all of the frontage openings which has resulted in an unattractive building frontage which has no natural surveillance of the street which has had an adverse impact on the visual appearance of the building and the visual amenity of the area. Plans have been submitted demonstrating the reinstatement of the frontage opening should permission be granted.

Parking and Highway Safety

- 6.15. Provision of 22 off street car parking spaces are available in the car park adjacent however they are not currently marked out. Transportation Development consider a maximum level of parking provision would be around 9 spaces and the parking provision proposed is therefore sufficient. They also note that the site is located in a sustainable location with excellent public transport links in place and that the greatest level of use is likely to be at evenings and weekends when most of the adjacent business uses are likely to be closed. Whilst a number of local residents have objected to the amount of cars the shisha lounge generates and the police have raised concern in this respect given the comments Transportation Development I do not consider there would be sufficient reason to refuse the application on this basis, or warrant a temporary consent.

7. Conclusion

7.1. The unauthorised shisha lounge has been in operation for 18 months during which time there is clear evidence of its negative impact on the character and amenity of the area by virtue of opportunities for crime and creating a fear of crime in the area and its retention would therefore be contrary to both local and national planning policy.

8. Recommendation

8.1. Refuse.

Reason for Refusal

1 The retention of the shisha lounge would adversely affect the amenity of residents, businesses and the character of the area, by virtue of increasing opportunities for crime and fear of crime. The proposal would therefore be contrary to policies 3.8, 3.10 and 3.16 of the Birmingham Unitary Development Plan and paragraph 58 of the National Planning Policy Framework 2012.

Case Officer: Joanne McCallion

Photo(s)



Figure 1 Application Site



Figure 2 Warner Street Elevation

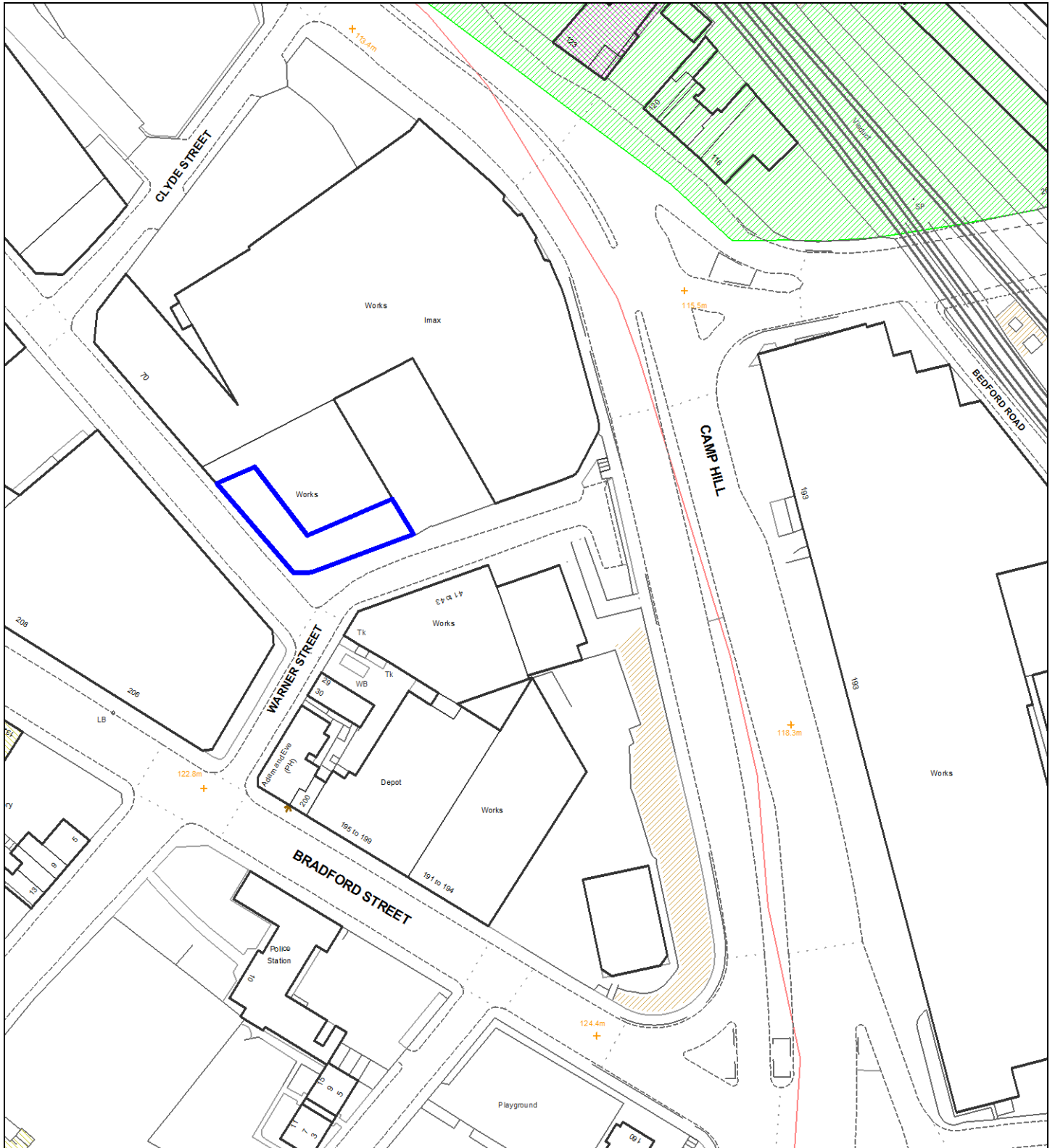


Figure 3 Warwick Street Elevation



Figure 4 Car Park

Location Plan



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