
Case Number	18/02533/FUL (Formerly PP-07089367)
Application Type	Full Planning Application
Proposal	Alterations and extensions to substation to form bar/restaurant (Use Class A3/A4) including outdoor seating area (as per amended drawings dated 07.01.19)
Location	Electricity Substation Adjacent 33 Brown Lane Sheffield S1 2NH
Date Received	02/07/2018
Team	City Centre and East
Applicant/Agent	Mr David Oulsnam
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:

Drawing numbers;
95218 03 rev N - Proposed Ground Floor Plan published 17.01.19
95218 04 rev F - Proposed Elevations published 17.01.19
95218 05 rev B - Proposed Site Plan published 07.01.19
95218 06 - Site Location Plan published 02.07.18

Reason: In order to define the permission.

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

3. No development shall commence until the actual or potential land contamination and ground gas contamination at the site shall have been investigated and a Phase 1 Preliminary Risk Assessment Report shall have been submitted to and approved in writing by the Local Planning Authority. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004).

Reason: In order to ensure that any contamination of the land is properly dealt with and the site is safe for the development to proceed, it is essential that this condition is complied with before the development is commenced.

4. Any intrusive investigation recommended in the Phase I Preliminary Risk Assessment Report shall be carried out and be the subject of a Phase II Intrusive Site Investigation Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to the development being commenced. The Report shall be prepared in accordance with Contaminated Land Report CLR 11 (Environment Agency 2004).

Reason: In order to ensure that any contamination of the land is properly dealt with and the site is safe for the development to proceed, it is essential that this condition is complied with before the development is commenced.

5. Any remediation works recommended in the Phase II Intrusive Site Investigation Report shall be the subject of a Remediation Strategy Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to the development being commenced. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Local Planning Authority policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with and the site is safe for the development to proceed, it is essential that this condition is complied with before the development is commenced.

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

6. 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 approved noise survey (ref: 12585.01.v1, dated: 10/18, prepared by: NoiseAssess).
 - 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.

7. The brickwork to be used externally shall match that of the existing building in colour, shape, size and texture.

Reason: In order to ensure an appropriate quality of development.

8. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with.

9. Large scale details, including materials and finishes, at a minimum of 1:20 of the items listed below shall be approved in writing by the Local Planning Authority before that part of the development commences:

Windows and doors including reveals (which shall be a minimum of 125mm)
Re-hung timber door shutters
Parapet and capping

Thereafter, the works shall be carried out in accordance with the approved details.

Reason: In order to ensure an appropriate quality of development.

10. A comprehensive and detailed hard and soft landscape scheme for the site shall be submitted to and approved in writing by the Local Planning Authority before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality.

11. The site shall be bound by a low red brick wall fronting Charles Street, full details of which shall be submitted to and approved in writing by the Local Planning Authority. The wall shall be constructed in accordance with the approved details before the outdoor seating area is brought into use.

Reason: In the interests of highway safety and the amenities of the locality.

12. The bin store, as shown on the approved drawings, shall be implemented before the bar/restaurant is brought into use, and thereafter retained for the sole use intended, and at no time (except on collection days) shall bins be stored elsewhere.

Reason: In the interests of highway safety and the amenities of the locality.

13. 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.

14. 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 future occupiers of the building.

15. The bar/restaurant use hereby approved shall not commence until the commercial kitchen fume extraction and air conditioning systems, as shown on the approved plans and detailed in the following approved documents, have been implemented in accordance with those details and thereafter retained and maintained in working order.

Mechanical Ventilation and Environmental Control Equipment by Airflow Cooling published 25.10.2018
External Unit Specification documents (Daikin AZQS100B8V1B I and II) both published 17.01.2019

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

Other Compliance Conditions

16. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: In order to ensure that any contamination of the land is properly dealt with.

17. No amplified sound shall be played within the external areas of the commercial use hereby permitted nor shall loudspeakers be fixed at any time outside the building.

