

**Committee Report**

<b>Application No:</b>	<b>DC/17/00067/FUL</b>
<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>26 January 2017</b>
<b>Applicant</b>	<b>Mr Paul Walker</b>
<b>Site:</b>	<b>The One Eyed Stag 5 The Square Whickham Newcastle Upon Tyne NE16 4JB</b>
<b>Ward:</b>	<b>Whickham North</b>
<b>Proposal:</b>	<b>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).</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Full Application</b>

**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), works have since commenced. The other units which make up The Square comprise a hot food takeaway (A5), a restaurant (A3), a bookmakers (A2), a funeral directors (A1) and an estate agent (A2).

1.2 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.

1.3 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. Land levels on the site drop relatively steeply from north to south.

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

1.5 DESCRIPTION OF THE APPLICATION

The principle of using the building as a drinking establishment has been established through the granting of planning application DC/16/00728/COU. The approval, which has been commenced, considered issues of principle, visual amenity, heritage assets, residential amenity and highway safety. The development, subject to conditions, was considered acceptable in all regards.

1.6 The application seeks to vary Condition 3 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).

1.7 The currently approved operating hours and proposed hours are set out in further detail below;

<b>Day</b>	<b>Approved Hours</b>	<b>Proposed Amended Hours</b>
<i>Monday</i>	1130 - 2230	0900 - 2330
<i>Tuesday</i>	1130 - 2230	0900 - 2330
<i>Wednesday</i>	1130 - 2230	0900 - 2330
<i>Thursday</i>	1130 - 2230	0900 - 2330
<i>Friday</i>	1100 - 2300	0900 - 2330
<i>Saturday</i>	1100 - 2300	0900 - 2330
<i>Sunday (and Bank Holidays)</i>	1200 - 2200	1000 - 2230

1.8 RELEVANT PLANNING HISTORY

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

- DC/16/00729/ADV; Advertisement consent granted for for 'Display of externally illuminated static sign (700mm x 6700mm) onto existing fascia reading "The One Eyed Stag".' Date; 06 September 2016.
- 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.

**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 ten objections from local residents have been received, the objections are summarised as follows;
- The development would not '*... aid in the promotion of the licencing objectives...*'
  - The proposal would result in a negative impact on amenity.
  - The development would impact on Whickham Conservation Area.
  - The development would lead to further parking issues.

### **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 Hierachy

RCL5 District and Local Centres

RCL6 Food and Drink Uses

CS7 Retail and Centres

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

GPGSPD Gateshead Placemaking Guide SPG

### **5.0 Assessment:**

- 5.1 As the principle of a drinking establishment has been approved previously, 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 since this decision was made.

## 5.2 POLICY BACKGROUND

The principle of the proposed development has already been considered to be acceptable through the approval of DC/16/00728/COU and there is an extant consent in place on the application site.

5.3 The previous application was considered under the NPPF and was considered to be acceptable. National planning policy has not altered following the determination of the original planning application.

5.4 Further, local planning policy has not changed 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 is the impact the amendment to Condition 3 would have on the residential amenity of the adjacent occupiers, in terms of noise and disturbance.

5.6 The National Planning Policy Framework 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 therefore proposes to allow longer opening. It is considered that the amendment to the opening hours would inevitably lead to some impact from associated comings and goings.

5.9 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.

5.10 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."*

5.11 Therefore, the applicant has provided additional information in support of the proposed development by expressing the importance of 'drinking up' time;  
*"... if we don't have this [drinking up time] our evening customers will all leave at the same 'drop dead' closing time. Allowing people to leave*

*spread across a 30 minute period will ease the flow of customers away from the property, which will minimise noise from conversation, however a drop dead time will increase this. It will also ease the flow of taxis and car noise for those wishing to travel using that mode across a 30 minute period and it will ease the number of customers standing in the bus stand waiting for public transport after closing."*

- 5.12 The applicant has also provided additional information on other licenced premises within the wider area (The Bridal Path and The Crown), which operate to later in the evening with time given over for 'drinking up' time.
- 5.13 Further, the applicant has indicated that they do not intend to sell alcohol during the morning operating hours and this time is intend to allow the premises to '... trade as a coffee shop each morning providing a facility for locals...'
- 5.14 Based on the above, it is considered that the proposed variation of condition is appropriate in this instance. The amendment would result in some additional activity in the mornings; however this impact would be akin to that of a retail shop or similar premises which would operate at the same time. Further, it is considered that the amendment to the even operating times allow for patrons to leave the premises over a period of time.
- 5.15 Based on these factors 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).
- 5.16 **CONDITIONS**  
The current application, given that it would grant a new planning consent, presents an opportunity to re-consider the conditions attached to permission DC/16/00728/COU.
- 5.17 Given the conditions attached to the original application were compliance conditions and remain relevant, it is considered necessary to reattach all other planning conditions.
- 5.17 **OTHER MATTERS**  
It is considered that the proposed development would not lead to a significant highway impact given the level of traffic generated by patrons.
- 5.18 It is considered that the development would not lead to any impact on Whickham Conservation Area; the application proposes no physical alterations to the external appearance of the premises (other than signage which has been approved).
- 5.19 Issues raised in regard to licencing are not material to the planning decision, these matters can be considered (where appropriate) through licencing consent.

