

<b>Application Number</b>	20/02619/S73	<b>Agenda Item</b>	
<b>Date Received</b>	6th June 2020	<b>Officer</b>	Luke Waddington
<b>Target Date</b>	1st August 2020		
<b>Ward</b>	Petersfield		
<b>Site</b>	23A Hooper Street		
<b>Proposal</b>	S73 to vary condition 5 of ref: 19/0902/FUL (Change of use from existing automobile repair shop (vacant unit) to a mixed use Class B2 (micro-brewery) and Class A4 (drinking establishment) and installation of cycle storage facilities) to read: The Premises shall only be open to the public at the following times: . Tuesday-Friday 16:00hrs-23:00hrs; Saturday: 11:00hrs-23:00hrs		
<b>Applicant</b>	Mr Sam Calverley 23A, Hooper Street		

SUMMARY	The development accords with the Development Plan for the following reasons:  - The proposed development would not result in a significant adverse impact upon residential amenity
RECOMMENDATION	APPROVAL

## **1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The application site is situated on the northern side and eastern end of Hooper Street. To the west are adjoining residential properties and to the east the railway line. Opposite the site to the south is the former Mill Road Depot which is being

redeveloped as housing. To the north is 23B Hooper Street, a detached residential dwelling.

- 1.2 The application site comprises brick-built buildings within a courtyard of buildings occupied in business uses.
- 1.3 The application site is adjacent to the Mill Road Conservation Area

## **2.0 THE PROPOSAL**

- 2.1 Planning permission was granted at the site under 19/0902/FUL for the Change of use from an existing automobile repair shop (vacant unit) to a mixed use Class B2 (micro-brewery) and Class A4 (drinking establishment) and installation of cycle storage facilities.
- 2.2 Condition 5 of the consent stated that: “The Premises shall only be open to the public at the following times:
  - Thursday-Friday: 1700hrs - 2300hrs
  - Saturday: 1100hrs - 2300hrs”
- 2.3 This Section 73 application seeks to vary Condition 5 of 19/0902/FUL to read:  
“The Premises shall only be open to the public at the following times:
  - Tuesday-Friday 16:00hrs-23:00hrs
  - Saturday: 11:00hrs-23:00hrs”

### **3.0 SITE HISTORY**

- 3.1 19/0902/FUL - Change of use from existing automobile repair shop (vacant unit) to a mixed-use Class B2 (micro-brewery) and Class A4 (drinking establishment) and installation of cycle storage facilities. – Approved 11<sup>th</sup> October 2019
- 3.2 18/1123/FUL - Retrospective planning application for the change of use of existing buildings from Class B2 micro-brewery to Class B2 micro-brewery and Class A4 Drinking establishment. – Approved 11<sup>th</sup> March 2019

### **4.0 PUBLICITY**

- 4.1 Advertisement: Yes  
Adjoining Owners: Yes  
Site Notice Displayed: Yes

### **5.0 POLICY**

- 5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2018 policies, Supplementary Planning Documents and Material Considerations.
- 5.2 Relevant Development Plan policies

PLAN	POLICY NUMBER
Cambridge Local Plan 2018	1 35 36

	41 55 56 58 61 72 81 82
--	-------------------------------

### 5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	National Planning Policy Framework February 2019  National Planning Policy Framework – Planning Practice Guidance March 2014  Circular 11/95 (Annex A)
Supplementary Planning Guidance	Greater Cambridge Sustainable Design and Construction (Jan 2020)

## 6.0 CONSULTATIONS

### **Cambridgeshire County Council (Highways Development Management)**

- 6.1 No objections: The Highway Authority has no comment to make upon this application.

## **Conservation Officer**

- 6.2 No objections: It is considered that there are no material Conservation issues with this proposal.

## **Environment Health Officer**

- 6.3 No objections: The hours as proposed by the applicant are not unreasonable. This extends only to the Planning Consent and not the Premises License, the latter of which will need to be given consideration by our Licensing team.
- 6.4 In terms of the Planning Consent, the extended hours will result in an additional one hour opening on Thursdays and Fridays and two additional days for opening (Tuesdays and Wednesdays), the hours of which will match Thursdays and Fridays.
- 6.5 No objection to Condition 5 reading as follows: "The Premises shall only be open to the public at the following times: Tuesday-Friday 16:00hrs-23:00hrs Saturday: 11:00hrs-23:00hrs"

## **Network Rail**

- 6.6 No response received at the time of writing
- 6.7 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

