

Committee Report

Application No:	DC/17/01160/FUL
Case Officer	David Morton
Date Application Valid	20 October 2017
Applicant	Mr Paul Walker
Site:	The One Eyed Stag Micro Pub 5 The Square Whickham Newcastle Upon Tyne NE16 4JB
Ward:	Whickham North
Proposal:	Variation of Condition 3 (opening hours) of planning approval DC/17/00067/FUL to allow opening on Sundays and Public Holidays until 2330 (currently restricted to 2230) and New Year's Eve into New Year's Day until 0145.
Recommendation:	GRANT
Application Type	Full Application

1.0 The Application:**1.1 DESCRIPTION OF THE SITE**

The application site is located within The Square, Whickham. The application site is a single storey, flat roofed, unit; the previous use was as a Post Office (Use Class A1). Consent was granted in September 2016 (DC/16/00728/COU) for the change of use of the premises to a drinking establishment (Use Class A4). Subsequently, permission was granted in March 2017 to allow extended hours of operation (DC/17/00067/FUL).

1.2 The remainder of The Square is made up of a hot food takeaway, a restaurant, bookmakers, a funeral directors and an estate agent.

1.3 The front elevation of the unit faces onto Front Street to the south. Back Row rises to the west and bends round the rear of the site. There is an open area at the rear of the site which can be accessed from Back Row, this area is used as a communal loading area and as an access for the commercial garage to the rear.

1.4 Residential properties are situated on the opposite side of Front Street and 1-5 Jasmine Villas (also residential dwellings) are located between The Square and The Bridle Path Public House, to the west of the application site. There is a public car parking area adjacent to the south of the site which extends across The Square, access to which is gained from Front Street.

1.5 The application site is located within Whickham Conservation Area and within Whickham Main District Centre.

1.6 DESCRIPTION OF THE APPLICATION

The principle of the proposed development has been established through the granting of planning applications DC/16/00728/COU and DC/17/00067/FUL. These approvals considered issues of principle, visual amenity, heritage assets, residential amenity and highway safety. The development, subject to conditions, was considered acceptable in all regards.

1.7 The latest planning application seeks the variation of Condition 3 of planning approval DC/17/00067/FUL to allow the extension of the operating hours of the premises; the operation of the site is currently restricted to between the hours of 0900 and 2330 Monday to Saturday and 1000 and 2230 on Sundays and Public Holidays and at no other times.

1.8 The application seeks amendment to Condition 3 to allow operation between the hours of 1000 and 2330 on Sundays and Public Holidays and to allow operation until 0145 on New Year's day.

1.9 RELEVANT PLANNING HISTORY

The planning history relevant to the current planning application is summarised as follows;

- DC/16/00729/ADV; Advertisement consent granted for 'Display of externally illuminated static sign (700mm x 6700mm) onto existing fascia reading "The One Eyed Stag".' Date; 06 September 2016.
- DC/16/00728/COU; Planning permission granted for 'Change of use of the property from A1 (retail) to A4 (drinking establishment).' Date; 15 September 2016.
- DC/17/00067/FUL; Planning permission granted for 'Variation of Condition 3 (Hours of Operation) of permission DC/16/00728/COU, to allow operation between the hours of 0900 and 2330 Monday to Saturday and between 1000 and 2230 on Sundays and Public Holidays and at no other times (unless otherwise approved in writing) (currently restricted to between the hours of 1130 and 2330 Monday to Thursday, 1100 and 2300 Friday and Saturday and 1200 and 2200 on Sundays and Public Holidays and at no other times).' Date; 09 March 2017.

2.0 Consultation Responses:

None

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. A total of 11 objections and 39 letters of support have been received.

3.2 The letters of objection are summarised as follows:

- The premises have created noise;

- The operator allows outside drinking;
- The doors of the premises were wedged open during the summer;
- The premises have affected the ability to sell properties;
- The '*drinking culture*' within Whickham is not conducive with a residential area.
- The proposal would lead to noise and disturbance;
- The granting of consent would not comply with the NPPF (in regards to noise) and;
- The premises have created anti-social behaviour.

3.3 The letters of support are summarised as follows:

- There is no unacceptable impact on residential of visual amenity;
- The additional opening hours adds to the range of facilities;
- The proposal would not lead to unacceptable noise or activity;
- Extra facilities help with competition;
- Extended opening hours aid with the policing of the area (due to increased activity);
- The proposal is unlikely to lead to any traffic increase;
- The site does not attract '*vociferous*' clientele;
- Other premises in the area have later opening hours and;
- The pub is well managed.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV7 Development within Conservation Areas

