



Planning Committee Date	08 January 2025
Report to	Cambridge City Council Planning Committee
Lead Officer	Joint Director of Planning and Economic Development
Reference	24/03913/S73
Site	23A Unit 1, Hooper Street, Cambridge, CB1 2NZ
Ward / Parish	Petersfield
Proposal	S73 to vary conditions 2 (Noise management plan) and 3 (external areas) of planning permission 23/00600/S73 (S73 to vary conditions 2 (noise management plan) and 3 (external areas) of ref: 20/02619/S73 (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 vary condition no.2 to read as: "Operation of the premises to be carried out in strict accordance with the submitted/approved Noise Management Plan" and to vary condition no.3 to read as: The external seating area for patrons shall be strictly limited to the 17.5sq m seating area as shown by the blue line within approved drawing number P101, including accessing this seating area from inside. This external seating area shall only be used by patrons during the following hours: Tuesday to Thursday: 16:00-21:00, Friday: 16:00-22:00 and Saturday: 12:00-22:00") to retain the outdoor seating beyond the one-year timeline permitted by condition 3 to make them a permanent feature of the premises.
Applicant	Calverley's Brewery
Presenting Officer	Charlotte Spencer
Reason Reported to Committee	Third party representations

Member Site Visit Date
Key Issues

N/A
1. Noise/ impact on residential amenity

Recommendation

APPROVE subject to conditions

1.0 Executive Summary

- 1.1 The application seeks to vary condition nos. 2 (noise management plan) and 3 (external areas) of permission 23/00600/S73. These conditions allowed for the use of an external seating area for a maximum period of 1 calendar year and the aim of the current application is to allow the permanent use of the external seating area.
- 1.2 The submitted Noise Management Plan and the Outdoor Seating Plan are the same as previously approved for one calendar year.
- 1.3 Representations have been received from neighbouring properties in objection to the application with concerns relating to noise and disturbance associated with the external seating area. There are also representations from other properties in support of the proposal.
- 1.4 Since the granting of 23/00600/S73, no noise complaint has been made to Environmental Health. The Environmental Health Team have raised no objection to the application and consider that with the proposed Noise Management in place it will be acceptable.
- 1.5 Subsequently Officers recommend that the Planning Committee APPROVE the application subject to conditions as drafted by officers.

2.0 Site Description and Context

None-relevant		Tree Preservation Order	
Conservation Area	X adj	Local Nature Reserve	
Listed Building		Flood Zone	1
Building of Local Interest		Green Belt	
Historic Park and Garden		Protected Open Space	
Scheduled Ancient Monument		Controlled Parking Zone	
Local Neighbourhood and District Centre		Article 4 Direction	

*X indicates relevance

- 2.1 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 has been redeveloped as housing. To the north is 23B Hooper Street, a detached residential dwelling.
- 2.2 The application site comprises brick-built buildings within a courtyard of buildings occupied in business uses.

2.3 The application site is adjacent to the Mill Road Conservation Area.

3.0 The Proposal

3.1 The application seeks to vary conditions nos. 2 (noise management plan) and 3 (external areas) of planning permission 23/00600/S73. The purpose of this is to allow the use of the external seating area of 17.5sqm to be permanent. 23/00600/S73 was considered by Planning Committee.

3.2 Condition 2 (noise management plan) is proposed to be amended to read as:

"The premises shall continue to operate in accordance with the submitted and approved "Noise Management Plan To: Cambridge City Council Ref: Calverley's Brewery. 23A Hooper Street, Cambridge" (Version 1.1 dated 28th July 2021). The Noise Management Plan will be reviewed and updated at the request of the Local Planning Authority and/or in response to noise complaints. Updates shall be approved in writing by the Local Planning Authority prior to implementation of any changes to opening hours or the provision of outdoor seating."

3.3 Condition 3 (external areas) is proposed to be amended to read as:
"The external seating area for patrons shall be strictly limited to the 17.5sq m seating area as shown by the blue line within approved drawing number P101 and this external seating area shall only be used by patrons during the following hours: Tuesday to Thursday: 16:00-21:00, Friday: 16:00-22:00 and Saturday: 12:00-22:00"

3.4 The aim of the proposal is to remove the limitation of the external seating area to one calendar year only and to allow a full compliance with the noise management plan and external seating plan without the need to revert back to the previously approved Noise Management Plan to retain the outdoor seating beyond the one-year timeline permitted by condition 3 to make them a permanent feature of the premises.

3.5 No other elements of the previously approved scheme are proposed to be altered and the Noise Management Plan and drawing demonstrating the approved outdoor seating remaining as previously approved.

