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Case Number	18/00666/FUL
Application Type	Full Planning Application
Proposal	Change of opening times of existing cafe from 0700 to 1900 hours Monday to Sundays and opening two occasions per month for functions/events from 0700 hours to 2300 hours Fridays/Saturdays (application to vary condition 4 of planning ref: 13/04166/FUL) (amended description and plans)
Location	Stannington Park Stannington Road Sheffield S6 6BX
Date Received	14/02/2018
Team	West and North
Applicant/Agent	Mr Martin Mcgrail
Recommendation	Grant Conditionally

Time limit for Commencement of Development

Approved/Refused Plan(s)

2. The development must be carried out in complete accordance with the following approved documents:

Redline Site plan received on the 17th April 2018.

Drawing Number A/2010/30/01 rev G and email received 4th February 2014.

Reason: In order to define the permission.

Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)

Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)

5. No amplified sound or live music shall be played above background levels within the building except through an in-house amplified sound system fitted with a sound limiter, the settings of which shall have received the prior written approval of the Local Planning Authority.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

6. Within 1 month of the date of this decision a suitable receptacle for the disposal of litter shall have been provided outside of the premises and thereafter retained at all times during the opening hours authorised by this consent.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

#### Other Compliance Conditions

3. The building shall be removed on or before the 6th February 2019.

Reason; In the interests of the amenities of the locality owing to the design and external appearance of the mobile building.

4. The building shall be used for the above-mentioned purpose only between 0700 hours and 1800 hours on any day except for a period of 12 months from the date of this decision, or expiry of the planning consent whichever is the earlier, when the building shall be used between 0700 and 1900 hours on any day and on two separate occasions (Friday and/or Saturday only) per calendar month (inclusive of Temporary events notice [TENS]) when the building can be used between 0700 hours and 2300 hours.

Reason; In the interests of the amenities of the locality and occupiers of adjoining property.

7. The bi-fold door glazing systems and any other windows shall remain closed from 2000 hours on all days, save for access and egress or in case of emergency.

Reason: In the interests of the amenities of the locality and occupiers of adjoining properties.

8. Any outside seating areas withi the curtilage of the premises shall only be used between 0700 hours and 1800 hours on any day.

Reason: In the interests of the amenities of the locality and occupiers of adjoining properties.

9. All windows and doors shall be kept closed, save for access and egress or in case of emergency, whenever amplified sound is played within the commercial use hereby permitted at above background levels.

Reason: In the interest of the amenities of residential properties.

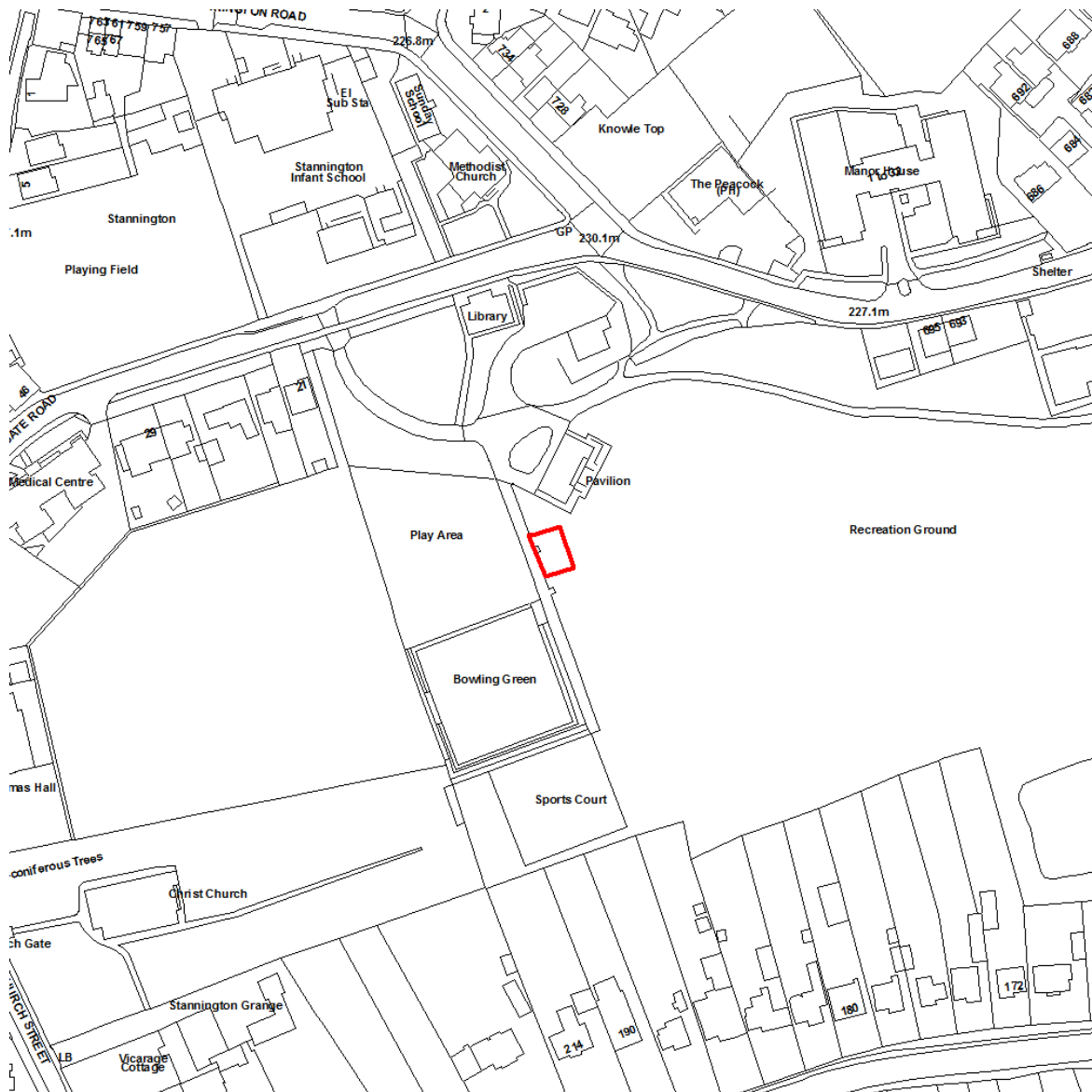
10. Loudspeakers shall not be fixed externally nor directed to broadcast sound outside the building at any time.

