
2021/1503

Variation of conditions 3 (hours of operation), 5 (noise management plan), 6 (live music restriction) and 7 (cycle storage) of planning permission 2019/0801 – Change of use to Coffee Shop and Micro Pub

66 Agnes Road, Barnsley S70 1NH

Site Location and Description

The application relates to a corner unit on the terraced streets of Agnes Road and Spring Street. The property fronts onto Agnes Road. It was previously used as a photographers studio.

The area is predominantly residential with an adjacent beauty salon and a small group of retail/commercial units starting around 30 metres to the east.

Agnes Road frontage

Spring Street frontage



Planning History

2019/0801 – planning permission granted for change of use to coffee shop and micro pub (class A4) – including conditions

- restricting the hours to 10am to 22:30
- requiring a noise management plan to be adhered to
- restricting live music at any time
- requiring bike storage to be agreed and implemented at the front of the property

Proposal

The application proposes to amend four conditions as set out above to allow:

- opening hours to be extended Friday and Saturday by a further half an hour to 23:00
- opening hours to be further extended on Christmas Eve to midnight and on New Year's Eve to 1am
- revisions to the noise management plan
- live music to 10:30 but without amplification.
- to remove the bike storage condition as the area is now used for outdoor seating.

The applicant has submitted a number of letters in support of the application which advise that:

- We've only ever had one complaint regarding noise with music back in August.
- We have had large local support
- We want clarification as to if the live music is to go ahead what type of live music would be acceptable as we might just have a single singer
- We are a business that contributes to the community including holding charity events.
- We comply with all procedures from planning and licensing
- A noise survey would be a massive cost to us as a new small business
- We are having the window covered and the large door covered.
- We would like to resolve what we can do as soon as possible as we are planning to hold a charity event on the Queens Jubilee
- We have been awarded the CAMRA Barnsley pub of the year

Although during the processing of the application, the applicant agreed to withdraw the variation to condition 6 (restriction on live music) they have more recently indicated that they want clarification as to what live music they might be allowed. The application has been determined on the basis that they are applying to have live music.

Policy Context

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making.

The new Local Plan was adopted at the full Council meeting held 3th January 2019 after it was found to be sound by the appointed Planning Inspector following the examination process. This means that it now takes on full weight for decision making process in planning law terms as the development plan for the Borough, superseding the remaining saved policies from the Unitary Development Plan (adopted in the year 2000) and the Core Strategy (adopted in 2011).

Local Plan

The site is allocated as Urban Fabric and therefore the following policies are relevant:

Policy Poll1 Pollution Control and Protection – sets criteria to ensure that new development does not unacceptably affect or cause nuisance to the natural and built environment or to people; or suffer from unacceptable levels of pollution.

Policy E5 Promoting Tourism and encouraging Cultural Provision – we will promote and encourage the growth and development of cultural provision; safeguard and sustain existing cultural provision; promote the existing cultural provision and tourism offer (including hospitality); and encourage the growth of the tourism sector.

Policy SD1 Presumption in favour of Sustainable Development – indicates that we will take a positive approach reflecting the presumption in favour of sustainable development in the National Planning Policy Framework and that we will work proactively with applicants to find solutions to secure development that improves the economic, social and environmental conditions in the area

Policy GD1 General Development - sets a range of criteria to be applied to all proposals for development.

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Para 80 – planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

Para 185 – Planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment.

Consultations

Pollution Control – Although the extension to hours is small, the premises are not well insulated against noise and there are residential neighbours in close proximity. Complaints have been received previously and the current planning permission has been breached. I have met the applicant and discussed the requirements of a comprehensive noise management plan which needs to be agreed before the hours can be permanently extended. It is further recommended that noise insulation would be required before live music can be allowed on the premises.

Highways DC – Taking into consideration that it appears the predominant use of the site is as a Pub rather than a Coffee Shop, I would anticipate that cycle storage provision would be somewhat under utilised. However, I note that the submitted information states that provision will be made to store bicycles within the building should the necessity arise which will still allow customers to cycle to the venue if they so wish. As such, this variation of conditions application is considered acceptable from a highways point of view

Ward Councillors –No responses.

Representations

The application has been advertised via letters direct to neighbours as well as a site notice displayed for the period 25 November to 16 December

79 letters of support have been received from residents of the local area and as far afield as Swinton, Hoyland and Wakefield, making the following comments:

1. Heaven & Ale has really added to the sense of **community** in the area
2. It would be beneficial if the pub could be used for local events and group meet-ups too
3. Various groups use this traditional style pub for book clubs, quiz nights, open mic night and Barnsley Hospice fund raising social.
4. A **function room upstairs** has wedding parties, birthday parties and other events.
5. Pub would benefit from and we support **live music/entertainment** (which will support young creative performing artists) and food both during the day and in the evenings

