
Case Number	18/00028/CHU (Formerly PP-06631348)
Application Type	Planning Application for Change of Use
Proposal	Change of use from A1 (retail shop) to A4 (drinking establishment) and provision of outdoor seating/smoking area.
Location	BAL Fashions And Knitwear 16 Exchange Street Sheffield S2 5TS
Date Received	04/01/2018
Team	City Centre and East
Applicant/Agent	Mr Steven MacKay
Recommendation	Grant Conditionally

Time Limit for Commencement of Development

1. The development shall be begun not later than the expiration of three years from the date of this decision.

Reason: In order to comply with the requirements of the Town and Country Planning Act.

Approved/Refused Plan(s)

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

Site location plan received 21st February 2018
Floor Plans received 1st February 2018

Reason: In order to define the permission.

Pre-Commencement Condition(s)

3. Before the commercial use hereby permitted commences, the applicant shall submit for written approval by the Local Planning Authority a Noise Management Plan giving details of operational procedures to protect the occupiers of nearby dwellings from noise in external areas and dispersion. The use shall thereafter be operated in accordance with the approved Noise Management Plan.

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

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

4. No live music or amplified sound shall be played within the building unless a scheme of sound attenuation works has been installed and thereafter retained. Such scheme of works shall:

- a) Be based on the findings of an approved noise survey of the application site, including an approved method statement for the noise survey.
- b) Be capable of restricting noise breakout from the building to the street to levels not exceeding the prevailing ambient noise level by more than 3dB when measured;
 - (i) as a 15 minute LAeq, and;
 - (ii) at any one third octave band centre frequency as an 15 minute LZeq.

Before such scheme of works is installed full details thereof shall first have been submitted to and approved in writing by the Local Planning Authority.

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

5. No amplified sound shall be played within the building except through an in-house amplified sound system fitted with a sound limiter, the design and 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. Prior to the installation of any commercial kitchen fume extraction system full details shall first have been submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with Defra document; Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems and shall include:

- a) Plans showing the location of the fume extract terminating and including a low resistance cowl
 - b) Acoustic emissions data.
 - c) Details of any filters or other odour abatement equipment.
 - d) Details of the systems required cleaning and maintenance schedule.
- The approved equipment shall then be installed, operated, retained and maintained in accordance with the approved details.

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

7. Before the use of the development is commenced, Validation Testing of the sound attenuation works shall have been carried out and the results submitted to and approved by the Local Planning Authority. Such Validation Testing shall:

- a) Be carried out in accordance with an approved method statement.
- b) Demonstrate that the specified noise levels have been achieved. In the event that the specified noise levels have not been achieved then, notwithstanding the sound attenuation works thus far approved, a further scheme of sound attenuation works capable of achieving the specified noise levels and recommended by an acoustic consultant shall be submitted to and approved by the Local Planning Authority before the use of the development is commenced. Such further scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained.

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

8. No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the building unless full details thereof, including acoustic emissions data, have first been submitted to and approved in writing by the Local Planning Authority. Once installed such plant or equipment shall not be altered.

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

9. The building shall not be used unless the access and facilities for people with disabilities shown on the plans have been provided in accordance with the approved plans and thereafter such access and facilities shall be retained.

Reason: To ensure ease of access and facilities for disabled persons at all times.

10. The outside area shall not be used unless full details of the removable screens which will mark out the area have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the approved details.

The screens shall be removed when the building is not in operation

Reason: In the interests of the visual amenity of the locality

Other Compliance Conditions

10. No customer shall be permitted to be on the premises outside the following times: 08:00 to 23:30 hours on Mondays to Thursdays, 08:00 to 00:30 (the following day) hours on Fridays and Saturdays and 10:00 to 23:00 hours on Sundays and Public Holidays.

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

11. Commercial deliveries to and collections from the building shall be carried out only between the hours of 08:00 to 21:00 on Mondays to Saturdays and between the hours of 10:00 to 20:00 on Sundays and Public Holidays.