## **7.0 REPRESENTATIONS**

### **7.1 Cllr Roberts – Cambridge City, Petersfield**

- Complaints have been received from residents regarding noise and disturbance associated with drinking outdoors.
- The Noise Management Plan which is a condition of the 2019 planning consent has not been successfully implemented.
- Neighbours at 86 and 88 Ainsworth St are not on the list of addresses notified of the application although the rest of the houses from 82 to 108 are
- Call in to Planning Committee

### **7.2 The owners/occupiers of the following addresses have made representations:**

- 4 Comfey Court, Cambridge
- 90 and 108 Ainsworth Street, Cambridge
- 21 Ainsworth Place, Cambridge
- 21 Riverside, Cambridge

### **7.3 The representations can be summarised as follows: Objections:**

- ### **7.4**
- The site currently causes noise and disturbance to neighbouring dwellings which would increase as a result of the proposed opening times and extra days.
  - Drinking in the street and outdoors is common
  - The site is not evacuated at closing time
  - Documented history of disturbance at the site

- Pollution from fast food vans
- The application should be deferred so residents of the new development on Hooper St can be consulted as they will be impacted.

Support:

- 7.5
- Noise from the site is minimal and opening times are adhered to.
  - This establishment will benefit new residents
  - Trains make more noise locally than the application site
  - 4 Comfrey Court, Cambridge confirmed on 20<sup>th</sup> July 2020 that they withdraw their objection submitted 13<sup>th</sup> July 2020 and are now supportive of the application.
- 7.6
- The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

## **8.0 ASSESSMENT**

### **Principle of development**

- 8.1
- The principle of development was established under application reference 19/0902/FUL, granted 11<sup>th</sup> October 2019.
- 8.2
- The Planning Practice Guidance (PPG) notes that there are instances where new issues may arise after planning permission has been granted, which require modification of the

approved proposals. The PPG advises that where modifications are fundamental or substantial a new planning application will be required. Where less substantial changes are proposed a non-material amendment application can be submitted, or a minor material amendment (Section 73 application) where there is a relevant condition that can be varied.

- 8.3 There is no statutory definition within the PPG of a 'minor material amendment' but it states that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.
- 8.4 In this instance, the proposed amendment would vary Condition 5 of 19/0902/FUL to allow the premises to be open to the public Tuesday-Friday 16:00hrs-23:00hrs and on Saturdays 11:00hrs-23:00hrs. This would be one additional hour opening on Thursdays and Fridays and two additional days for opening (Tuesdays and Wednesdays), the hours of which will match Thursdays and Fridays.
- 8.5 This is considered to constitute a minor material amendment. The material considerations for the current application are the impact of the proposed amendment upon:
- Residential amenity
  - Highway Safety



## **Impact upon residential amenity**

- 8.6 Officers note the concerns raised regarding the additional impact upon residents as a result of the proposed opening hours. However, the Council's Environmental Health department have no objections to the proposed additional opening hours, subject to conditions limiting the hours to those proposed, and a number of informatives.
- 8.7 As was the case with application 19/0902/FUL, a condition would be applied to any consent stating that patron use of outside areas is prohibited. Prevention of patrons from drinking outside can be managed by the staff and through a Noise Management Plan, as advised by Environmental Health. Submission of such a plan was a condition of 19/0902/FUL. This condition is not discharged and will be re-applied to any further consent granted by this application.
- 8.8 The dispersal of patrons in a quiet and orderly manner upon closing of the premises is also an issue that should also be included in the Noise Management Plan (NMP).
- 8.9 Officers consider that it would not be possible through the planning system to prohibit the use of food vans by customers in the public highway / street when the application site is open as a drinking establishment.
- 8.10 Environmental Health note in their full consultation response, dated 24<sup>th</sup> July 2020 that the department has not received a

complaint of noise or disturbance relating to the application site since 2019 and that the complaints received at that time were unsubstantiated. One further complaint dated 10<sup>th</sup> August 2020 has been received since the 24<sup>th</sup> July and this remains unsubstantiated at the time of writing. No objections have been received from any other technical consultees.

8.11 Taking the above into account, the proposed amendment of the opening hours is considered to be acceptable and would not have a significant detrimental impact upon the character of the area or the residential amenity of neighbouring properties subject to compliance with the remainder of the conditions of the existing consent.

