

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel (EAST) - 27 October 2015
Planning Application Report of the Planning and Development Manager

Application address: 18A Upper Banister Street, Southampton, SO15 2EF.			
Proposed development: Change Of Use From Restaurant (Class A3) To Bar (Class A4).			
Application number	15/01624/FUL	Application type	FUL
Case officer	Laura Grimason	Public speaking time	5 minutes
Last date for determination:	30/10/2015 (Extended)	Ward	Bevois
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors	Cllr Burke Cllr Rayment Cllr Barnes

Applicant: Brewdog Bars	Agent: Firstplan
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Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations as set out at planning panel on the 27th October 2015 have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with the development plan as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP9, SDP15 and RE17 of the City of Southampton Local Plan Review (as amended 2015); CS1 and CS13 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015); AP5 and AP8 of the City Centre Action Plan (March 2015).

Appendix attached			
1	Development Plan Policies	2	Recent approvals for residential development.
3	Premises Management Plan	4	Site Plan

Recommendation in Full

Conditionally approve

1.0 The site and its context

- 1.1 The application site is a two storey property located on the eastern side of Upper Banister Street and within the Carlton Crescent Conservation Area. This property is currently used as an A3 restaurant with seating at both ground and first floor level.
- 1.2 The application site is located within a designated late night zone. The surrounding area has a diverse character with offices in the immediate vicinity and other restaurant and bar uses further down Upper Banister Street and also along Carlton Place and Bedford Place.

2.0 Proposal

- 2.1 Permission is sought for a change of use from a restaurant (Class A3) to a bar (Class A4). BrewDog, the intended occupiers, is a specialist brewer of premium craft beers which has 20 specialist bars in the UK and 30 bars worldwide.
- 2.2 As a result of this proposal, a new bar would be established at ground floor level with associated seating at ground and first floor level. A kitchen would be retained at ground level providing food at all times.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4.0 Relevant Planning History

- 4.1 In 2005, conditional approval (ref.05/01599/FUL) was granted for the change of use of the property from A1 (retail) to A3 (restaurant). This permission restricted the use to 10:30 pm with closing required by 11:30 pm on Friday and Saturday.
- 4.2 In 2003, conditional approval (ref.03/00418/FUL) was granted for a part change of use from a workshop (class B1) to retail (class A1).

5.0 Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and

nearby landowners, placing a press advertisement 21/08/2015 and erecting a site notice 21/08/2015. At the time of writing the report **48** representations (**40 in support and 8 objecting**) have been received from surrounding residents. The following is a summary of the points raised:

5.2 Support Comments:

- 5.2.1 BrewDog is a responsible company who caters for a more mature client base and encourages sensible and responsible drinking.
- 5.2.2 The layout of the existing building is well suited for conversion to a bar.
- 5.2.3 The proposed use would encourage patrons to eat as well as drink by the provision of food throughout the day and into the evening.
- 5.2.4 The site is no longer viable for use as a restaurant and this would establish an appropriate alternative use.
- 5.2.5 The impact of the scheme on the local areas has been exaggerated and local residents do not suffer as much as is claimed by objectors.
- 5.2.6 The nature of the proposed use doesn't differ greatly from that of the existing. Both uses provide food and alcohol.

5.3 Objection Comments

- 5.3.1 Residents and commercial uses in the area already suffer from noise, disturbance and antisocial behaviour from nearby bars.

Response: The application site is located within a designated late night zone according to policy AP8 of the City Centre Action Plan. The proposed A4 (bar) use is therefore, considered to be acceptable in this location. The existing A3 (restaurant) use is a late night use and this scheme would not subsequently introduce a new late night use in this location. The applicant has submitted a 'Premises Management Plan' which outlines a series of measures to address noise, disturbance and anti-social behaviour and these measures are considered to be acceptable. A copy of this is provided at Appendix 3.

- 5.3.2 The proposed use will be detrimental to the residential amenities of nearby residents.