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

12. Movement, sorting or removal of waste materials, recyclables or their containers in the open air shall be carried on only between the hours of 08:00 to 22:00 Mondays to Saturdays and between the hours of 10:00 to 20:00 on Sundays and Public Holidays.

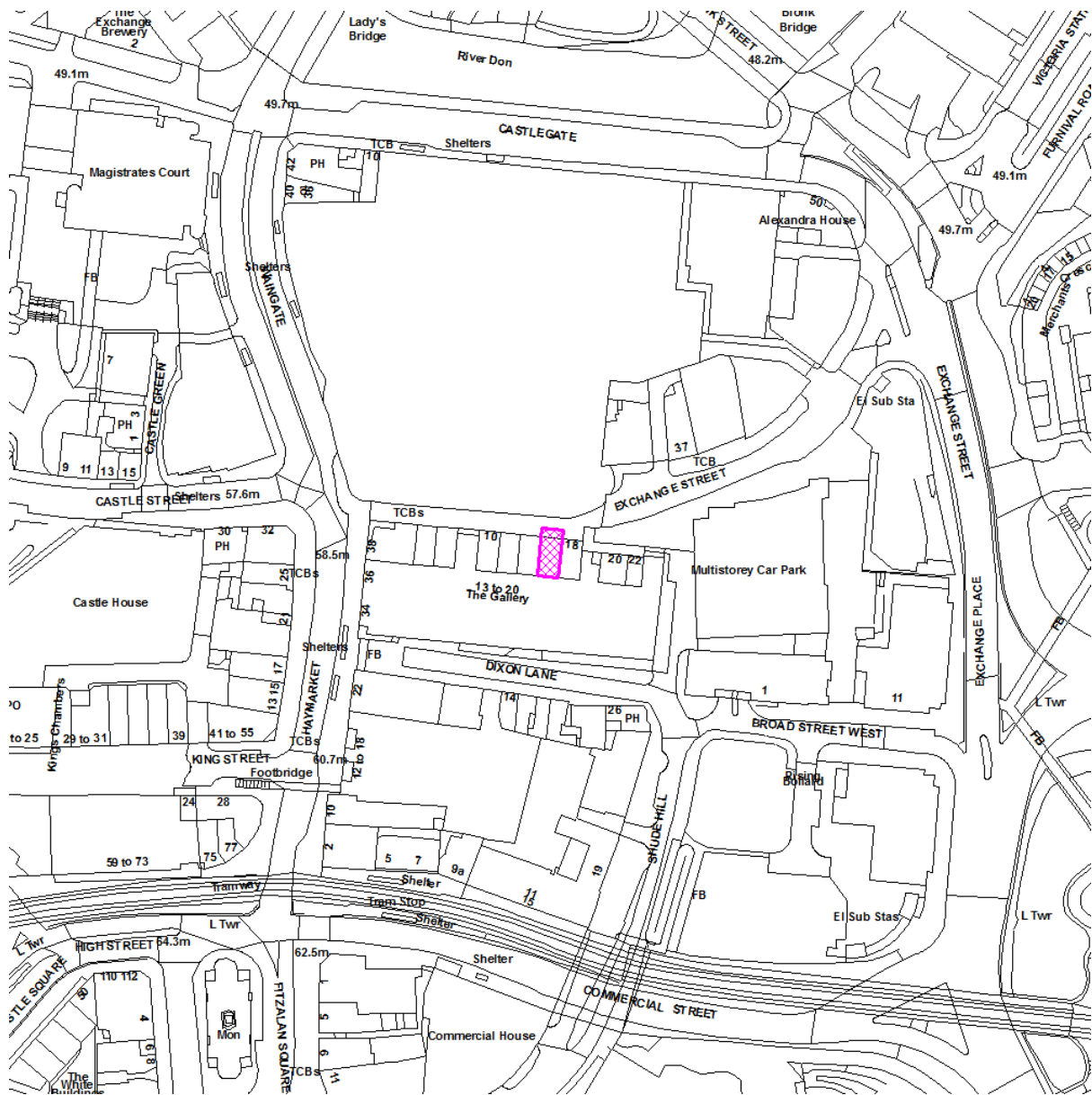
Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

