
2024/0380

Mr John Blackburn

Change to vary conditions 2 (approved plans) and 12 (permitted opening hours) of planning permission 2022/0555 - Change of use of first floor to Shisha Bar/restaurant and associated external alterations including first floor balcony to front, roof terrace above second floor, fire escape staircase to side, glass parapet means of enclosure, second floor extension to side for storage purposes and lift shaft to side

The Mill, 10 Lower Castlereagh Street, Barnsley, S70 1AR

Site Location and Description

The site is an existing mixed two and three storey flat roofed building of buff and red brick that fronts onto its own car park but has frontages onto Lower Castlereagh Street, Wortley Street and Westway. The building appears to have been used for a predominantly storage and distribution use with some retail. The car park adjacent to the building is currently in use as a public car park.

The site is in a mixed commercial area of the town with uses including churches, retail and hot food takeaway and surface car parks in the immediate vicinity.

Site History

2023/0959 – Change of use of first floor to Shisha Bar/restaurant and associated external alterations including first floor balcony to front, roof terrace above second floor, fire escape staircase to side, glass parapet means of enclosure, second floor extension to side for storage purposes and lift shaft to side. (re-submission of 2022/0555) (Granted)

2023/0039 – Discharge of conditions 3, 4, 6, 7, 8, 9 and 11 of 2022/0555 (Granted)

2022/1133 – Variation of condition 12 (permitted opening hours) of permission 2022/0555 – change of use of first floor to Shisha Bar/restaurant and associated external alterations including first floor balcony to the front, roof terrace above second floor, fire escape to side, glass parapet means of enclosure, second floor extension to side for storage purposes and lift shaft to side. (Granted)

2022/0555 - Change of use of first floor to Shisha Bar/restaurant and associated external alterations including first floor balcony to front, roof terrace above second floor, fire escape staircase to side, glass parapet means of enclosure, second floor extension to side for storage purposes and lift shaft to side (Granted)

2021/0367 - Change of use to mixed use E(b) and Sui Generis – food and drink for consumption on the premises and drinking establishment), extension to roof height of the building, side extension to accommodate toilets and storage, external stairwell for all 3 floors, changes to the external facing materials and fenestration details (Granted)

2020/0727 – Demolition of workshop building to create surface car park (Granted)

B95/0106 – Change of use of former Royal Mail workshop to storage use and erection of boundary fencing. (Granted)

Proposed Development

The applicant proposes to vary two conditions of a permitted scheme for alterations to and change of use of the building. The application seeks to secure the permissions granted under previous variation, amendment and discharge of conditions applications in one single consent to allow

- the lift shaft to be moved from the west elevation of the building to the east end of the front elevation
- extended opening hours
- previously discharged conditions to be reflected in the consent.

As well as the new lift shaft, the originally permitted alterations include:

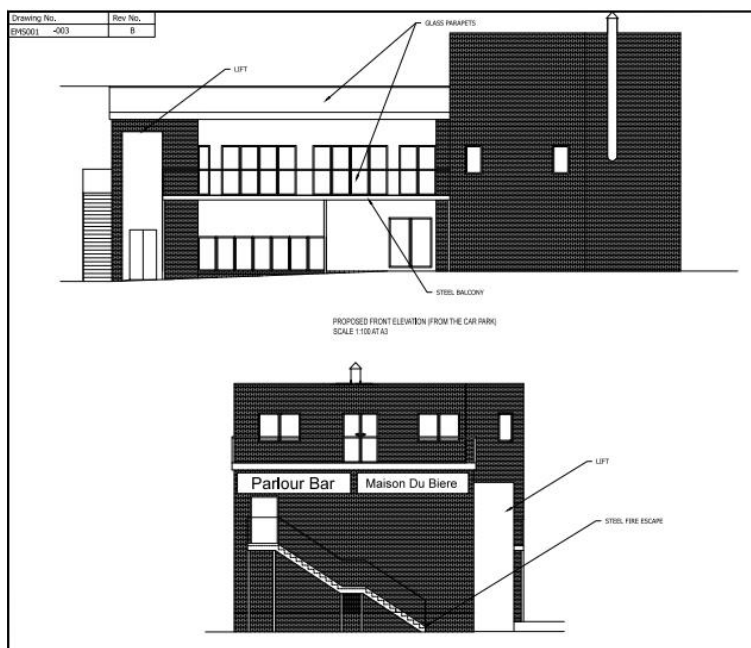
- The creation of a first-floor balcony with a glass parapet means of enclosure overlooking the car park
- The creation of a roof terrace above the first floor with a glass parapet means of enclosure
- A fire escape staircase to the side (east) elevation
- A second-floor extension to provide a storage area.