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

18. Doors and windows shall be kept closed at all times, save access and egress of the general public or than in case of emergency, when amplified sound is played within the commercial use hereby permitted.

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

19. No customer shall be permitted to be on the premises outside the following times: 0800 hours to 0000 hours (the following day) Monday to Thursday, 0800 hours to 0200 hours (the following day) on Friday and Saturday, and 0800 hours to 0000 hours (the following day) on Sundays and Public Holidays.

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

20. Commercial deliveries to and collections from the building shall be carried out only between 0800 hours and 2100 hours Monday to Saturday and not on Sundays and Public Holidays.

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

21. The movement, sorting or removal of waste materials, recyclables or their containers in the open air shall be carried out only between 0800 hours and 2100 hours Mondays to Saturdays and between 1000 hours and 2000 hours on Sundays and Public Holidays.

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

22. The outside area shall not be used for eating and drinking outside the following times; 1100 hours and 2200 hours Sunday to Thursday and Public Holidays and 1100 hours and 0000 hours on Friday and Saturday.

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

23. The bar/restaurant use hereby permitted shall be managed in accordance with the approved Noise Prevention Strategy (by Forge Creations published 17.01.2019).

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

24. 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.

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 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.
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 proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

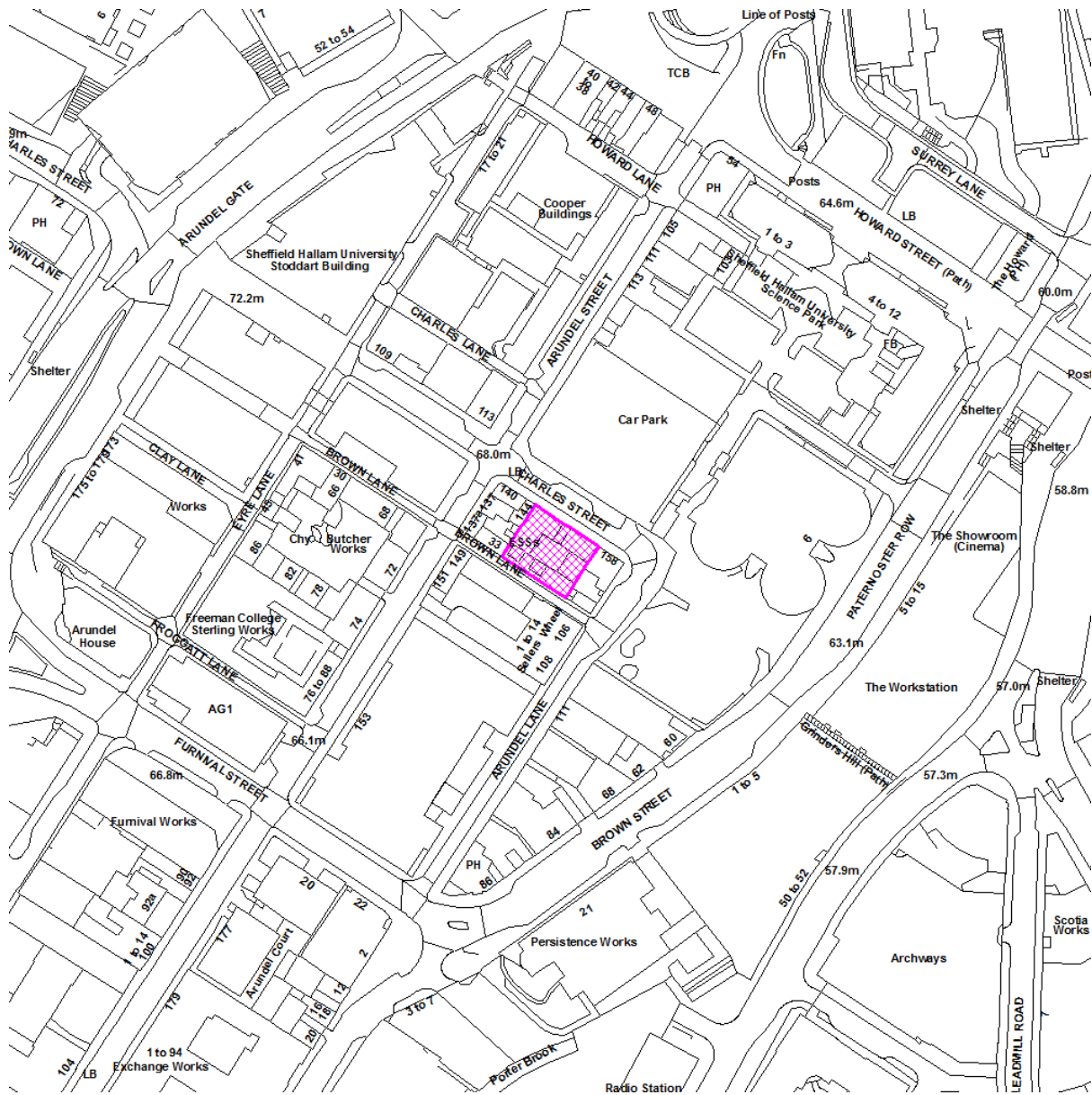
It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 7626848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority

