DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0448/20/PNCU
Proposal: Application to determine if prior approval is required (under the Town and Country Planning (General Permitted Development) Order 2015 - Schedule 2, Part 3, Class C) for a proposed change of use from an existing ice cream shop (Class A1) to a café/restaurant with ancillary takeaway service (Class A3 use). No physical changes to the building.
Location: 181B Sunderland Road
South Shields
NE34 6AD

Site Visit Made: 27/07/2020

Relevant policies/SPDs

1 DM1 - Management of Development (A, B and G)

Description of the site and of the proposals

This application is for prior approval under Part 3 Schedule 2 (change of use) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, for the change of use of an existing ice cream shop (Class A1) to a Café/Restaurant (Class A3) at 181B Sunderland Road in South Shields.

This assessment is to determine whether or not the prior approval of the authority will be required.

Publicity / Consultations (Expiry date 30/07/2020)

1) Neighbour responses

Two letters of objection received.

[redacted]

- *Concerned that the proposed business will affect our business and local residents due to the impact of noise from customers, who may be drinking alchohol and smoking on the street, and from music and any entertainment. Previous noise issues with current use.*
- *Concerned that due to the layout of the premises that there is insufficient ventilation to allow the removal of odours from deep fat frying or from cooking of food items.*
- *Unaware of the proposals for the storage of beers, wines and spirits and the handling of waste for the premises, however we would be concerned about any additional waste being stored outside our premises.*
- *Concerns about the opening hours of a restaurant/bar as we are concerned about the impact on our business from drinkers at night. Again, taking into account previous issues.*
- *Limited parking outside of the premises, which is used to provide parking for customers to the small businesses trading in the village. Our concern is that vehicles may be left after customers have been drinking the evening before and that this will take away the already limited spaces for the customers who wish to visit the shops in the village.*
- *The shopping area is set in a small Village, which already has two public bars, The Old Ship and The Vigilant Inn as well as two established cafes/takeaways, The Café at the Corner and Village Delights. It is our belief that the opening of another food and drink*

premises will saturate the market and could have an adverse effect upon the viablity of the businesses already established, putting jobs at risk.

- *We are unaware as to where the premises would site external flues and we are concerned about the safe removal and storage of additional waste at the back of the premises.*

[redacted]

- *Air Quality in this area is already poor due to fumes from Harton Garages and local businesses i.e. other cafes etc.*
- *Carbon, plastic and food odours are common*
- *We cannot sit in our gardens as the people who are employed in the premises along Sunderland Road spend time using the back of these shop smoking etc. Not one day even Sunday are we without noise from the back of the Harton Village shops.*
- *The applicant has commented that they propose to produce a mini-brewery on site*
- *We have ongoing issues from feral pigeons fouling the rear of the shops and our homes, is it healthy to have these food&drink suppliers operating here?*
- *At what time will this new business be open/closed?*
- *This area is a parking permit area and people have no regard for elderly residents attempting to keep their drives free. This new business will only attract people to the street*
- *We have 4 food outlets plus 2 pubs within 100 metres of each other. People also live above these businesses.*

Planning Officer comments on representations:

The council's Environmental Health Team have separate powers to investigate potential air quality and noise pollution issues. They would also offer pest control services for both homes and businesses.

This application cannot consider wider issues with different businesses along Sunderland Road.

Loss of trade or increased business competition is not a material planning consideration able to be taken into account in the determination of this application.

The agent for the application confirmed it was not the intention to operate the business as a bar or pub. Notwithstanding this, separate planning permission would be required for the change to this use.

2) Other Consultee responses

Environmental Health: I have no objections to this application.

I am aware of a residential property to the first floor of the application site, however I believe that the nature of the proposed use will not give rise to noise that will impact upon residential amenity, the unit has operated as a commercial use for a number of years now and no complaint have been received. Given the limited floorspace inside the commercial unit I do not believe that noise impact of patrons will affect residential amenity.

There are two pubs in close proximity to the application site, and an off license, therefore I believe that this proposal is not out of place for the area in terms of night time activity from patrons visiting and leaving the site.

I am aware that a representation has been received from a resident to the rear of the application site, whilst there is discussion around noise in the ladies representation, this relates to existing staff of all units smoking to the rear of their respective units and the volume of their discussions. Whilst I empathise with the resident on this, I do not feel it is something I can take into consideration when considering this specific application.

The application notes that there is no need for an extraction and ventilation system due to the nature of the food offer proposed, of course if this is to change in the future then I would expect the applicant to provide full details and specification of the proposed menu and subsequent ventilation.

Should the applicant wish to utilise background music in the application site, I would expect that the level is in keeping with the nature of the mixed use area and specifically the music must not impact on the residential property upstairs, this can be managed using appropriate Environmental Health legislation should legislative framework be required to control this in the future.

I think 8pm (Sunday opening) is satisfactory given the presence of the residential flat upstairs.

Environmental Protection: No comments in terms of land contamination or flood risk/drainage.

Waste (Collections): No comments received

Traffic and Road Safety: Vehicular Access / Visibility Issues / Junction Issues: No objections, Traffic Movements/ Accident History: No objections, Carriageway Widths/ Layout Issues: No objections. No Highways comments.

