

REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 27 OCTOBER 2016

The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

Application Number	RB2016/0543
Proposal and Location	Erection of a single storey building for retail use (use class A1), former Kirk House, Browning Road, Herringthorpe, S65 2LG.
Recommendation	Grant subject to conditions

This application is being presented to Planning Board as more than 6 objections have been received.



Site Description & Location

This site refers to part of the land previously occupied by the Council owned sheltered residential accommodation Kirk House and runs along the western side of Browning Road in Herringthorpe. It lies to the south of the local shopping parade and is approximately 0.13 hectares in area and about a third of the developable area left following the demolition of the former building. The surrounding area is predominantly residential in nature.

There is a separate planning application for residential development on the remainder of the land which is still under consideration.

The previous building was demolished in 2013 and all evidence of this has been removed. The site was subsequently seeded and grassed, is broadly level with a number of conifer hedges along the western boundary. Two semi-mature trees lie on the southern boundary though these lie outside of the application site.

Background

There are no previous applications relevant to this proposal.

Proposal

This application is for the erection of a single storey retail unit, positioned in the northern area adjacent to the junction of Browning Road and Chaucer Road. The unit has a floor area of 288sqm with vehicular access taken from Chaucer Road to a car park and a delivery area to the rear of the unit. There are 14 parking spaces, including 1 disabled space and the external appearance has been modified to increase the amount of glazing along the front and side elevations.

An indicative housing layout plan has also been shown, but this on the other piece of land to the south of the site, outside of the application boundary and is not being considered in this application.

As this site is outside of a defined town centre, a sequential assessment of alternative sites has also been submitted in support of the application and this can be summarised as follows:

- A Catchment area has been defined as being within the local area, approximately 1km away from the site. This excludes Rotherham Town Centre.
- Assessment of Alternative Sites:

89 Browning Road – a small convenience store. With a floor area of only 43 sqm this is too small, unknown availability

Unit 1, 156 Wickersley Road – sufficient size and is available but has no dedicated servicing area and is deemed unsuitable

Unit 2, 154 Wickersley Road – available but insufficient size and unsatisfactory servicing arrangements.

Unit 3, 475 Herringthorpe Valley Road – available but insufficient size and unsatisfactory servicing arrangements.

477 Herringthorpe Valley Road – available but insufficient size and unsatisfactory servicing arrangements.

Eastwood Hotel, Doncaster Road, Rotherham – unclear whether it is available, is outside of the catchment area and too small.

- The proposed development falls well below the locally adopted threshold of 500 sqm for which an assessment of retail impact is required
- The site lies in a sustainable location immediately adjacent to the local centre with excellent pedestrian links to other service/retail provision.

Following comments from Rotherham's Planning Policy section, as well as objections received, a further addendum was submitted as follows:

- The unit 156 Wickersley Road comprises a total of 932.04 sqm gross spread over ground and basement level, significantly in excess of what was previously assumed. This unit is, therefore, considerably larger than the upper floorspace threshold of 350 sqm adopted in the sequential assessment (Paragraph 2.9). In addition to the above, the accommodation is spread across two floors and does not meet the operational requirements of the applicant. Furthermore, the unit does not benefit from any dedicated parking. As previously set out, sufficient customer parking adjacent to the unit is a key operational requirement and a fundamental element of the proposed business model. On this basis, the unit is considered unsuitable.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP).

The application site is allocated for residential purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):
HG1 – Existing Housing Areas
ENV3.7 'Control of Pollution'

Other Material Considerations

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that “Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

The Core Strategy/Unitary Development Plan/Rotherham Local Plan ‘Publication Sites and Policies - September 2015’ policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application. The emerging policies within the Sites and Policies document (September 2015) have been drafted in accord with both the NPPF and the Core Strategy but await testing during Examination in Public. As such the weight given to these policies is limited in scope depending on the number and nature of objections that have been received.

Publicity

The application has been advertised by way of a site notice (05 May 2016) along with individual neighbour notification letters to adjacent properties (28 April 2016). Seven individual letters of representation have been received and these can be summarised as follows:

- There are other retail sites available in nearby locations within recognised local centres – identified in the submission and consequently the proposal does not meet the criteria for the sequential test.
- The Council has been inconsistent in its approach to defining the scope of the catchment area.
- We do not consider that the sequential test has not been satisfied and the applicant should therefore be refused. There are more sequentially preferable sites available including the Eastwood Hotel.
- The applicant has not demonstrated sufficient flexibility in the consideration of alternative sites and has sought to impose a rigid business model that only reflects the specific requirements that the applicant intends to use.