Reason: In the interests of the amenities of the locality and occupiers of adjoining properties.

Attention is Drawn to the Following Directives:

1. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.
2. The applicant is advised that condition 1 of planning ref: 13/04166/FUL is not repeated on this notice as the development has already commenced.

## Site Location



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## LOCATION AND PROPOSAL

This application relates to an existing café building (Reserved Café) which is located at the western end of Stannington Park adjacent to the children's play area.

Members will recall that planning consent was refused at the 6<sup>th</sup> February this year for the retention of the existing cafe and extensions to form toilets and storage area including changes to opening times to 0700 to 2330 hours on two occasions per month (Fridays/Saturdays) for functions/events. The application was refused for the following reasons;

'The Local Planning Authority consider that the use of the premises between the hours of 0700 hours and 2330 hours on two occasions per month for

functions/events would be detrimental to the living conditions of nearby residents owing to the noise and general disturbance which would be generated by the use of the building for this purpose. As such, the proposal is contrary to Policy LR5 (k) of the Unitary Development Plan.'

Planning consent was previously granted for a café building on this site in 2010 and 2014. Both previous planning consents were time limited due to the temporary nature of the building proposed and condition 4 of planning application 13/04166/FUL limited the hours of opening to between 0700 hours and 1800 hours 7 days a week.

Following the previous refusal this application seeks permission for the following;

- Alterations to the hours of opening of the café to 0700 to 1900 hours seven days a week and until 2300 hours on two occasions per calendar month (Friday/Saturday) for functions/events for a temporary period of 12 months.

No extensions or other alterations to the building are proposed as part of this application.

The site is located in Stannington Park which is an allocated Open Space Area as defined in the adopted Sheffield Unitary Development Plan (UDP).

#### RELEVANT PLANNING HISTORY

10/03480/FUL – Erection of log cabin style building to form cafeteria – Granted Conditionally.

13/04166/FUL - Siting of pre-fabricated building to form cafeteria (Email received 04/02/2014) – Granted Conditionally.

17/01148/FUL - Retention of existing cafe and extensions to form toilets and storage area including changes to opening times to 07:00 to 23:30 on two occasions per month for functions/events (Amended Plans and Description) – Refused.

#### SUMMARY OF REPRESENTATIONS

The application was advertised by way of neighbour letter and site notice.

A total of 95 Letters of representation were including comments from Loxley Valley Protection Society (LVPS), Bradfield Parish Council and Councillors Penny Baker and Vicky Priestley. The issues raised are summarised as follows:

25 representations in objection

- Stannington Park should be a peaceful area for the quiet enjoyment of residents and visitors.
- The proposal will create noise and light pollution especially at night.