5.20 It is considered that all other issues raised by the 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:**

7.1 That permission be GRANTED subject to the following condition(s):

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 development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3

The use hereby approved shall be restricted to between the hours of 0900 and 2330 Monday to Saturday, 1000 and 2230 on Sundays and

Public Holidays and at no other times (unless otherwise approved, in advance, in writing by the Local Planning Authority).

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 deliveries and/or refuse disposal (servicing) shall take place between the hours of 2000 and 0800.

Reason

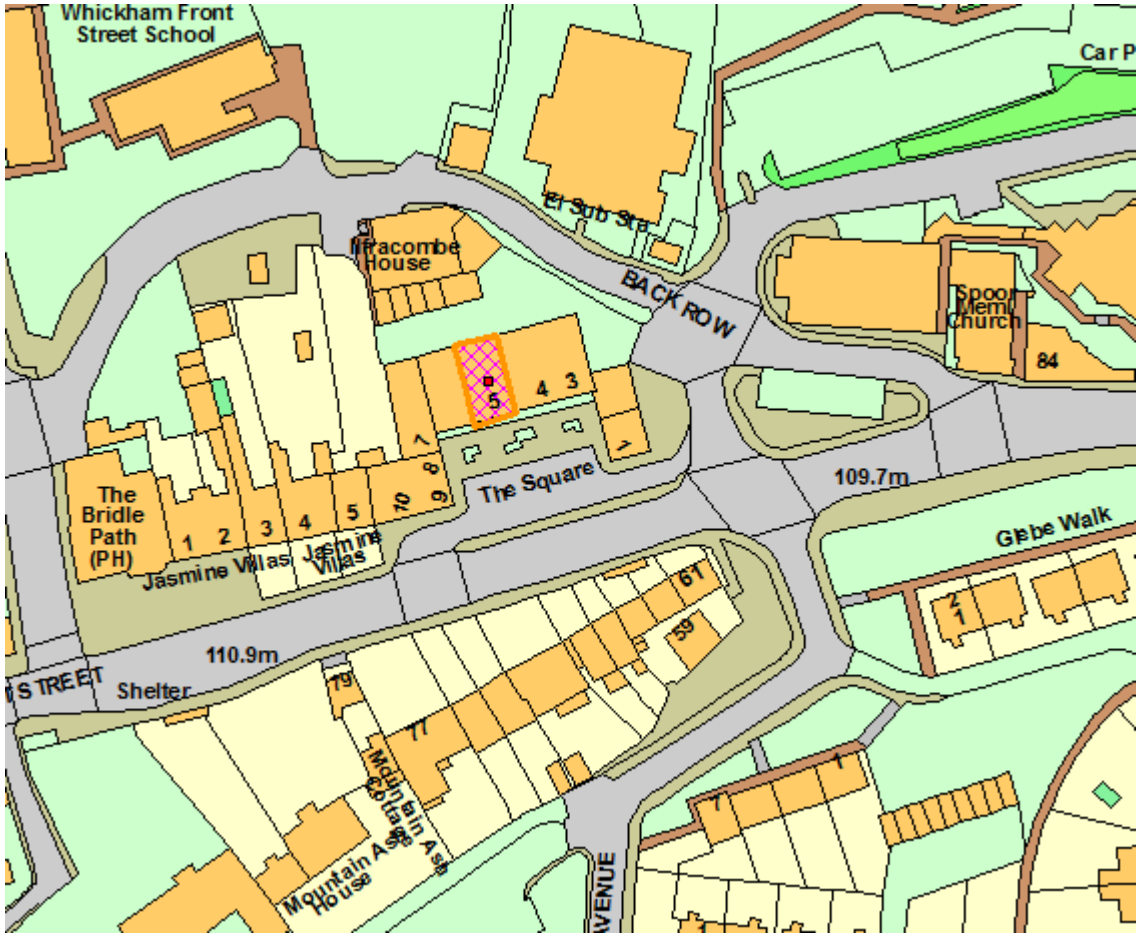
To ensure that no disturbance is caused to neighbouring properties as a result of unreasonable trading hours at the premises in accordance with the NPPF, saved Policies, DC2 and ENV61 of the Unitary Development Plan and Policy CS14 of the CSUCP.

5

No amplified sound system or similar equipment shall be installed or used on the premises at any time unless otherwise approved in writing by the Local Planning Authority.

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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