Response: The application site is located within the City Centre which is characterised by a diverse mix of uses. Residents who choose to live in this city centre location are aware of the environment that they are moving into given the mixed use nature of the area. The City Council's Environmental Health team have raised no objection to the proposed use. A number of conditions have been recommended to minimise the impact of the proposed use on the residential amenities of any nearby residents. These are considered to be sufficient.

- 5.3.3 There is no outdoor smoking area and as a result, there will be an increase in the number of people smoking outside the front of the property.

Response: The arrangement for smoking will remain unchanged from the current

arrangement. Measures outlined in the submitted 'Premises Management Plan' will be used to mitigate the impact of this and this will be reinforced by way of planning condition.

5.3.4 There is already an overconcentration of A4 uses in the surrounding area.

Response: The application site is located within a designated late night zone according to policy AP8 of the City Centre Action Plan. A4 (bar) uses are deemed to be acceptable in this location. The site itself is separated from the main Bedford Place area and there isn't considered to be an overconcentration in this location. There is no policy restriction or limit to new A4 uses.

5.3.5 Policy AP8 of the City Centre Action Plan identifies this location as a 'stress area' with regards to the impact of late night uses.

Response: It is acknowledged that uses of this type can give rise to noise, disturbance and anti-social behaviour. In this case however, acceptable measures have been proposed to minimise any of these impacts arising from the proposed use. These will be secured by planning condition to ensure the use is satisfactory for the duration of its operation. Furthermore, there are other means by which these issues can be addressed outside of the planning system.

5.4 Consultation Responses

5.4.1 Hampshire Constabulary – Objection.

The Police object to this application as there is concern about any increase in A4 use within a 'Night Time Economy' area which might result in a saturation of A4 and nightclub premises and thereby increase the negative cumulative effect on local businesses and residents.

NPPF Para 58 includes the following statement; Planning policies and decisions should aim to ensure that developments: **"create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion"**

Consideration should be given to limiting the number or percentage of premises in A4 use, particularly where they would be replacing other uses which would otherwise add to the diversity of the area and thus encourage a greater mix of visitors.

A successful, vibrant and sustainable night time economy should be based on a diversity of attractions which encourages a greater mix of visitors. Simply having a large concentration of bars and nightclubs is not the answer and could potentially result in creating a violent drinking culture and unsafe area where many people feel reluctant to go. It cannot be left solely to the Local Authority and Police licensing teams to manage these issues via the licensing process.

This is no criticism of this particular applicant, their management processes or their brand, it is simply because once A4 use has been established it would be difficult to refuse future applicants who may not have a similar brand or ethos.

Response: It is considered that the applicant has proposed adequate measures

to successfully mitigate the issues outlined by the Crime Prevention Design Advisor. These measures will be secured by way of planning condition and will be retained throughout the lifetime of the development. Whilst the comments form a significant material consideration in this case it should be balanced against the requirements of the development plan taking into account the existing uses on site.

- 5.4.2 **SCC Heritage** - No objection. The applicant should note that, due to the location of the building within the Carlton Crescent Conservation Area, any signage (which will be subject to a further application) should be externally illuminated, and internally illuminated signage will not be considered appropriate.

Response: A note to applicant will be attached to the decision notice to advise the applicant of this.

- 5.4.3 **SCC Environmental Health (Pollution & Safety)** - EH have no objection in principle, but recommend S025 and S030 if alterations to be undertaken.

Response: No external works are proposed and these conditions are not therefore, considered to be appropriate.

6.0 Planning Consideration Key Issues

- 6.1 The determining issues for this scheme relate to:

- The acceptability of the principle of development;
- Residential amenity and police objection.