The proposed plans confirm that the first floor restaurant will have capacity for 70 people and that the roof terrace is intended as a smoking area only for restaurant customers. In response to the comments from Public Health, the agent has clarified that neither Building Control nor South Yorkshire fire brigade have raised any issues; and that there will be no Shisha smoking on the top floor/it is illegal to smoke inside and would set off the complicated alarm systems that have been fitted to the building.

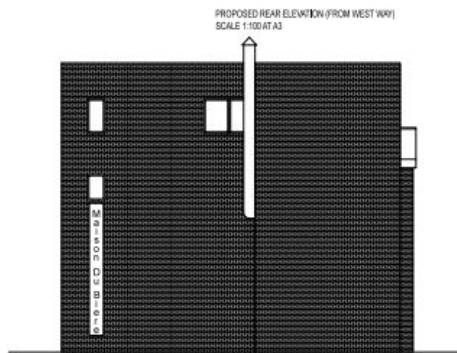
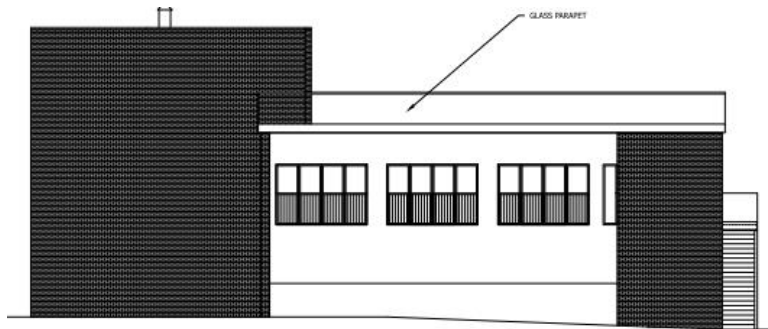
The change of use will allow for a restaurant and shisha bar on the upper floors.

The approved car park has been laid out and delineated and is in use.

Proposed front elevation and east side elevation



Proposed rear and west side elevations



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.

Local Plan

The Local Plan was adopted by the Council in January 2019. Council has also adopted a series of Supplementary Planning Documents which are other material considerations.

The Local Plan review was approved at the full Council meeting held on 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027 or earlier if circumstances require it.

The site is within an area allocated as Town Centre (and specifically Southgate) within the Local Plan Proposals Maps. The site is outside the primary shopping area. The following policies are relevant:

Policy TC1 Town Centres - indicates that new retail development will be directed to centres in order to maintain and enhance their vitality and viability and that a sequential approach will be used to assess proposals for new retail and town centre development outside the designated centres.

Policy BTC1 The daytime and evening economies - we will work with developers and operators to diversify the daytime and evening economies (particularly early evening) with preference given to uses which meet a range of criteria. Planning permission will be given to a range of leisure uses provided they meet a range of criteria.

Policy BTC2 late night uses - late night uses will only be encouraged in a closed list of locations in the town centre and will be supported where they meet a range of criteria.

BTC17 Southgate District – we will allow offices, residential development, assembly and leisure uses, hotel, food and drink uses and car parking within the Southgate District. Retail development will be allowed on Market Street, Pitt Street and as part of the mixed use development on the former Co-op Pioneer site on Peel Street.

HE1 The Historic Environment – Encourages developments which help the management, conservation, understanding and enjoyment of Barnsley’s historic environment.

HE3 Developments affecting Historic Buildings – Proposes involving additions or alterations to listed buildings or their setting should seek to conserve and where appropriate enhance that building’s significance.

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.

Policy T3 New development and Sustainable Travel – expects new development to be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians of cycles. Also sets criteria in relations to minimum levels of parking; provision of transport statements and of travel plan statements.

Policy D1 High Quality Design and Place Making – indicates that development is expected to be of high quality design and to reflect the distinctive, local character and features of Barnsley.

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.