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. Plant and equipment shall be designed to ensure that the total LAeq plant noise rating level (including any character correction for tonality or impulsive noise) does not exceed the LA90 background noise level at any time when measured at positions on the site boundary adjacent to any noise sensitive use.
3. The applicant should install any external lighting to the site to meet the guidance provided by the Institution of Lighting Professionals in their document GN01: 2011 "Guidance Notes for the Reduction of Obtrusive Light". This is to prevent lighting causing disamenity to neighbours. The Guidance Notes are available for free download from the 'resource' pages of the Institute of Lighting Professionals' website.
4. The applicant is advised that noise and vibration from demolition and construction sites can be controlled by Sheffield City Council under Section 60 of the Control of Pollution Act 1974. As a general rule, where residential occupiers are likely to be affected, it is expected that noisy works of demolition and construction will be carried out during normal working hours, i.e. 0730 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays with no working on Sundays or Public Holidays. Further advice, including a copy of the Council's Code of Practice for Minimising Nuisance from Construction and Demolition Sites is available from Environmental Protection Service, 5th Floor (North), Howden House, 1 Union Street,

Sheffield, S1 2SH: Tel. (0114) 2734651, or by email at
epsadmin@sheffield.gov.uk.

Site Location



© Crown copyright and database rights 2016 Ordnance Survey 10018816

LOCATION AND PROPOSAL

The application relates to a former A1 retail unit located on Exchange Street. The three storey retail unit (including a basement) which is located to the northern side of the Galleries building faces onto the now cleared site of Castle Market. Exchange Street is a pedestrianised thoroughfare linking Haymarket with Castlegate and Victoria Quays.

Planning permission is sought to change the use of the building from A1 (retail) to an A4 (drinking establishment). The application seeks approval to use the building 24/7 with the pavement area to the front of the building utilised as an external seating/smoking area.

BACKGROUND

Although there is no planning history for the application premises, no 16 Exchange Street along with 12, and 20/22 Exchange Street have since early 2017 been operating as late night bars and nightclubs under a series of Temporary Events Notices (TEN's) granted by the Licensing Authority. Although no planning permission was sought for any of the three units prior to the uses commencing, Environmental Protection officers have previously recommended that the operators make modifications to their buildings to prevent the outbreak of amplified sound which has the potential to cause disturbance to local residents. On this recommendation and with an indication that the premises would only be used on limited weekends throughout the year it was not previously considered expedient to take Enforcement Action to secure a cessation of the uses. Environmental Protection have confirmed that although the operators of no. 12 Exchange Street have carried out acceptable remedial works to their building to prevent noise outbreak, no's 16 and 20/22 are continuing to cause problems in respect of noise disturbance to local residents and Environmental Protection have received a significant number of public nuisance and Statutory noise nuisance complaints.

This application has been submitted by the operators of no. 16 to regularise their use of the building. Planning applications have been requested from the other two operators.

The former Market Tavern public house is located to the other side of Exchange Street. The public house is currently unused but has an established use as an A4 drinking establishment. The public house could reopen without further planning approval.

SUMMARY OF REPRESENTATIONS

12 letters of objection have been received from residents and owners of property within the Warehouse at Victoria Quays, including a letter from the Warehouse Management Company. The letters raise concern that:

- As there are no natural or other barriers between the Warehouse and Exchange Street, noise and disturbance is a major issue for residents with loud music during the small hours. The loud bassline music can be heard with

windows closed and during warmer months with windows open it is more intrusive. The noise prevents residents being able to sleep, impacting on health and the ability to work the following day. The letters consider that the establishment should be closed so that local residents can sleep at night