Assessment

whether the prior approval of the authority will be required as to:

(a) noise impacts of the development,
(b) odour impacts of the development,
(c) impacts of storage and handling of waste in relation to the development,
(d) impacts of the hours of opening of the development,
(e) transport and highways impacts of the development,
(f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area

(g)the siting, design or external appearance of the facilities to be provided

a) and b) noise and odour

Having regard to the size of the unit and its current use as an ice cream shop; as well as the predominantly commercial character of this part of Sunderland Road, it is not judged that the change of use would result in a significant increase in noise/ disturbance over and above the existing situation.

The council's Environmental Health Officer was consulted and confirmed that, given the limited floorspace of the unit, they do not believe that noise impact of patrons will affect residential amenity.

They also noted that no noise complaints have been received in relation to the existing operation of the business. Notwithstanding this, there are tools available under the Environmental Health regime to ensure that the development would not result in an unacceptable impact on the nearest residential properties (including the residential flats above the row of shops) through noise generation or general disturbance.

Application details state that no new cooking or external extraction equipment is proposed, with no hot food (other than toasted sandwiches) being prepared. As such, there should be no odour issues associated with the proposed change of use.

c) storage of waste

In terms of waste management, there is a private yard to the rear of the site; the bins will be stored there off the public highway (as they are for the existing business) and would only be put out on the public highway on the day of collection, as confirmed by the application.

d) opening hours

Having regard to the need to protect the amenity of local residents (including the upstairs flats along the row of shops), as discussed with the applicant and agent, and the council's Environmental Health Officer, opening hours of 11:00 and 18:00 on Monday to Wednesday, 11:00 and 23:00 on Thursday to Saturday and 11:00 and 20:00 on Sunday are proposed to be secured by condition.

These opening hours are considered acceptable; and would not materially affect the amenity of surrounding residents. This is taking into account the surrounding commercial uses with evening opening hours (and the associated activity), including two pubs and a convenience store.

e) transport and highways

None of the commercial units along this section of Sunderland Road (including the existing retail unit) currently benefit from any private off-street parking. However, there is designated on-street car parking to the front of the row of businesses, available for use by customers. There is a row of detached garages to the rear of the site, with a private road providing access for servicing and waste.

The existing customer parking arrangements would remain as existing, with the residential streets around the site parking permit restricted, preventing non-local customers using them for parking.

The applicant has confirmed that there would be no change to servicing/ delivery arrangements for the business.

The council's traffic and road safety team were consulted and confirmed that they had no objections to the change of use in terms of access, layout or traffic movements; and wished to offer no additional highways comments on the proposal.

It is considered that the proposed change of use to a café/restaurant of the size proposed would not generate substantial trip numbers over and above those which are carried out in connection with the current A1 retail use of the unit, particular when the existing operation of the unit as an ice cream shop is taken into account. This is also having regard to the residential properties within walking distance which could use the business; and the position of a bus stop within close proximity of the property, which provides a public transport link. As such, it is judged that the impact of the development would be acceptable in relation to highway capacity.

f) principle of change to A3 use

The site is not located within a defined town centre or district shopping centre and is not a designated retail frontage, as set out within the Core Strategy or the Site-Specific Allocations proposals map. There is a range of A1, A2, A3 and A4 uses along this commercial section of Sunderland Road, with some residential flats above the ground floor units. The retail unit to which this application relates is currently in operation as an ice cream shop, with the associated activity which such a use brings. The applicant has stated this change in the operation of the business (from ice cream shop to café/restaurant) is required in order to operate more effectively due to the impact of Covid-19.

Potential loss of trade or increased business competition cannot be taken into account in the determination of this application. Having regard to the modest size and location of the unit, it is not considered that the proposed A3 use would impact on the vitality or viability of South Shields Town Centre, while adequate provision of A1 and A2 units would be retained within the surrounding area.

g) design

No extension of the building or external alterations are proposed to accommodate the new use.

Conclusion

It is considered that given the nature of the development, prior approval is required. However, the development as proposed is considered to be acceptable in the context of the matters which are to be considered. It is recommended that prior approval is granted.

The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. In the interests of protecting residential amenity, it is considered reasonable to attach a condition restricting opening hours to those suggested in the above assessment.

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

Recommendation

Prior Approval Required & Given PNCU

Conditions

1 Development permitted under Class C, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) must be completed within a period of three years starting with the prior approval date.

2 The premises shall only be open to the public between the hours of 11:00 and 18:00 on Monday to Wednesday, 11:00 and 23:00 on Thursday to Saturday and 11:00 and 20:00 on Sunday. It shall not be open to the public at any other time outside these hours.

To safeguard the amenity of local residents in accordance with South Tyneside Local Development Framework Development Management Policy DM1

Informatives

1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework to seek to approve applications for sustainable development where possible.

2 If you wish to carry out any external alterations to this property then planning permission may be required by virtue of the Town and Country Planning Act 1990 (as amended). Similarly, the installation of signage at the premises may require express consent under the Town and Country Planning (Control of Advertisements) Regulations 2007. Further information is provided on the government's Planning Portal webpage.

List of approved plans for standard note

Site Plan received 12/06/2020

Case officer: Josh Kenolty
Date: 07/08/2020

Authorised Signatory:
Date:

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