4.0 Relevant Site History

Reference	Description	Outcome
23/00600/S73	S73 to vary conditions 2 (noise management plan) and 3 (external areas) of ref: 20/02619/S73 (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	Permitted 11.09.2023

	cycle storage facilities) to vary condition no.2 to read as: "Operation of the premises to be carried out in strict accordance with the submitted/approved Noise Management Plan" and to vary condition no.3 to read as: The external seating area for patrons shall be strictly limited to the 17.5sq m seating area as shown by the blue line within approved drawing number P101, including accessing this seating area from inside. This external seating area shall only be used by patrons during the following hours: Tuesday to Thursday: 16:00-21:00, Friday: 16:00-22:00 and Saturday: 12:00-22:00"	
20/02619/S73	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	Permitted 09.02.2022
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.	Permitted 11.10.2024
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.	Permitted 11.03.2019

- 4.1 On 11 March 2019, temporary planning permission was granted for the retrospective change of use of the existing buildings from Class B2 microbrewery to Class B2 micro-brewery and Class A4 drinking establishment. This permission did not include any restrictions on the use of the external areas but the permission only lasted for one year and expired on 11 March 2020. The external area was capable of accommodating 10 tables and over 50 people.

- 4.2 Following the expiry of the temporary permission, permanent permissions (19/0902/FUL and 20/02619/S73) were subsequently granted but these did not include external seating and attached a condition (no.3) which strictly prohibited patron use of the external areas at all times.
- 4.3 23/00600/S73 permitted the use of 17.5sqm of the external area for outdoor seating. This was strictly in accordance with the plans and submitted Noise Management Plan, however, conditions 2 and 3 ensured that this could only occur for one calendar year, after which the permission reverted to the 2020 decision which prohibited the use of the outdoor area. The temporary time limit ended on 11 September 2024 and so the brewery does not have permission for outdoor seating. The time limit was added to effectively allow for a trial of the external seating area and to understand the effectiveness of the measures set out within the Noise Management Plan.

5.0 Policy

5.1 National

National Planning Policy Framework 2024

National Planning Practice Guidance

National Design Guide 2021

Environment Act 2021

Equalities Act 2010

Planning and Compulsory Purchase Act 2004

Circular 11/95 (Conditions, Annex A)

5.2 Cambridge Local Plan 2018

Policy 1: The presumption in favour of sustainable development

Policy 35: Human health and quality of life

Policy 36: Air quality, odour and dust

Policy 41: Protection of business space

Policy 55: Responding to context

Policy 56: Creating successful places

Policy 57: Designing new buildings

Policy 58: Altering and extending existing buildings

Policy 61: Conservation and enhancement of historic environment

Policy 81: Mitigating the transport impact of development

Policy 82: Parking management

5.3 Neighbourhood Plan

N/A

5.4 Supplementary Planning Documents

Sustainable Design and Construction SPD – Adopted January 2020

5.5 Other Guidance

Mill Road conservation area

6.0 Consultations

6.1 County Highways Development Management – No Objection

6.2 No significant adverse effect upon the Public Highway would result from the proposal.

6.3 Conservation Officer – No Objection

6.4 Would not give rise to any harm to heritage assets

6.5 Environmental Health – No Objection

6.6 Have checked the records and Environmental Health have not received a noise complaint within the one-year temporary period.

6.7 The Noise Management Plan remains valid and relevant and it is important that reference to it remains in condition 2.

6.8 Network Rail – No Response

6.9 East West Rail – No Objection

6.10 No objections

7.0 Third Party Representations

7.1 Two representations have been received in objection. Those in objection have raised the following issues:

- Noise impacts
- Noise monitoring which was originally mandated did not occur

7.2 Four representations have been received in support. Those in support have raised the following reasons:

- Not disruptive
- Community asset
- Scale of business is suitable for the area

8.0 Local Interest Groups and Organisations

- 8.1 The Cambridge and District Branch of the Campaign for Real Ale (CAMRA) has made a representation supporting the application on the following grounds:
- Unaware of any adverse effects
 - The taproom enhances the area's reputation.

8.2 The above representations are a summary of the comments that have been received. Full details of the representations are available on the Council's website.

9.0 Assessment

9.1 Principle of Development

9.2 Planning Practice Guidance states that new issues may arise after planning permission has been granted, which require modification of the approved proposals. [Paragraph: 001 Reference ID: 17a-001-20140306].

9.3 The applicant has sought to amend the conditions attached to the planning permission by seeking to make a minor material amendment. Paragraph 13 of Planning Practice Guidance advises that there is no statutory limit on the degree of change permissible to conditions under S73, but the change must only relate to conditions and not to the operative part of the permission.

9.4 Planning Practice Guidance states that new issues may arise after planning permission has been granted, which require modification of the approved proposals. [Paragraph: 001 Reference ID: 17a-001-20140306].

9.5 In this instance, the proposed amendment would vary conditions 2 (noise management plan) and 3 (external area) of permission 23/00600/S73. The purpose is to allow the permanent use of the external seating area.

9.6 The proposed amendment is considered to constitute a minor material amendment. The material consideration for the application is the impact on the residential amenity of nearby occupiers.