- This is a peaceful location in the heart of Sheffield which since the closure of the Castle Market has become more residential in nature. The proposal will change the ambiance of the surrounding area. Whilst this will bring life to the area, it will not add value as it will only be used for late night entertainment purposes and be dangerous due to proximity of busy roads and the canal, where people have drowned due to excessive drink. Cafes, restaurants and shops are welcome but loud music until the early hours of the morning is not.
- The Warehouse is located within 150m of the application site. Residents suffer from additional noise from rowdy behaviour of people leaving the premises drunk, street drinking, anti-social behaviour and a constant flow of mini cabs within the area during the early morning hours.
- If permission is granted with restrictions such as opening hours, volume of music, use of pavement space etc, then in all probability these restrictions would be flouted
- There are enough establishments serving alcohol in the City Centre. Granting permission will encourage similar establishments to set up. There are several hotels within quarter of a mile. The anti-social behaviour and noise which the use will generate will give visitors a negative view of Sheffield and lead to a reduction in property values.

South Yorkshire Police

SYP comment that if the council is minded to approve the application a severe reduction in hours would be desirable thereby minimising noise disruption to local residents during the night time period.

One letter of support has been received from the operator of one of the neighbouring businesses on Exchange Street. The letter indicates that the proposal will help with the regeneration of the area attracting new people to the area and that the noise concerns of local residents are unfounded. The letter states that there have been no notable incidences of anti-social behaviour that can be attributed to the new businesses on Exchange Street.

PLANNING ASSESSMENT

Land Use Policy

The application site falls within the Central Shopping Area as defined by the Unitary Development Plan. UDP Policy S3 'Development in the Central Shopping Area' lists food and drink outlets as a preferred use of land within this policy area.

Policy CS17 of Core Strategy is also of relevance. This relates to the City Centre Quarters and describes the Castlegate area as an area for a mix of uses including offices, housing, hotels and leisure facilities which link the Heart of the City with Victoria Quays

The proposed use for the building as a drinking establishment complies with policies S3 and CS17 and is therefore considered acceptable in principle subject to compliance with other policy requirements.

Amenity Issues

UDP Policy S10 'Conditions on Development in Shopping Areas' permits change of use providing that it would not cause residents or visitors to suffer from unacceptable living conditions, including air pollution, noise, other nuisance or risk to health or safety.

16 Exchange Street is located in a mixed commercial and residential area of the City Centre with relatively low background noise levels throughout the late evening and early hours of the morning. The predominant noise source is road traffic on Exchange Place and Park Square roundabout. There are a significant number of commercial (A1-A5) uses in close proximity to the application site and the residential accommodation within the Warehouse is located approx. 150m away.

There is the potential for disamenity to both neighbouring residential and commercial premises arising from the use due to factors including noise, odour and anti-social behaviour which require consideration.

The existing fabric to the building and lack of sound insulation measures is currently inadequate to satisfy the requirements of the council in respect of noise breakout of amplified sound and has resulted in a significant number of Statutory Noise complaints. Environmental Health are of the opinion that remedial works could be undertaken to improve both the fabric of the building and sound insulation to ensure that the building could be used as intended without unacceptable noise breakout. In this respect should members be minded to approve the application conditions would be added requiring a scheme of sound attenuation works to be installed and thereafter retained.

Whilst the above condition would prevent noise breakout from amplified sound within the building, the long opening hours which have been requested raise concerns about the potential for noise disturbance from patrons outside the premises including people's voices talking, laughing, shouting, consuming alcohol and/or smoking. Vehicles/taxis arriving, parking and departing may also intensify noise levels causing more disturbances to local residents especially in the early hours of the morning. In this respect it is recommended that strict opening hours are imposed on the use to ensure that no customer is permitted to be on the premises outside of the following times: 08.00 to 23.30 hours on Mondays to Thursdays, 08.00 to 00.30 hours (the following day) on Fridays and Saturday and 10.00 to 23.00 hours on Sundays and Public Holidays. This would be largely in line with the opening hours of other drinking establishments within the City Centre. The applicant has been advised of these recommended opening hours.

It is also recommended that the applicant be required to provide full details to address potential noise disturbance of patrons in external areas in a standalone Noise Management Plan. It would be expected that such a noise management plan would address how customer activities and noise are monitored, examine the applicant's smoking and/or consuming alcohol policy, require staff training in relation to noise awareness, provision of CCTV, relevant signage, setting up good relationships with responsible taxi operators etc. A condition is recommended to achieve this.