- Potential for increase in broken glass, bottles and litter on the playing fields is unacceptable.
- Late night noise will affect residents especially in the summer months when residents wish to sit out in their gardens.
- The application does not address increased potential for late night noise and disturbance, litter antisocial behaviour and does not merit breaching the normal park deadline (Byelaw) of 2200 hours as this is a commercial venture and not an occasional event.
- During past events noise from the café and revellers has been heard inside resident's houses.
- The site backs onto the children play park and this should be an area where alcohol is not permitted.
- Other venues are available in the area where people can consume alcohol and Lomas Hall is available in the village for functions in addition to other shops and cafes.
- Objection to any extension of the site and operation on the playing fields.
- The extension of hours will severely affect quality family time in what is a peaceful area.
- Lack of suitable noise containment due to the construction of the buildings and independent acoustic tests have not been done by the council on behalf of residents.
- Amplified sound has caused disturbance on previous occasions and the inclusion of amplified sound in this application adds greater weight to the previous refusal.
- If planning is given it should be without amplified sound and on a trial basis so trust can be regained.
- The proposal only reduces the opening hours by half an hour.
- The application should be refused on the same grounds as the previous proposals for extension of its hours of opening as the reasons for refusal have not been addressed.
- Pathways are unlit and dangerous and not suitable for evening opening giving rise to health and safety issues.
- Increased traffic will adversely affect the park entrance roads and verges without the café paying towards repairs or clearing up.
- Increase in antisocial behaviour in the park associated with the use.
- Potential for accidental/deliberate damage to existing park structures.

- Supporting comments focus on non-planning matters like events being fun and the café being good for the village.
- A majority of the supporters of the application do not live in the Stannington area and are not affected by the development.
- The cafe will attract unwanted attention and cause tension between nearby residents and who wish to have peaceful buildings at their home and sleep without noise and disturbance.
- The police have been informed of loud music on more than one previous occasions due to private parties.
- Further Temporary events notices (up to 15 per year) could be applied for in addition to the 2 events per month.
- Previous non-compliance with hours of use restrictions raised concerns and there is no confidence that applicant will comply with future restrictions.
- The comments of LVPS are endorsed.
- The building is not suitable for large events

Councillor Penny Baker

- Increase in noise and traffic late at night which will cause general disturbance for the residents living nearby.

Councillor Vicky Priestley

- Noise associated with traffic and disturbance of the village late at night. Noise will also affect the houses near the park.

Loxley Valley Protection Society (LVPS)

- Previous objections and comments made to the extension of hours still stand. The previous application received many objections, which need to be considered and little support as the café had operated in the evening without permission giving rise to noise and disturbance issues.
- If the application had been presented without previously operating outside the permitted hours and had not caused disturbance it would not have attracted the level of objection it has.
- Main concerns with the evening operation are late night noise and disturbance exacerbated by alcohol within a public park.
- Noise will drift to neighbouring houses, and previous issues of broken glasses and bottles near to the children's playground.

- Parking issues and the requirement to negotiate an unlit potholed drive with stones to the side which is a trip hazard.
- Given the letters of support if the application is granted it should be under strict understanding that if there is any disturbance to the amenity of neighbours the permission or TENS permission are withdrawn.
- More events could be applied for than the two events per month in the week or by TENS applications.
- The current application no longer mentions the extension of date for the removal of the permission as such any trial period should be restricted until 6<sup>th</sup> February 2019, in line with the expiry of the planning consent.

#### Bradfield Parish Council

- Recommend refusal due to noise and disturbance resulting from the use, including hours of operation. There are concerns regarding the apparent lack of adherence of current planning conditions regarding opening hours.

#### 70 Representations in support.

- No objection to the café opening until 1900 hours as this is considered to be an acceptable closing time in a residential area.
- The café is a small venue, far enough away from residents and other pubs are already open after the proposed extended hours of opening.
- The café provides local jobs.
- The café is a welcome and much needed community asset and an excellent addition to the park.
- The café provides an alternative venue to the public house in the area in which to socialise.
- The café has a greater degree of separation from residents than existing pubs who are allowed to open later and serve alcohol.
- The café benefits the community and the sustainability of the park.
- The café does not make the park any more dangerous or noisy than any other park in Sheffield.
- The café is a meeting place for families, friends and where before there was none.
- Teenagers no longer hang around the park and instead use the café to meet friends, if the café opened later it would deter anti-social behaviour.