Site Location



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LOCATION AND PROPOSAL

The application relates to a disused electricity substation on the southern side of Charles Street, seeking planning consent for use as a bar/restaurant (use class A3/A4), including two single-storey side extensions and the provision of an outdoor seating area to the front.

RELEVANT PLANNING HISTORY

10/02195/FUL - Alterations and extensions to substation to form cafe/restaurant (Use Class A3) and bar (Use Class A4) – Grant conditionally 05.10.2010

SUMMARY OF REPRESENTATIONS

A letter of representation was received from the adjacent manufacturing business (MG Tools), in summary:

- Requesting their presence in the area is fully taken into account to eliminate potential complaints as their machinery may be heard within the proposed bar and kitchen areas without insulation
- Raising concern that the use of a flat roof to the proposed kitchen may provide easy access to felons and a secure boundary is preferred

15 no. letters of objection were received from occupiers of apartments within Butcher Works, in summary the following concerns were raised:

- Late night opening hours (to 00:00 hours Sunday to Thursday and 02:00 Friday and Saturday) will lead to noise and disturbance, not acceptable in this residential area, which currently has low levels of background noise at night
- Butcher Works is a Listed Building and does not have double glazing to help soundproof or air conditioning, which requires windows to be open in the summer months
- Increased footfall is a threat to privacy
- The aspiration of being “the beating heart of the city” would appeal to students with a difference in lifestyle to the occupants of Butcher Works i.e. professionals and families
- Other licenced premises in the area do not operate beyond 11pm, which is considered a reasonable closing time in this area and should be stipulated here
- The limited menu of chips and dips and small kitchen area indicates a bar rather than restaurant, circumventing the planning process
- Large outdoor seating would create significant noise within 50m of Butcher Works and should be limited to 10pm
- The 2010 permission limited hours to 00:30 Monday to Saturday and 00:00 Sundays and Public Holidays, establishing that later opening hours would be inappropriate, and since then there has been more residential development in the area
- Hallam Union events have caused noise disturbance, including from an outdoor area which forms a quadrangle with Arundel Street, Charles Street

and the Science Park amplifying noise, in which the proposed bar would be located

- The Cultural Industries Quarter Conservation Area is an increasingly residential area, not home to late night bars, and the proposal is out of character with the area
- Proposals are against Guideline 2 of Sheffield City Council's Interim Planning Guidance on Night Time Uses, Sheffield City Council's City Living Strategy, UDP Policy IB9 and the Human Rights Act 1998
- Letter only giving 1 day to reply is unacceptable

A letter of objection was received from Councillor Douglas Johnson, in summary reiterating and supporting the above concerns raised by the residents of Butcher Works and stating that the application should be rejected as noise issues have not been addressed.