The applicant has indicated that there will be no cooking on site. Should this change it is recommended that full details of a fume extraction system and /or any other external plant should be approved prior to installation.

With the above safeguards in place it is considered that the use of the building as a drinking establishment will not cause significant disamenity to local residents to an extent which would justify a refusal of the application.

It is noted that the application property is one of three late night drinking establishments which are currently operating without planning approval on Exchange Street. When planning applications are submitted for the other two units to regularise their uses similar conditions will be imposed in the interests of the amenities of local residents.

Highways

Policy S10 'Conditions on Development in Shopping Areas' requires new development to be adequately served by transport facilities, provide safe access to the highway network, appropriate off street parking and not endanger pedestrians.

The site located within the city centre, in a sustainable location which is well served by public transport. There are no highway implications with the application.

Disabled access

UDP policy BE7 'Design of Buildings Used by the Public' requires that the access to existing buildings and their surroundings be improved as opportunities arise to enable all users to move around with equal ease and for the provision of facilities for people with disabilities.

The ground floor of the three storey unit has level access with stepped internal access to the basement and first floor of the building. The submitted plans show the provision of an accessible toilet on the ground floor unit. In this respect the change of use raises no access concerns.

Design

No external alterations are proposed to the building .As the proposal involves the use of the pavement to the front of the building as an outdoor seating/smoking area it will be necessary for the applicant to mark out the area to ensure the use doesn't

extend to the front of neighbouring units. Full details of the proposed removal screens which will be used will be conditioned for subsequent approval.

Other issues

There is no change to bin storage arrangements from the previous retail use. Waste/recycling bins are stored in the basement of the Gallery building with other Gallery tenant's bins and accessed via an existing service road.

Regeneration of Castlegate

Castlegate has experienced a long period of decline due to the progressive relocation of large retail occupiers mainly to the Moor, yet the quarter remains a key gateway to the city centre particularly for the riverside hotel and business district, contains the hidden remains of the Sheffield Castle and river Sheaf and has a large stock of vacant good quality buildings.

A regeneration strategy has recently been developed by the Council with the broadly based Castlegate Partnership which sets out a new role for the quarter as a key regional location for Tech and Creative sector start-ups. This is set out in the Castlegate section of the draft City Centre Plan and is being initiated through the Council's £800,000 Castlegate Kickstart Programme.

A key part of the strategy is the encouragement of low-cost business start-ups using the many vacant retail spaces under the ReNew Sheffield initiative. One of the early opportunities for this approach is the former 'Galleries' shops on Exchange Street which the Council has brokered a licencing arrangement to the arts and workspace organisation CADS. The proposed change of use of 16 Exchange Street to a drinking establishment is one of a number of start-ups coming from this initiative.

The current lack of activity on Exchange Street is not representative of its character over the many previous decades. At the time the Victoria Quays apartments were first occupied Exchange St was home to two pubs featuring music rooms (Market Tavern and Alexandra) as well as the busy indoor and outdoor markets. Until 2008 Exchange St/Place was also part of the Inner Ring Road, a very heavily trafficked thoroughfare throughout the day and night. The current lack of activity particularly at night, is a major detractor to footfall and investment in Castlegate and a situation which should not be regarded as desirable in itself.

SUMMARY & RECOMMENDATION

This is an application for a change of use from a previously vacant ground floor retail unit (Class A1) to a drinking establishment (Use Class A4). The building together with two other premises on Exchange Street has been operating under Temporary Event Notices since the beginning of 2017. The uses have generated complaints from local residents who are concerned about noise, general disturbance and anti-social behaviour especially in the early hours of the morning.

Environmental Protection Officers consider that with the installation of appropriate sound attenuation, noise breakout from the building can be reduced to acceptable

levels. This together with strict opening hours which would prevent the building being used into the early hours of the building will ensure that the use does not continue to impact on local residents.

In this respect the proposal is considered to be in compliance with approved policy and is recommended for approval subject to the listed conditions.