6.2 Principle of Development

- 6.2.1 The application site is located within a designated late night zone according to policy AP8 of the City Centre Action Plan. This policy states that: 'The Council will use its planning and licensing functions to promote a night time economy with a range of activities that contribute to a vibrant city centre whilst minimising potential disturbance to nearby residential areas. New uses with extended opening hours (beyond 23:00 hours) will therefore be directed to designated evening zones and late night hubs as shown on the Policies Map'.
- 6.2.2 Paragraph 4.69 of the City Centre Action Plan states that: 'Southampton's night time economy is a key part of a successful regional city and it is important to manage its operation and expansion. There is a range of restaurants, pubs and bars throughout the centre from Bedford Place to Holyrood Place, Oxford Street and Ocean Village'.
- 6.2.3 Paragraph 4.71 of the City Centre Action Plan states that: 'The approach in this plan is to direct uses with extended opening hours to designated late night hubs and evening zones'. Paragraph 4.73 continues to state that: 'The Plan also identifies evening zones which generally contain a concentration of existing pubs, bars and nightclubs but are generally either within or close to residential areas. Proposals for new uses which require planning permission and are otherwise acceptable will be subject to restricted opening times of midnight or 1am in accordance with table 5'.

- 6.2.4 In light of these policies, the proposed A4 (bar) use is considered to be acceptable in principle in a late night zone. It would diversify the late night offer in this location subsequently enhancing the vitality and viability of the city centre. It would establish a use which would directly serve visiting members of the public and would subsequently retain an active frontage in this location.
- 6.2.5 Table 5 on page 40 of the City Centre Action plan outlines a terminal hour of midnight for new late night uses in this location. The applicant has specified that the proposed use would open until midnight seven days a week. This is considered to be in line with the City Centre Action Plan and would therefore, be acceptable in this location. A suitably worded planning condition will however, be imposed to control the hours of operation.

7.0 Residential Amenity and Police Objection

- 7.1 Paragraph 4.70 of the City Centre Action Plan states that: 'There are challenges in managing people using night clubs, bars and pubs at night in order to reduce the noise and disruption to people living in and close to the city centre... The planning system has an important role in directing such uses to areas of the city centre which are easily accessible, attractive to the entertainment industry and which create minimum noise and nuisance to residents'.
- 7.2 Given the nature of this city centre location, residential uses are present in the area surrounding the application site with further residential development approved at neighbouring properties (both through permitted development for office to residential conversions and through full planning applications). A summary of previously approved applications in the surrounding area is provided in Appendix 2. The designation of this area as a late night zone is intended to encourage a mix of uses in the city centre. Residential uses have been introduced in this area, partly through the new prior approval route which means planning permission is not required, however residents who choose to live in this city centre location are aware of the environment that they are moving into. Notwithstanding this, it is important to assess the impact of the proposed use in terms of residential amenity, specifically with regards to noise, disturbance, crime and anti-social behaviour.
- 7.3 BrewDog was established in 2007 and has a number of existing premises throughout the UK and worldwide. As a result, there are established procedures in place for dealing with issues relating to noise and anti-social behaviour. This application is supported by a 'Premises Management Plan' which can be seen in full in Appendix 3. This document outlines measures to counter noise, disturbance and anti-social behaviour and includes the following:
- Staff training in accordance with the Licensing Act 2003 every 6 months to ensure responsible trading and to prevent under age sales. A 'Challenge 21' policy adopted and implemented at all times.
 - SIA registered door staff employed if required following a risk assessment. This includes keeping a refusals book and signing up to a local pubwatch scheme or other similar scheme in accordance with Local Authority Procedures.
 - Outdoor smoking areas to be covered by CCTV, regularly monitored by door staff.
 - The adoption of a zero tolerance approach to the consumption of drugs on

the premises.

- Serving all drinks in appropriate measures.
- Operation of a full CCTV system on the premises.
- First Aid box stored on the premises and incident log maintained.
- Restriction on the consumption of drinks in open containers off the premises.
- Emptying of bins and refuse collection not to take place between 10pm and 8am.
- Dispersal policy in place to ensure that minimum noise and disturbance is caused to neighbours and enforced by management and staff. Last orders called 15 minutes before closing and staff responsible for ensuring that customers are not buying an excessive amount of drinks. Door staff responsible for ensuring patrons leave quietly.
- No loud music played on the premises.