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 90 - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Para 96. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles.

Para 126– Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities

Para 195 Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) in order to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Supplementary Planning Documents (SPD):

SPD Parking

Consultations

Conservation – No objections

Public Health – express concerns at the proposed shisha bar due to public health concerns relating to the Public Health programme to reduce smoking. Also, express concerns at the prospect of any Shisha smoking on the first floor which would be illegal; and at the lack of clear indication of fire exits from the top floor where smoking is proposed to take place.

Pollution Control – The proposed opening hours are acceptable

South Yorkshire Police – No comments

Ward Councillors – No response

Representations

The application has been advertised via site and press notices (Setting of Listed Building) between 21 June and 12 July; and letters have been sent to nearby premises; no comments have been received.

Assessment

Principle of development

The proposal relates to the upper floors of a vacant building which was last used for storage and distribution, being a use which does not fall within conventional town centre uses. The proposal is for it to be used for a town centre use which national and local planning policy supports in this town centre location.

The proposal is therefore supported in land use planning policy terms and permission has previously been granted. Consideration needs to be given to the proposed revision to the location of the lift shaft and the hours of use of the business.

Design and setting of listed building

The existing building has a somewhat utilitarian appearance that is considered to have a largely neutral impact on the setting of the nearby listed building. The previously approved extensions and alterations have been carefully considered and amendments were secured to ensure that as altered and extended the building will continue to have a neutral impact on the setting of the nearby listed building – in particular the position of the flue has been amended and a condition is recommended that it is given a black finish. The amended position of the lift shaft is considered to have less impact on the setting of the nearby listed

building. Previously discharged conditions relating to details relating to the materials of the lift shaft and the details of the new windows, doors and balcony are reflected in the recommended conditions. It is considered that the design of the alterations and extensions is acceptable and in compliance with Local Plan Policies D1 and HE3

Residential amenity

The nearest residents to the application building are off Nelson Street, some 50 metres away to the northwest (but screened by the Salem Church); 60 metres away to the northwest above a pub fronting onto Wellington Street; and 100 metres away to the west on the other side of Westway. The proposal includes a balcony on the first floor facing northwest across the on-site car park and a roof terrace on the top floor. Wellington Street is designated in the Local Plan as an area where late night uses are encouraged. Although the application site is not on Wellington Street itself, it is considered that it is closely related enough that the proposed late night use is considered acceptable.

The proposal to vary the condition restricting the open hours (from the authorised 10am -12 midnight Monday to Friday and 10am to 2am Saturday and Sunday) is to allow opening hours to be extended to 2am on Monday to Thursday and 4am on Friday to Sunday. These opening hours have previously been approved under planning application 2022/1133. The proposed variation to the open hours has not raised any objections from Pollution Control and is considered to be a reasonable adjustment that will continue to give certainty about the opening hours.

A previously discharged condition in relation to fixed building services plan is reflected in a recommended condition. Further condition to prevent the use of outside areas of the site without prior written approval; to prevent restaurant use of the roof terrace and to restrict amplified music and require windows and doors to be closed when amplified music is played inside the premises are recommended again in the interests of residential amenity

Public health

Objections have been received from Public Health relating to the principle of the proposed Shisha smoking use and to details of where smoking will take place and the apparent absence of safe means of exit.

This use of the building has already been granted on three previous occasions and it would be unreasonable to refuse this application which is only seeking to amend conditions relating to design and opening hours. The agent has confirmed that neither Building Control nor South Yorkshire fire brigade have raised any issues; and that there will be no Shisha smoking on the top floor as it is illegal to smoke inside. An informative is recommended reminding the developer to ensure that they have suitable Building Regulations for the proposed use; and reminding them that smoking on the first floor would be illegal.

Safe use of the building

Previously discharged conditions relating to the details relating to the use of prison weldmesh and the addition of a fire exit door to prevent accidents on or access to the stairwell are reflected in the recommended conditions in the interests of the satisfactory appearance and safety of the completed development

Highways safety/Parking

Highways officers have previously confirmed that there are no highway safety objections to the proposal, subject to the imposition of conditions relating to the use of the roof terrace, the provision of cycle parking and the submission of a Construction Method Statement. These are recommended, reflecting the previously discharged details of cycle parking and Construction Method Statement.

Recommendation

Grant subject to conditions