8.12 The proposal is therefore compliant with Cambridge Local Plan 2018 policies 35, 36 55 and 56.

### **Impact upon Highway safety**

8.12 Following consultation with the Local Highway Authority, officers consider that the increased opening hours would not result in a significant adverse impact upon highway safety and would comply with Policy 81 of the Cambridge Local Plan 2018.

### **Other Matters**

8.13 Cllr Roberts noted that nearby neighbours 86 and 88 Ainsworth St had not been consulted in the initial round of consultations

dated 3<sup>rd</sup> July 2020. These properties were consulted on 13<sup>th</sup> August 2020.

- 8.14 It would not be reasonable to defer a decision on the present application until the Mill Road Depot development opposite the site is complete and fully occupied, given the delay to decision making that this would cause. Any future occupiers of those properties would ordinarily be aware of the local environment into which they are moving.

## **9.0 CONCLUSION**

- 9.1 The proposed minor material amendment is considered to be acceptable and subject to conditions would not be significantly detrimental to the amenities of neighbouring residential properties.
- 9.2 Conditions applied to 19/0902/FUL that are not yet fully discharged or which require compliance for the lifetime of the development will be repeated as set out below, should consent be granted.
1. The development hereby permitted shall be carried out in accordance with the approved plans as listed on this decision notice.

Reason: In the interests of good planning, for the avoidance of doubt and to facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

2. Prior to the operation of the premises as approved, the applicant shall provide a detailed Noise Management Plan (NMP) for approval by the Local Planning Authority. The NMP shall include details on (but not be limited to);
- Confirmation on opening hours,
  - Confirmation that there will be no amplified music / voice on the premises,
  - management and control of patron access to external areas, including any external area where people may congregate for any reason,
  - management and control of noise from internal areas,
  - management and control of people accessing / egressing the premises,
  - collection and delivery hours (including waste and recycling),
  - complaints procedures and details on reviewing and updating the NMP when necessary.
- The NMP shall be implemented and retained as approved thereafter.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

3. Patron use of the external areas of the premises is prohibited at all times.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

4. The Premises shall only be open to the public at the following times:
- Tuesday-Friday 16:00hrs-23:00hrs
  - Saturday: 11:00hrs-23:00hrs

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

5. Music (to include internal or external amplified and unamplified music) and amplified voice is not permitted on site at any time.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

6. The external garage doors on the ground floor of the main unit building opening directly on to / fronting Hooper Street (or any opening in this location should the garage doors as detailed be replaced) shall be kept closed at all times and shall not be used for patron ingress / egress when the premises is open to the public and operating as A4 Class Use - as a drinking establishment.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

7. No bottles, kegs / barrels or other commercial refuse / waste or recycling material associated with the approved uses / site shall be emptied into external receptacles and the said receptacles and kegs / barrels shall not be taken out externally or moved around the external of the site between the hours of 2100-0700 hours.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

8. There shall be no operational dispatches / collections from and deliveries to the site outside the following hours: Monday - Saturday: 0800hrs - 1800hrs There are to be no deliveries made on Sundays or bank / Public Holidays.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

9. There shall be no preparation or cooking of hot food on the site at any time.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan (2018) policy 35).

10. The premises shall be operated and used for the purposes as details/defined within the Planning Statement submitted within application 19/0902/FUL; Ref: Calverleys Brewery, 23a Hooper Street, Cambridge (prepared by Maidenhead Planning and dated 4th June 2019) and for no other purpose (including any other purposes in Class B2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (Amended 2020), or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification) without the granting of a specific planning permission.

Reason: To protect the amenity of the adjoining properties. (Cambridge Local Plan 2018 policy 35).

11. The cycle facilities shall be provided in accordance with the approved details before the use of the development commences and permanently maintained thereafter.

Reason: To ensure satisfactory provision for the secure storage of bicycles and refuse arrangements. (Cambridge Local Plan 2018 policies 82 and 56)

**INFORMATIVE:** The current Premises License stipulates the following drinking times (these times are also for off-sales): Wednesday 16:00 until 22:30, Thursday 16:00 until 22:30, Friday 16:00 until 22:30, Saturday 11:00 until 22:30. If not already arranged, the applicant will need to seek a variation to the existing Premises License to account for Tuesdays. The applicant is advised to contact The Licensing Team of Environmental Health at the earliest opportunity on telephone number (01223) 457899 or email [Licensing@cambridge.gov.uk](mailto:Licensing@cambridge.gov.uk) to discuss the implications of this application on the Premises License.