ENV61 New Noise-Generating Developments

RCL1 Retail Hierarchy

RCL5 District and Local Centres

RCL6 Food and Drink Uses

CS7 Retail and Centres

CS13 Transport

CS14 Wellbeing and Health

5.0 Assessment:

- 5.1 It is considered necessary to consider the application in regard to changes in site circumstance, planning policy and any implication with regard to the amendment of the planning condition.
- 5.2 **POLICY BACKGROUND**
The principle of the proposed development has already been considered to be acceptable through the approvals of DC/16/00728/COU and DC/17/00067/FUL. The principle of the change of use has been established and there are two extant consents in place on the application site.
- 5.3 Both of the previous applications were considered under the NPPF and were considered to be acceptable. National planning policy has not altered following the determination of these applications.
- 5.4 Further, local planning policy has not changed significantly following the grant of the previous approval. The Unitary Development Plan for Gateshead was adopted in 2007 and the remaining saved policies together with the CSUCP (adopted in 2015) represent a current up-to-date development plan.
- 5.5 **CONDITION 3 (HOURS OF OPERATION)**
The key issue to be assessed in relation to this application is the impact the amendment to Condition 3 would have on the amenity experienced in the area, in terms of noise and disturbance.
- 5.6 The National Planning Policy Framework (Para. 123) states that planning decisions should *"avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development"* and that decisions should *"mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions"*.
- 5.7 As a reflection of the national planning policies and specific guidance of noise generating development, saved UDP policy ENV61 (new noise-generating development) states that new noise generating development will not be permitted if it causes an unacceptable increase in noise levels.
- 5.8 The application proposes to allow one hour of additional trading in the evening on Sundays and Public Holidays, and also either an additional 2 hours and 15 minutes or 3 hours 15 minutes on New Year's Eve into New Year's Day, depending on whether New Year's Eve happens to fall on a Sunday.
- 5.9 It is considered that the amendment to the opening hours would inevitably lead to some impact from associated comings and goings.

- 5.10 However, it is considered that the proposal must be considered in its context. The application site is a former retail unit located within a main district centre.
- 5.11 In assessing the original change of use application Officers concluded;
"It is considered that the proposed hours of operation and the number of patrons is comparable with other premises within the immediate vicinity e.g. the Jamdani restaurant. As such, it is considered that the general operation of the proposed micro-pub would be unlikely to have any significant amenity impact, subject to the conditioning of the proposed opening hours."
- 5.12 The applicant through their submission has forwarded two main arguments in support of the proposed variation of condition;
1. The other commercial, late-night, premises which trade within the immediate vicinity have longer operating hours than the application site and trade without issue;
 2. The impacts of the proposed extension of operating hours would be intangible for the following reasons;
 - a. The activity would be confined within the premises and its access;
 - b. There is a busy main road which itself produced background noise. The properties opposite the site are located a long way from The Square and the bus service runs late into the night.
 - c. Properties located adjacent to a commercial unit experience lesser levels of amenity than those which are not.
 - d. The property is the only pub on The Square and as such it does not represent a 'boozing strip'.
 - e. The units within The Square have a greater impact on amenity than the application site.
- 5.13 Further, the applicant states that the proposal would have the following benefits *'... the extension of availability of this facility to its customers; extended employment opportunities; and, increased economic activity within the City.'*
- 5.14 It is considered that the proposed development would lead to some additional impact on the amenities of neighbouring residents. It is considered that the arguments forward by the applicant (when considered as a whole) offer a reasoned justification in support of varying the proposed operating hours.
- 5.15 It is accepted that other uses within The Square operate beyond the hours of the application site and officers would agree that those properties located adjacent to commercial activities should expect some level of amenity impact into the evening. Further, officers agree that the busy main road creates a relatively high level of background noise which again would limit the impact of the proposed amendment of operating hours.
- 5.16 Based on the above, it is considered that the proposal would not be so significant as to result in a level of impact which would give rise to significant adverse impacts on health and quality of life and on that basis the variation of Condition 3 is considered to be acceptable in accordance with the NPPF, UDP

Policies ENV3 and ENV61 and Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (CSUCP).

5.17 CONDITIONS

The current application, given it would grant a new planning consent, allows an opportunity to re-consider the conditions attached to permission DC/17/00067/FUL.

- 5.18 Given the conditions attached to the original application are compliance conditions and remain relevant, it is considered necessary to reattach all other planning conditions (other than the time limit condition). Further to the extension proposed by the applicant, officers are of the view that extending the operating hours of the premises to allow opening from 0900 on Sundays is appropriate and would not result in any unacceptable impacts.

5.19 OTHER MATTERS

Objectors reference the fact patrons consume alcohol outside of the premises; the planning application relates solely to the building and not to external areas. Further the licence for the premises does not permit outside drinking. It is considered this is not a reason to withhold consent for additional opening hours. Any breach of planning control, were that to arise should be pursued separately.

- 5.20 It is considered that all other material issues raised by objectors have been addressed within the main body of the report.

6.0 CONCLUSION

- 6.1 Following full consideration of policies contained in the Council's Unitary Development Plan, the CSUSP, national planning policy and all other material planning considerations it is considered that the development should be granted planning permission subject to conditions.

7.0 Recommendation:

That permission be GRANTED subject to the following condition(s) and that the Strategic Director of Communities and Environment be authorised to add, vary and amend the planning conditions as necessary:

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

Location Plan

Site Plan

16-006-01 - Existing Plan Layout

16-006-02 - Proposed Floor Layout

16-006-03 - Existing Sections

16-006-04 - Proposed Sections

16-006-05 - Existing and Proposed Shopfront

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The use hereby approved shall be restricted to between the hours of 0900 and 2330 seven days a week, between the hours of 0900 and 0145 on New Year's Eve into New Year's Day and at no other times.

Reason

To ensure that no disturbance is caused to neighbouring properties as a result of unreasonable trading hours at the premises in accordance with the NPPF, saved Policies, DC2 and ENV61 of the Unitary Development Plan and Policy CS14 of the CSUCP.

3

No deliveries and/or refuse disposal (servicing) shall take place between the hours of 2000 and 0800.

Reason

To ensure that no disturbance is caused to neighbouring properties as a result of unreasonable trading hours at the premises in accordance with the NPPF, saved Policies, DC2 and ENV61 of the Unitary Development Plan and Policy CS14 of the CSUCP.

4

No amplified sound system or similar equipment shall be installed or used on the premises at any time.

Reason

To ensure that no disturbance is caused to neighbouring properties as a result of unreasonable noise levels at the premises in accordance with the NPPF, saved Policies, DC2 and ENV61 of the Unitary Development Plan and Policy CS14 of the CSUCP.



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