A response to the objections was submitted by the applicant's agent.

The objections are addressed in the planning assessment below.

PLANNING ASSESSMENT

Principle

The site lies within a Fringe Industry and Business Area, as designated in the Unitary Development Plan (UDP), where Policy IB6 identifies business, industry and warehouse uses as preferred, but lists food and drink outlets as acceptable in principle, subject to the provisions of UDP Policy IB9(a).

The subject site is small and is not occupied by a preferred use, therefore the proposal would not prejudice the dominance of industry and business in the area, and the principle of a bar/restaurant use on the site is acceptable.

Design and access

The site lies within the Cultural Industries Quarter Conservation Area, and a designated Area of Special Character.

The site comprises a traditional former substation, finished in red brickwork with a front gable feature and double height doorway. The building sits behind the building line established by the adjacent neighbours, within a largely open plot currently used for car parking. The building is of good architectural quality and makes a positive contribution to the Conservation Area.

The proposal retains the existing building with the addition of single storey flat roof extensions to either side, finished in matching brickwork. While not of traditional design, this simple, contemporary approach is considered to be acceptable, reading as subservient additions which respect the character of this robust brick building.

The existing original timber doors would be retained and rehung as shutters to a glazed internal entrance porch, which would be lightweight and maintain the scale of

the double height opening. The proposed glazed lobby would have a level threshold and 1m effective clear width, providing inclusive access. Full large scale details of windows etc would be conditioned in order to achieve a quality finish.

The outdoor seating area to the front would provide some welcome activity in the street scene and improve the appearance of the site from Charles Street. A low boundary wall would be required to the front to contain the outdoor seating area, and full landscaping details would be conditioned.

The flue would terminate at low level over the flat roof of the kitchen area, however, views of the top of the cowl would be negligible. An A/C unit would be positioned to the rear, and while visible from Brown Lane, the character of this area is that of a back lane and it is not considered that the unit viewed within this context and would unreasonably harm the character of the wider Conservation Area.

Overall the proposal is considered to be of acceptable design quality, which would preserve and enhance the character of the building and the wider Conservation Area, according with UDP Policies BE5, IB9(c), BE15, BE16 and BE17 and Core Strategy Policy CS74.

Amenities of the locality

It is acknowledged that a late night bar/restaurant use has the potential to be a source of disturbance within the locality, particularly for neighbouring residents within the Butcher Works and Sellers Wheel developments. However, it is considered that acceptable details have been submitted regarding noise and odour, and that the impact on neighbours can be made acceptable by the use of conditions, addressed below.

The principal objection raised by neighbours relates to the proposed late night bar use causing noise disturbance. A restriction of noise breakout from the building to the street to levels not exceeding the prevailing ambient noise level by more than 3dB would ensure noise from within the bar would not lead to unreasonable disturbance within the locality, and at this low level would not be audible from within surrounding residential developments. It is noted that Butcher Works does not have double glazing; however, the noise levels discussed would be adequate.

A noise report was submitted by the applicant, demonstrating that the required level of noise breakout can be achieved when amplified noise is played within the building. A condition would require validation testing to ensure that the required noise levels are met before the development is brought into use. A condition would also require doors and windows to remain closed when amplified sound is played, and the design includes an internal acoustic lobby.

The operating hours of use proposed are 11:00 to 00:00 Sunday to Thursday and Public Holidays and 11:00 to 02:00 on Friday and Saturday, and these would be controlled by condition.

The concerns regarding a late night bar being out of character in this area are noted. However, the area comprises a range of commercial and residential uses including

Sheffield Hallam University's Student's Union at the eastern end of Charles Street. While night time background noise levels may be lower than areas with more traffic and busier night time economies, such as West Street or Division Street, it is not considered that the proposed hours of use would lead to unacceptable noise disturbance within the area.