- Increase in anti-social behaviour which has been a big problem in the past
- Negative impact on existing local shops in the surrounding area
- Housing development preferred.

In addition, a petition of over 200 signatures has been received and this raises similar objections, namely:

- Housing would be preferred on this site.

Further to the objections an additional letter has been received on the 26th September from a planning solicitor, acting on behalf of their client. The letter indicates that they consider that the sequential test has failed to be properly applied as there is no justification for the scope of the catchment area. The letter indicates that the sequential test has omitted some sites and discounted others without applying sufficient flexibility. The letter goes on to state that should the Council accept the findings of the sequential test they would consider that their client would have strong grounds in an application for Judicial Review of the decision.

In response to this, the applicant's agent has further clarified the scope and methodology of the sequential test. This states that they are of the opinion that they have done an appropriate sequential assessment, that the Council has correctly identified the extent of the catchment area and that there are no more sequentially preferable sites available.

There are 4 rights to speak registered against this application including the agent for the applicant.

Consultations

Planning Policy – initial concerns were raised with the scope of the sequential test but following additional information submitted by the applicant this is now deemed to be acceptable.

Streetpride (Transportation and Highways Unit) – no objections subject to conditions

Neighbourhoods (Environmental Health Services) – no objections subject to conditions

Appraisal

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall 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. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The main considerations of the application are as follows:

- Principle
- Design and impact on the street scene
- Impact on residential amenity
- Highway issues
- Other issues

Principle

The site is allocated for residential purposes in the UDP and was previously occupied by a Council owned sheltered residential accommodation, known as Kirk House prior to its demolition. In retail terms the site is considered to be edge of centre and requires full justification to be supported through a sequential test. A future residential development is therefore considered to be the most preferable in planning terms. Nevertheless, the quality of the sequential test and the supporting details as well as the objections is considered below.

Paragraph 24 of the NPPF states that: "Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

In this instance the supporting sequential test states that the proposal has a catchment area of 1.5km. This is considered to be a local use and is considered reasonable in relation to the floorspace of the unit proposed.

In terms of the objections received on this aspect, the majority of the sites listed as being available are within Rotherham Town Centre, which is considered to be outside of the defined catchment area and consequently have not been included within the assessment.

It is accepted that the methodology of the Sequential Test is appropriate and that the adopted catchment is also proportionate for a scheme of a limited size that is considered to have a local catchment area of approximately 1.5km. With regard to the sequential test, both smaller and larger floorspace properties have been appropriately discounted and the Eastwood Hotel falls outside of the adopted catchment and, therefore, can be discounted.

Further evidence has also been submitted to demonstrate that 156 Wickersley Road is not sequentially preferable as set out below:

“Unit 156 Wickersley Road is no longer being marketed by Lambert Smith Hampton...and is listed with Stuart Graham and Co. The marketing details...indicate that the accommodation comprises a total of 932.04 sqm gross spread over ground and basement level.....significantly in excess of what was previously assumed as part of the sequential assessment. This unit is, therefore, considerably larger than the upper floorspace threshold of 350 sqm adopted in the sequential assessment (Paragraph 2.9).In addition to the above, the accommodation is spread across two floors and does not, therefore meet the operational requirements of the applicant.”

Having particular regard to the latest objection received from the Stoneleigh partnership on the 26th September, this letter refers to the sequential test failing to consider a number of alternative sites and raised concerns about how the catchment area had been defined.

However, the revised sequential assessment dated June 2016 (and the additional addendum of September 2016) assessed and appropriately discounted three additional units which Townsend Planning Consultants, in their objection to the application, considered to be sequentially preferable to the application site. The Council is not aware of any other alternative sequentially preferable sites within the catchment area which should also have been assessed.

Also, in terms of an appropriate catchment area for carrying out the sequential test, the NPPF defines a Town Centre as:

“Area defined on the local authority’s proposal map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in Local Plans, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.”

Neither the NPPF nor the accompanying Planning Practice Guidance defines a specific catchment area for applying the sequential test; this will vary according to the specific details of each proposal. The Planning Practice Guidance states that the application of the test should be proportionate and appropriate for the given proposal (paragraph: 010 Reference ID: 2b-010-20140306).