- The café has enhanced the look and popularity of the park.
- The café has brought a real sense of community back to the village.
- Events at the café area executed and managed professionally.

The Councils Parks and Countryside Service who agreed a lease for the premises with the applicant have written in support of the application. The issues raised are summarised as follows;

- Parks and Countryside approve and support that up to 6.00 pm Reserved CB is to operate as a café, after 6.00 pm they can operate Bistro Nights/Private Functions (only up to 12 occasions a year maximum). On these occasions the premises shall not open any later than 11.00 pm at any time subject to any restrictions imposed by the planning authority.

The applicant has also written in support of the application the issues raised are summarised as follows:

- The proposal is for a probationary period of 12 months and seeks permission to open until 1900 hours Monday to Sunday and on 2 occasions per month maximum 24 events during a 12 month period (including TENs applications) for private functions including;
  - Pop up bistro nights
  - Private group dining
  - Weddings (possible amplified music)
  - Baby showers/christenings
  - Private parties (possible amplified music)
  - Seasonal events.
  - Craft groups.
- In the last 2 years only 13 events have been operated.
- All the relevant authorities Sheffield City Council, Parks and Countryside, Licensing and the police would be notified of future events as required.
- CCTV is used to monitor all events and can be accessed at any time.
- No issues of antisocial behaviour, waste or broken glass, abuse of play equipment, anti-social behaviour or illegal sale of alcohol have been attributed to the café since opening.
- Any concerns with noise pollution can be addressed by a sound engineer who has conducted a preliminary report.
- The councils lease sets out minimum hours of operation of the premises as follows:

(a) From 1st April to 30th September (inclusive) every day between 9.00am and 6.00pm. and  
(b) From 1st October to 31st March (inclusive) every day (except Christmas Day, Boxing Day and New Year's Day) between 10.00am and 4.00pm.  
(viii) The Demised Premises shall not be open later than 11.00pm at any time subject to any restrictions imposed by the Planning Authority.

- The current planning consent allows the café to be operated up to 1800n hours it does not say the building cannot be used for any other purposes outside these café hours.
- The application allows the planning and licensing permitted hours to fall in line with each other.
- Existing events have been operated in accordance with the current lease.
- Previous premises license to sell alcohol was withdrawn.
- The park is for all to use not just adjacent properties.

## PLANNING ASSESSMENT

### Policy Issues

Stannington Park is an allocated Open Space Area as defined in the adopted Sheffield UDP. The principle of siting a temporary café building on a small area of open space within Stannington Park has been established by the previous and extant planning consents on this site. This application is for the extension of the operating hours of the premises only and as such is not considered to give rise to any principle policy issues.

### Design Issues

No external alterations or extensions to the building are proposed as part of this application and as such the proposal is not considered to give rise to any design issues.

### Amenity issues

Policy LR5 part (k) seeks to ensure that development in Open space areas would not be incompatible with surrounding land uses.

In accordance with condition 4 of planning application ref: 13/04166/FUL the existing café is permitted to operate between 0700 hours and 1800 hours 7 days a week. The applicant is seeking to extend the day time operation of the premises until 1900 hours 7 days a week; and on two occasions per calendar month (Friday/Saturday) permission is sought to extend the opening hours until 2300 hours to cater for events including bistro evenings, weddings, parties etc. The applicants have noted that amplified sound equipment in conjunction with some events.

The proposed increase in the general operating hours until 1900 hours 7 days a week is not considered to give rise to any amenity issues.

The application site is located approximately 70 metres from the boundary with the closest residential properties which are located on Uppergate Road. These properties are separated from the site by the existing play area and some established mature tree planting on the periphery of the park.

The site benefits from existing dedicated (vehicular and pedestrian) access points off Uppergate Road and Stannington Road which customers of the premises would use to access the site, minimising any potential for noise and disturbance to occur from customers coming and going from the premises.

The applicants have indicated that certain events will require the use of amplified sound equipment. It is considered that noise breakout from the premises can be adequately controlled by imposing planning conditions which will limit noise breakout from the premises to levels which are not considered to detrimentally affect the amenities of nearby residential properties. This will be secured through the provision of a noise limiter the setting of which will need to be first agreed with the council.

Furthermore conditions are recommended to be imposed requiring opening windows and doors to remain close at all times during events where amplified sound equipment is being used. These conditions will prevent any harmful noise breakout from the building and prevent the use of the outside seating areas in the evening, further minimising any potential noise and disturbance associated with the operation of the premises.