It is considered that these measures are sufficient to minimise noise, disturbance and anti-social behaviour in this location. This will subsequently restrict the impact of the proposed use on the residential amenities of any neighbouring occupiers. To ensure the premises continues to be operated in a responsible manner at all times, whether by BrewDog or any other future operators, a suitably worded planning condition will be imposed to ensure that a management plan is adhered to at all times whilst an A4 (bar) use is in operation. Additional conditions will be imposed to ensure that an element of food is always provided and to ensure that the hours of operation remain in line with the terminal midnight hour outlined in the City Centre Action Plan. This is considered to be sufficient to address the issues raised by the Crime Prevention Design Advisor. It is also acknowledged that there are other means outside the planning system to manage issues relating to noise, disturbance and anti-social behaviour.

8.0 Summary

- 8.1 Both restaurant and bar uses can be classed as late night uses and this proposal would not subsequently introduce a new late night use in this location. The proposed use would be of a different nature and it is considered that the impact of this new use could successfully be mitigated through a series of planning conditions. It is acknowledged that an objection has been lodged by the Crime Prevention Design Advisor from Hampshire Constabulary, however it is considered that the measures put forward by the applicant in the submitted 'Premises Management Plan' are sufficient to mitigate issues relating to noise, disturbance, crime and anti-social behaviour. The proposed use is compliant with the recently adopted City Centre Action Plan (March 2015) which states that bar uses are acceptable in late night zones. In light of these issues it is considered that on balance, the proposed use would be acceptable in this location.

9.0 Conclusion

- 9.1 The application is recommended for conditional approval.

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 2(e), 6(a), 6(b).

LAUGRI for 27/10/15 PROW Panel

PLANNING CONDITIONS

1. APPROVAL CONDITION - Full Permission Timing Condition - Change of use

The use hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.

3. APPROVAL CONDITION:

Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended), the premises shall be used only for A4 purposes with ancillary restaurant and not for any other purpose without first obtaining planning permission.

Reason:

For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development in the interests of the amenities of the area.

4. APPROVAL CONDITION: Hours of operation

Unless otherwise agreed in writing by the Local Planning Authority, the A4 use hereby permitted shall not operate outside the following hours:

Monday to Sunday: 11:00 to 00:00.

Reason:

In the interests of residential amenity and to comply with the adopted City Centre Action Plan (March 2015).

5. APPROVAL CONDITION: Premises management plan

The A4 use hereby permitted shall be operated in accordance with the approved 'BrewDog Premises Management Plan' at all times. In the event of any new operator taking over the business, a new premises management plan shall be submitted to and approved by the Local Planning Authority in writing prior to occupation and implemented thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of residential amenity and to reduce the potential for noise, disturbance and anti-social behaviour.

6. APPROVAL CONDITION: Retention of kitchen

The ancillary ground floor kitchen indicated on approved plan 2448/L 01 Rev A (dated 01/07/2015) shall be retained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To diversify the offer at the premises in the interests of amenity.

7. APPROVAL CONDITION - Refuse and Recycling [Pre-Commencement Condition]

Before the works commence details (and amended plans) of facilities to be provided for the storage, removal and recycling of refuse from the premises shall be submitted to the Local Planning Authority and approved in writing. Such facilities as approved shall provide for a level approach and be permanently maintained and retained for that purpose.

Reason:

In the interests of visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties and in the interests of highway safety.

Note to applicant: Signage

Advertisement consent would be required for any external signs associated with the change of use hereby permitted. Given the location of the site in the Carlton Crescent Conservation Area, any signage should be illuminated by external means only. Internally illuminated signage will not be considered appropriate in this location.