The catchment area adopted in this instance takes account of the small scale nature of the proposal which is seeking to meet local needs and therefore is far different from a larger scale / larger format proposal which might be seeking to draw trade from a wider catchment. The 1km distance was considered appropriate taking account of the draft Local Plan Policy SP66 Access to Community Facilities. For the purposes of this policy reasonable

walking distance is defined as 800 metres. In this specific circumstance extending this to 1km ensured that the catchment area included the three nearest local centres in addition to the one closest to the proposal site.

The catchment area defined for this proposed local shop is therefore deemed to be acceptable and the sequential test has identified all of the 'town centres' within it which need to be assessed to determine whether there are any more suitable and available sites or not. The Council is therefore satisfied that the sequential test undertaken has been proportionate to the scale of the development proposed and that alternative sequentially preferable sites have been appropriately considered and discounted.

The additional response received from the applicant's agent indicates that the applicant has demonstrated flexibility in the assessment of the individual sites. However they indicate that the applicant should not be compelled to alter or reduce the proposal to fit alternative sites. The letter concludes that the objections received around the sequential test submission appear to have been submitted on the grounds of competition based on his operation of a convenience store in close proximity to the site.

Overall, taking the above issues into account, it is considered that the sequential test has been appropriately carried out with a suitably defined catchment area, scope and sites listed. Consequently, it is considered that the proposal passes the criteria outlined within the guidance of paragraph 24 of the NPPF and it is therefore considered that the principle of an A1 retail development is acceptable in this location.

Design and impact on the street scene

In terms of design, the NPPF notes at paragraph 56 that: "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." Paragraph 64 adds that: "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

Following discussions with the applicant revisions to the scheme have been submitted, including additional glazing to the front and side elevation of the building, it is considered that the design and appearance has been improved and now has a better visual impact on the street scene than was originally proposed. The proposal is a high single storey building with its main entrance along the north-western elevation which faces onto Chaucer Road. This is considered to be convenient for both pedestrians and users of the car park. The shop also has a secondary elevation facing Chaucer Road/Browning Road along the north-east. It is considered that the additional glazing along both these principal elevations gives sufficient animation and interest at street level.

An element of landscaping has been proposed along both sides of the proposed building along both side elevations in order to soften the appearance on the street scene.

Overall it is considered that the design of the proposed retail unit is now satisfactory and does sufficiently uplift the surrounding area as indicated in paragraph 56 and 64 of the NPPF along with the guidance within Core Strategy CS28 'Sustainable Design'.

Impact on residential amenity

Moving onto the impact on the surrounding residential properties, no. 90 Chaucer Road shares a significant amount of the western boundary of the site and is considered to be the property that would be most affected by the development. In terms of the building itself, the proposed property is a high single storey, though is considered to be located a sufficient distance from the nearest residential properties to minimise any future dominant impact. The main impact is likely to be in the form of noise and disturbance from the shop and of the car park.

RMBCs Environmental Health department have requested a noise assessment to be undertaken for any proposed extraction units and also that deliveries should also be limited to the hours of 08.00 to 18.00 Mondays to Saturdays and 10.00 to 17.00 on Sundays and Bank Holidays in order to reduce the impact of noise.

In addition, the layout has been amended to re-locate the proposed substation away from the boundary with the residential property at Chaucer Road in order to reduce future impact in terms of noise.

As indicated in the paragraphs below, the applicant has also suggested that the erection of a barrier across the car parking entrance would help secure the site during out of hours and would reduce the impact of noise and disturbance during unsociable hours.

Highway issues

The site layout intends to utilise the existing western access into the site with a single point of access and a total of 12 car parking spaces (one of which would be for disabled visitors). The proposals also show a dedicated space for service vehicles and a revised turning area for commercial deliveries is also shown. The Transportation Unit have indicated that a sufficient number of spaces have been included and the revised parking layout is acceptable, subject to conditions.

Other issues

A number of the objections refer to the possibility of the increase in anti-social behaviour raised by the location of the shop in this location. It is understood that the majority of the anti-social behaviour complaints related to a time when the former Kirk House site was vacant and had windows boarded up.

In the current proposal, it is now proposed that the parking area of the site be secured via a barrier to prevent vehicular access to car park when the unit is closed in order to try and reduce any future anti-social behaviour. It is noted that the currently vacant site is unsecured and has unrestricted pedestrian access across it.

In terms of sales of alcohol which has also been raised by objectors, these are not planning issues that can be controlled via condition. This would be something that would be controlled by the licencing department.

Conclusion

Overall the proposal meets the requirements of the sequential test in terms of catchment area, scope and sites listed as being unsuitable and subsequently discounted. Whilst this site is in an edge of centre location, the principle of the development is considered acceptable in this location.