During events (Fridays/Saturdays) there will be some increased activity in the evening at the venue as a result of the proposed extended opening hours (until 2300 hours), however taking account of the position of the existing building and the separation distances between the site and existing residential properties the impacts of the increased hours of use are not considered to be harmful. Furthermore the presence of other established commercial uses in the area is also noted, which currently operate until late in the evening. The proposed evening operation is limited to only two occasions per calendar month (Fridays and/or Saturday) and the extended hours are proposed for an initial trial period of up to 12 months which will allow for any operational issues associated with the extended operating hours to be considered in more detail. In light of the above it is considered that the proposed extension of the operating hours for trial period is not considered to give rise to any significant noise and disturbance issues which would detrimentally affect the amenity of residents.

In light of the above the proposal is considered acceptable from an amenity perspective and accords with policy LR5.

#### Highways

The extension of operating hours is not considered to give rise to any highways issues. The site is in a sustainable location within easy walking distance of established residential areas. The café due to its limited scale is considered to

primarily be a local facility and as such a large majority of people using the premises will arrive on foot and use the café as part of a linked trip to the park, children's play area or other existing facilities in the locality including the library on the Uppergate Road. As such the existing café use is not considered to be a significant traffic generator itself.

The park benefits from a number of dedicated pedestrian access points and an established vehicle access from Uppergate Road which leads to a small shared use car parking area that includes disabled car parking provision. Should customers arrive by car it is considered that any parking demand that is specifically generated by the use could be reasonably accommodated within the existing parking area or on the adjoining roads without harming highway safety.

In light of the above the proposal is considered acceptable from a highways perspective.

## RESPONSE TO REPRESENTATIONS

Two events per month is a maximum and is inclusive of TENS events. A suitably worded planning condition will be imposed to restrict the number of events.

There is considered to be ambient light in the area which will allow customers to access the site safely.

Byelaws are separate private non planning matters.

The sale of alcohol is controlled by separate licensing legislation.

The proposal will not significantly affect visibility between the main park area and the children's play area as the extensions are located to the south of the existing building.

It is not the Planning Authority's role to prevent competition between operators of commercial uses.

There is no evidence to suggest that the existing use or extended opening hours will give rise to any antisocial issues and there is considered to be adequate separation between the building and the other uses within the park.

A condition will be attached requiring a bin to be provided outside of the premises during opening hours in order to prevent the spread of litter.

Maintenance of the park, its facilities and associated access to it is a matter for the landowner.

All other matters are considered in the main body of the report.

The consent for the café expires on the 6<sup>th</sup> February 2019 As such a suitable the trial period for the extended hours will be worded to relate to the expiry of the

consent or a 12 month period should the applicant wish to apply to extend retain the building for an extended period of time.

## SUMMARY AND RECOMMENDATION

Member will recall that planning consent for the retention of the existing cafe and extensions to form toilets and storage area including changes to opening times to 0700 to 2330 on two occasions per month for functions/events was refused at in February this year.

The café is an established feature in Stannington Park having original been granted planning consent back in 2010 and 2014. Hours of use of the café were restricted under condition 4 of planning consent 13/04166/FUL to between 0700 and 1800 hours 7 days a week.

This application seeks permission to extend the daytime operation of the premises by one hour until 1900 hours. It is also proposed to operate the café until 2300 hours on two occasions (Friday/Saturday) per calendar month (inclusive of TENS). The proposed changes to the hours of use are sought for an initial trial period of up to 12 months. No external alterations or extensions to the building are proposed as part of this application. The applicant has however indicated that certain events may require the use of amplified sound within the building.

The site is in an allocated Open Space area as defined in the adopted Sheffield Unitary Development Plan.

Taking account of the separation distance of the building from existing residential properties, the proposal is not considered to give rise to any harmful amenity issues. Furthermore the applicants are proposing to operate extended opening hours for a trial period of up to 12 months and conditions are recommended which will limit the potential for noise breakout from the use of amplified sound and to control the operation of the café.

The site benefits from dedicated pedestrian and vehicle access points and a small shared use car park and the extended hours of operation are not considered to detrimentally affect highways safety.

In light of the above the proposed development is considered to comply with the relevant adopted Unitary Development Plan and Core Strategy Policies and the National Planning Policy Framework and it is recommended that Planning Permission is granted conditionally.