9.7 Amenity

9.8 Policy 35, 36, 55, 56 and 58 seek to preserve the amenity of neighbouring occupiers in terms of noise and disturbance, overshadowing, overlooking or overbearing and through providing high quality internal and external spaces. As the proposed amendment would seek to vary conditions 2 and 3 only, it is only the matters of noise and disturbance to neighbours that could be materially affected by the proposed variations.

- 9.9 The nearby row of terraces properties to the west at Nos.80-108 Ainsworth Street and Nos.23 and 23B Hooper Street all have rear elevations and gardens that face towards the application site and/or in close proximity to the site. No.23B is unique in that it is situated immediately to the north of the site.
- 9.10 It is noted that there have been third party objections from immediate neighbours in regards to noise and disturbance from the outdoor seating area stating that they have not been able to enjoy outdoor spaces or leave windows open due to the noise. Whilst, as stated within the Officer report for 23/00600/S73, the unrestricted use of the outdoor seating between March 2019 and March 2020 was considered to be harmful, the Environmental Health Officer has confirmed that within the year where outdoor seating was permitted under 23/00600/S73, no noise complaints regarding the premises had been received.
- 9.11 The Environmental Health Officer has also reviewed the submitted information and has confirmed that the information remains valid and has no objections to this information subject to the Noise Management Plan being complied with. As the application only requests the one year restriction to be removed, compliance with the Noise Management Plan will remain as part of condition 2.
- 9.12 Whilst it is noted that neighbours have objected in terms of noise and disturbance, there is a caveat within Condition 2 that states 'The Noise Management Plan will be reviewed and updated at the request of the Local Planning Authority and/or in response to noise complaints'. The application does not seek to remove this element from the condition and so this allows the Local Planning Authority to review this if it is found to be failing.
- 9.13 It is also noted that a third party objector raised that the noise monitoring which was originally mandated to take place did not occur. Officers have reviewed the previous conditions attached to 23/00600/S73 and reviewed the Noise Management Plan and there are no requirements for noise monitoring to take place. It is noted that the 23/00600/S73 was originally deferred by Committee to allow the Officer to consider whether a noise monitoring condition could be worded. However, following discussions with the Environmental Health Team it was considered that this could not be enforceable and as such no such condition was added to the final decision by committee.
- 9.14 Subsequently, it is considered that the proposal adequately respects the amenity of its neighbours and of future occupants and is considered that it is compliant with Cambridge Local Plan (2018) policies 35, 36, 55, 56 and 58.

9.15 Third Party Representations

9.16 The remaining third-party representations not addressed in the preceding paragraphs are summarised and responded to in the table below:

Third Party Comment	Officer Response
Noise and Disturbance	Paragraphs 9.8-9.14
Noise Monitoring	Paragraph 9.13

9.17 Planning Balance

9.18 Planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38[6] of the Planning and Compulsory Purchase Act 2004).

9.19 Due to the lack of noise complaints about the application premises within the trial period of one calendar year permitted under 23/00600/S73 Officers considered that the outdoor seating area as per drawing P101 in strict accordance with the submitted Noise Management Plan would not result in an unacceptable level of noise and disturbance which would be considered to have a detrimental impact on the residential amenity of the neighbouring properties.

9.20 Whilst it is noted that there would still be a risk of noise and disturbance from the outdoor seating area it is considered that the wording of Condition 2 allows for the Local Planning Authority to review the Noise Management Plan in the case of noise complaints being received. The proposed outdoor seating to the drinking establishment would bring certain benefits including supporting the viability of a local business and community facility and expanding the range of community facilities available to residents and visitors.

9.21 Having taken into account the provisions of the development plan, NPPF and NPPG guidance, the views of statutory consultees and wider stakeholders, as well as all other material planning considerations, the proposed amendment is recommended for approval.

9.22 In accordance with the PPG, to assist with clarity, a decision notice for the grant of planning permission under section 73 will also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

10.0 Recommendation

10.1 **Approve** subject to:

-The planning conditions as set out below with minor amendments to the conditions as drafted delegated to officers.

11.0 Planning Conditions

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. The premises shall be operated and managed in accordance with the submitted and approved "Noise Management Plan To: Cambridge City Council Ref: Calverley's Brewery. 23A Hooper Street, Cambridge" (Version 1.1 dated 28th July 2021). The Noise Management Plan will be reviewed and updated at the request of the Local Planning Authority and/or in response to noise complaints. Updates shall be approved in writing by the Local Planning Authority prior to implementation.

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

3. The external seating area for patrons shall be strictly limited to the 17.5sq m seating area as shown by the blue line within approved drawing number P101 and this external seating area shall only be used by patrons during the following hours: Tuesday to Thursday: 16:00-21:00, Friday: 16:00-22:00 and Saturday: 12:00-22:00.

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)