The design of the proposal, with additional glazing on the front and side elevations is considered to be suitable for this location and the application is therefore considered acceptable and is recommended for approval, subject to conditions.

Conditions

The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can start. Conditions numbered **05** of this permission require matters to be approved before development works begin; however, in this instance the conditions are justified because:

- i. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.
- ii. The details required under condition numbers **05** are fundamental to the acceptability of the development and the nature of the further information required to satisfy these conditions is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.'

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

(Drawing numbers amended layout plan 28.07.16 at 1:200 scale, amended elevations 21.07.16, street scene 21.09.16)(received 21.07.16, 28.07.16 and 21.09.2016).

Reason

To define the permission and for the avoidance of doubt.

03

The use hereby permitted shall only be open to customers between the hours of 07.00 to 22.00 throughout the week.

Deliveries to the site shall be limited to the hours of 08.00 to 18.00 Mondays to Saturdays and 10.00 to 17.00 on Sundays and Bank Holidays.

Reason

In the interests of nearby residential amenity

04

No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Core Strategy Policy CS28 Sustainable Design.

05

The turning area indicated on the submitted 1:200 scale layout shall be made available at all times when the premises are open for vehicular turning purposes.

Reason

In the interests of highway safety.

06

Before the development is brought into use, that part of the site to be used by vehicles shall be constructed with either;

a/ a permeable surface and associated water retention/collection drainage, or;

b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and to encourage drivers to make use of the parking spaces and to ensure that the use of the land for this purpose will not give rise to the deposit of mud and other extraneous material on the public highway in the interests of the adequate drainage of the site and road safety.

07

Before the development is brought into use the car parking area shown on the submitted plan shall be provided, marked out and thereafter maintained for car parking.

Reason

To ensure the provision of satisfactory garage/parking space and avoid the necessity for the parking of vehicles on the highway in the interests of road safety.

08

Details of secure cycle parking facilities in the vicinity of the entrance to the shop shall be provided before the development is brought into use in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In order to provide sustainable transport choices.

09

Prior to the first occupation of the unit, final details of any extraction units, including the exact locations of the units, along with any noise details associated with them shall be submitted to the Local Planning Authority and agreed in writing. The site shall then be operated in accordance with these approved details.

Reason

In order to protect the amenities of the surroundings and in accordance with UDP Policy ENV3.7 'Control of Pollution'

10

The development shall not be brought into use until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the first operation of the development.

Reason

In the interests of the visual amenity of the area and in accordance with Core Strategy Policy CS28 Sustainable Design.

11

Before the development is brought into use, a Landscape scheme, showing location and types of landscape treatment, shall be submitted for approval by the Local Planning Authority. The Landscape scheme should be prepared in accordance with RMBC Landscape Design Guide (April 2014) and shall be implemented in the next available planting season and maintained to ensure healthy establishment. Any plants dying, removed or destroyed within five years of planting shall be replaced the following planting season.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

12

Prior to the first occupation of the unit, final details of the car parking barrier shall be submitted to the Local Planning Authority and agreed in writing. The site shall then be operated in accordance with these approved details.

Reason

In order to protect the amenity of the neighbouring properties.

Informatives

- a) The applicant is reminded to obtain any licences required which are outside of the planning process.

POSITIVE AND PROACTIVE STATEMENT

During the determination of the application, the Local Planning Authority worked with the applicant to consider what amendments were necessary to make the scheme acceptable. The applicant agreed to amend the scheme so that it was in accordance with the principles of the National Planning Policy Framework.

Application Number	RB2016/1058
Proposal and Location	Siting of portable building to provide outside bar and installation of external timber seating and tables to front patio at The Olive Lounge Bawtry Road Wickersley Rotherham S66 2BW
Recommendation	Grant subject to conditions

This application is being presented to Planning Board as more than 5 objections have been received.



Site Description & Location

This application relates to an existing restaurant and wine bar (formerly known as Vascos) which was granted permission for a change of use from offices in 2006. The property is situated close to the busy classified A631 Bawtry Road in close proximity to Wickersley roundabout.

Occupying the site is a two storey building with a frontage set back from the highway with an outdoor patio area to the front.

The building is located on the Prime Shopping Street and is surrounded by commercial properties, including the telephone exchange building immediately to the east with the Masons Arms public house beyond that. To the west is a parade of shops with The Courtyard development beyond which contains a bar with outside seating, in addition to various shops.