6. Don't believe that live music causes a disturbance in the neighbourhood; previous live music event was family friendly, unobtrusive and done in very respectful manner with consideration for the local community, from outside the noise that could be heard was minimal.
7. No trouble, **family friendly** atmosphere, wide age range of clientele, fantastic venue, **character** is different from other local or town centre bars
8. Would be nice if Barnsley council could be seen to **support a new local business** to develop and thrive
9. Support the extension of **hours** including over the Christmas period/ New Years eve
10. Management of the pub includes monitoring noise levels, noise consideration notices and bringing customers inside from 9pm – the management team/owners are considered to be responsible and able to contain noise levels to within an acceptable level
11. Comment that loud music can be heard from town at weekends; and most pubs are open til 11pm or midnight, 10:30pm last orders is crazy
12. Next door but one neighbour (separated by beauty salon) supports the proposal.
13. Resident of Wakefield drives 20 minutes and considers this her local.
14. This is the only pub in the area

Three letters of objection have been received from local residents, the first two letters received during the consultation period stated:

1. Objects specifically to condition 6 (no live music) – property is attached to the back of the venue and shares walls that are thin enough to hear voices and other noises – this doesn't cause disruption. There have been two live music performances to date, which could be heard clearly and loudly throughout the entire house. Any future live music events will no doubt be a major disturbance and prevent me from enjoying my own home.
2. Indicates that open mic night was a problem. Suggests that the first floor barn-like door is a likely source of noise as laughing, shouting and general rowdiness can be heard even without a PA system in place. During events residents have to close their windows to block out excessive noise. One neighbour is an HGV driver whose shifts start at 2am and finds the prospect of noise up to to 11pm during live music events is likely to cause disturbance.
3. One resident states they don't have any objections to condition 7 (cycle storage)
4. Note the original permission was for a coffee shop/micro pub but there is no coffee shop use. Didn't object to that application as understood a micro pub to be a one room pub with a bar. As operating at the moment there are four rooms.
5. Acknowledge the transformation and much improved appearance

The third letter of objection was received in January and stated:

1. There were a number of disruptions over the festive period from the property when they were opening later than usual, including patrons leaving the venue.
2. There was no live music over the festive period but the laughing and cheering from patrons using the upstairs function room was heard at considerable volume despite all windows and doors being closed because of that barn-style door not providing any soundproofing.
3. Should the proposed changes be made permanent it will significantly effect the quality of our home life.

Assessment

Principle of Development

The principle of the use has been established by the existing planning permission. This application is solely concerned with the conditions imposed on the planning permission.

Residential Amenity

The original planning permission only indicated the use of the ground floor of the premises. However, there is nothing in the planning permission to prevent the use of first floor as well and this is what has happened and at site visit it appears the premises has seating indoors for just over 100 people, as well as outdoor seating for 8-12 people. The planning permission also indicates that the use of the property is for a mixed use as a coffee shop and micro pub, but it is currently in use as a pub only.

The conditions 3, 5 and 6 as originally imposed sought to ensure that the use could operate in a predominantly residential area without causing harm to the amenities of local residents by reason of noise. The breach of condition was originally brought to the attention of the Council by complaint to planning enforcement, when this application was invited to regularise the breach of planning control.

The advice of pollution control has concluded that a comprehensive noise management plan needs to be agreed before the hours can be permanently extended and they further recommend that noise insulation would be required before live music can be allowed on the premises.

The applicant has also been advised that a noise survey would be required to evidence the existing background noise levels and to set a benchmark which any noise insulation would need to address noise from the premises.

The applicant has indicated that a noise survey would be a massive cost to us as a new small business; we are having the window covered and the large door covered; we would like to resolve what we can do as soon as possible as we are planning to hold a charity event on the Queens Jubilee; and we have been awarded the CAMRA Barnsley pub of the year.

However, the applicant hasn't supplied any details of the window and door covering that they are proposing. They have also confirmed that they would 'like a second opinion for opening hours on Christmas Eve and New Year's Eve and on the live music issue. They have also amended their submitted noise management plan such that it is the same as the existing approved noise management plan

Because of the quiet nature of the surroundings, because the use has expanded (without the need for further planning permission) and because the upstairs function room has a poorly fitted door at first floor level (light is visible through gaps) and windows with only single glazing, the extended opening hours on Christmas Eve and New Year's Eve and live music have caused unreasonable levels of noise disturbance to local residents. It is concluded that the extension of opening hours on Friday and Saturday nights only by half an hour to 11pm would not be likely to result in unreasonable levels of noise disturbance and this element alone is not considered unacceptable.

Highway Safety

Condition 7 as originally imposed required details of the means of storing two bicycles securely at the front of the premises to be agreed and implemented. The applicant wishes to remove this condition and the advice of the highway engineer is that use of the property as a pub (rather than a coffee shop) would be unlikely to require the provision of cycle storage provision for two bikes, and it is also noted that space will be made available inside the building for bike storage if required. It is therefore concluded that removal of this condition would be acceptable from a highways point of view.

Planning Balance

The proposal relates to a business which has in a short period of time established itself as a popular and valued pub. The proposed variation includes two elements which are not considered to be unacceptable (variation of the hours on Friday and Saturday nights to allow closing at 11pm, and removal of the cycle storage condition). However, given the concerns about the noise disturbance caused by the use operating until midnight and 1am on Christmas and New Year's Eve respectively and by live music events, it is concluded that permission should be refused for the proposed variation of conditions.

Recommendation

Refuse

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