The closest residential properties are located on Willow Court at the rear, approximately 50m from the location of the external bar.

Background

The following applications relate to this site:

RB2006/1314 Change of use from offices (use class A2) to wine bar (use class A4) – granted conditionally.
Condition 05 of the above permission restricted the opening hours as follows;

05

The use hereby permitted shall only be open to customers or for deliveries between the hours of 11:00 hours to 01:00 hours Mondays to Saturdays and 11:00 hours and 23.30 on Sundays.

RB2007/0553 Display of 3 retractable awnings – Granted conditionally

RB2008/1842 Two storey side extension and installation of retractable canopy – Granted conditionally (not implemented)

RB2013/0529 Erection of smoking shelter – Granted conditionally (not implemented)

RB2015/0981 Single storey side extension – granted conditionally, and since constructed.

Proposal

The application seeks full planning permission for the retention of the already erected portable building which forms an outside bar and the fixed timber seating and tables to the front of the premises.

The bar is a wooden structure located to the side of the building projecting forward of the front elevation, with dimensions of approximately 4.5m in length x 2.5m in width x 2.7m in height. The bar has an access door at the end nearest to the building and an opening hatch facing the seating area, with a canopy over and is clad in cedar boarding.

The front area of the premises has been enclosed by low timber fencing and planters and timber seating and tables have been fixed in position behind the fencing within the enclosed patio area.

No proposed hours of operation have been included in the application, however it has been indicated that a liquor licence has been issued for the external bar allowing alcohol to be served every day until midnight.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP) (noted in Appendix B of the Core Strategy). The Rotherham Local Plan 'Publication Sites and Policies' was published in September 2015.

The application site is allocated for 'Retail Use – Town Centre' in the UDP and is also within the Prime Shopping Street in Wickersley. In addition, the Rotherham Local Plan 'Publication Sites and Policies' document allocates the site for 'Retail Use – District Centre' on the Policies Map. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS27 'Community health and safety'

CS28 'Sustainable Design'

CS29 'Community and Social Facilities'

Unitary Development Plan 'saved' policy(s):

ENV3.7 'Control of Pollution'

RET1.2 'Prime Shopping Streets'

Other Material Considerations

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

The Core Strategy/Unitary Development Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

Publicity

The application has been advertised by way of individual letters to adjacent occupiers and by a site notice displayed close to the site.

One letter of objection has been received from Wickersley Parish Council with a petition containing 11 names and addresses of parish councillors who wish to object individually to the proposals.

The objections raised by the Parish Council can be summarised as follows;

- An external bar is out of keeping with the area.
- It encourages external activity which is not in line with any licence issued.
- Outside serving is an additional facility which was not intended and therefore becomes a separate entity.
- The proposal pushes noise and disputes to the outside of the premises.
- Noise complaints are received for premises in Wickersley and an outside bar increases noise in the area.
- Where will security staff stand?
- The premises do not have considerable grounds therefore an outdoor bar is not justified.
- Will set an unwelcome precedent for other establishments to follow.
- Are the security staff there in anticipation of the need to control outdoor drinking patrons?
- Business development and culture in Wickersley should not be at the expense of making it an undesirable village for residents or turning it into a town centre alternative for a night life ambience.

Two of the named parish councillors have put their names forward to speak at the Board meeting on behalf of the Parish Council.

The applicant has also requested the Right to Speak at the meeting.

Consultations

Streetpride (Transportation and Highways) Unit: Raise no objections in terms of highway safety.

Neighbourhoods (Environmental Health): Note that Wickersley has a thriving night time economy with all the bars in the vicinity being extremely busy. They consider that there is potential from noise nuisance with more patrons being encouraged to drink at the outside bar. In consideration of this they recommend that the use of the external bar closes at midnight at the latest.

Appraisal

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall 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. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The main issues to take into consideration in the determination of the application are –

- The principle of the development
- The visual appearance
- General amenity issues

The principle of the development:

The application relates to an existing bar which is located within an area allocated for Retail use in the adopted Unitary Development Plan and is situated adjacent to retail premises and other drinking establishments.

Policy RET1.2 'Prime Shopping Streets' requires proposed developments to contribute to the vitality and viability of the centre and not to undermine its retail character and function.

The NPPF at paragraph 19 states: "The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system."

The NPPF at paragraph 23 states that "Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should: (amongst other things)

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;"

Furthermore the NPPF at paragraph 70 states that "To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural

buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community;”

The area to the front of the premises has been used as far back as 2008 as an outside drinking area, initially with removable tables and chairs within an area enclosed by movable barriers. The principle of the installation of a portable bar and fixed seating and tables to serve the existing use as a wine bar is therefore considered to be acceptable in this location.

The visual appearance:

In assessing the design of the proposals in relation to the existing building and the locality Core Strategy Policy CS28 ‘Sustainable Design,’ requires that development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.

The NPPF notes at paragraph 56 that: “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The National Planning Policy Guidance (March 2014), further notes that “Development proposals should reflect the requirement for good design set out in national and local policy. Local Planning Authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations. The NPPG further goes on to advise that: “Local Planning Authorities are required to take design into consideration and should refuse permission for development of poor design.”

The outside bar, seating and tables are all constructed in quality timber to a good standard and with the inclusion of planters to the front are considered to enhance the visual amenity of the area.

As such the proposals are considered to be acceptable and to comply with the requirements of the above policies and guidance.

General amenity issues:

With regard to residential amenity issues, ‘saved’ UDP Policy ENV3.7 ‘Control of Pollution,’ states that “The Council in consultation with other appropriate agencies will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport.”

Core Strategy policy CS27 'Community Health and safety' notes that "Noise and vibration can be a serious cause of nuisance and can affect quality of life. Planning can make sure that potential noise creating uses, including industrial processes or some recreational activities, are not in places where they would be likely to cause nuisance."

The NPPF further notes at paragraph 123 that: "Planning ... decisions should aim (amongst others) to:

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

The NPPG states that "Some commercial developments including fast food restaurants, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity."

Objections have been raised from members of Wickersley Parish Council with regard to the potential increase in noise arising from the use of the outside bar area.

The closest residential properties are located to the rear of the property approximately 50 metres away from the position of the bar and seating area. Whilst it is acknowledged that the proposed use of the outside bar may result in an increase in noise levels due to more people using the outside area, it should be noted that this area is already in use as an outdoor drinking area and is located to the front of the premises adjacent to the busy classified highway.

Additionally there are several other drinking establishments in close proximity to the site including The Masons, The Courtyard and The Three Horseshoes, (all of which have outdoor seating/drinking areas), in addition to several restaurants and take-aways.

The Masons and The Three Horseshoes, having a long established use, have no restrictions on opening hours, from a planning point of view. Current planning permissions restrict the opening hours of The Courtyard to 0900-0030 Monday to Saturday, 1000-0000 on Sundays and The Olive Lounge 1100-0100 Monday to Saturday, 11.00-2330 on Sundays.

The Licencing Authority has confirmed that the premises have a licence to open the outside bar every evening until Midnight.

The NPPG advises that the adverse effect of noise can be mitigated by using planning conditions/obligations to restrict activities allowed on the site at certain times. Whilst a premises licence has been issued under the Licencing Act allowing the bar to be used every night until Midnight this is subject to compliance with any planning restrictions.

In consideration of potential late night noise disturbance to the occupiers of dwellings on nearby streets it is therefore recommended that conditions be imposed on any planning approval granted restricting the use of the outside bar to Monday – Saturday until midnight and Sundays until 2300 ensuring that it would close half an hour earlier than the internal bar. Additionally a condition preventing any music being played outside the premises is also recommended.

Taking all of the above into account, and having regard to the fact that Neighbourhoods (Environmental Health) have no objections to the proposals, other than restricting the time of operation, it is considered that, subject to the recommended conditions, the proposal would not generate a significant increase in the noise levels over and above those which currently exist at the premises.

Conclusion

In conclusion, taking into account the location of the bar and seating area in a busy retail area where there is currently a vibrant night time economy it is considered that the retention of these facilities would not be detrimental to either the visual appearance of the locality or, subject to the recommended conditions, result in any significant increase in the current level of noise and activity in the area.

The application is therefore recommend for approval subject to the following recommended conditions.

Conditions

01

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

(Drawing numbers BR07-2)(received 12 August 2016)

Reason

To define the permission and for the avoidance of doubt.

02

The external bar hereby permitted shall only be open to customers or for deliveries between the hours of 1100 – Midnight on Mondays to Saturdays and 1100 – 2300 on Sundays.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

03

No external music shall be played outside the premises.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

POSITIVE AND PROACTIVE STATEMENT

The applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application. The application was submitted on the basis of these discussions, or was amended to accord with them. It was considered to be in accordance with the principles of the National Planning Policy Framework.