When leaving the premises after closing, customers could disperse in a number of directions, up or down Charles Street, Arundel Street and Arundel Lane, or across the car park opposite. It is not considered likely that congregations of customers leaving the premises late at night would lead to prolonged and unacceptable noise in the locality that would unacceptably disturb local residents to such an extent that would be prohibitive of the opening hours requested. The above mentioned sound attenuation requirements would equally control noise breakout from the building to acceptable levels late at night as well as during the day.

It is acknowledged that customers using the outdoor seating area are a potential noise source, which is difficult to control due to its nature and outdoor setting. However, noise would be limited to customers' voices only as a condition would prevent loud speakers and amplified sound being played externally.

The submitted noise report demonstrates that when the terrace is at capacity this would not lead to noise levels that would cause unacceptable disturbance for residents. While this capacity is based on the indicative layout of the seating area shown on the plan, and it is acknowledged that it may be possible for more customers to use the seating area at any given time, the noise report is considered to make appropriate assumptions, as it assumes half the people would be talking at once, at a distance of 20m from residential properties. The external area would be limited to approx. 147m² in size, and would actually be a minimum distance of 30m away from the nearest point of the Butcher Works apartments, screened by the adjacent two-storey neighbouring buildings.

A condition would prevent the outside area being used for eating and drinking outside the following times; 11:00 to 22:00 Sunday to Thursday and Public Holidays and 11:00 to 00:00 on Friday and Saturday. This would allow the outdoor area to be used for smoking but would avoid prolonged use by congregations of drinkers and mitigate any potential late night disturbance.

In addition, a noise prevention strategy has been submitted by the applicant detailing measures to further mitigate disturbance in the locality, including management of the outdoor area by staff, which will be secured by conditioned.

Further conditions would limit servicing, deliveries, and the movement and sorting of waste between 0800 and 2100 to avoid the noise associated with these activities causing early morning or late night disturbance.

A low level flue will terminate just above the flat roof of the kitchen extension and an A/C unit would be positioned to the rear. The technical specification of this equipment has been submitted and demonstrates that it would adequately address cooking odours but not be a source of unreasonable noise disturbance in the locality. These specifications will also be conditioned.

Concerns regarding neighbouring privacy are noted. However, it is not considered that the proposal would lead to a level of increased footfall that would be materially detrimental to existing privacy levels or warrant refusal.

Overall it is not considered that the proposal would cause existing residents to suffer unacceptable living conditions, or harm the quality of the environment to an extent that it would discourage new industry and business development, according with UDP Policy IB9(b) and (e).

Land quality

The site lies within a Coal Mining Referral Area. A structural report was submitted indicating that the development can be undertaken without improvement works to the existing foundations and therefore no significant ground works are required and a full Coal Mining Risk Assessment was not submitted. The Coal Authority raised no objection to this approach and the proposal is not considered to raise any land quality issues.

While no breaking of the ground for structural development is planned, external areas will be resurfaced and past and probable shallow coal mine workings lie across the site. This, alongside the former substation use, raises concerns regarding potential land contamination and health and safety issues. Therefore conditions are attached requiring site investigations, and where necessary remediation works, to ensure that the site is suitable for the intended use.

Highways

The site occupies a highly accessible location, in close proximity to public transport routes and in walking distance of surrounding residential accommodation and other attractions within the City Centre. It is not considered that the proposal would generate a high demand for parking and waiting restrictions in the area, including on Charles Street and Brown Lane, would prevent any parking demand or servicing associated with the development causing hazards within the highway.

Ideally the redundant dropped kerb running the width of the site on Charles Street would be reinstated to a full kerb to improve highway safety. However, it is not considered reasonable to insist that the developer undertakes this work given the scale of the development in question and the benefit of bringing this derelict site back into use.

Overall, the development is not considered to cause any highway safety issues, according with UDP Policy IB9(f).

RESPONSE TO REPRESENTATIONS

Issues regarding noise disturbance, hours of opening and privacy have been addressed in the planning assessment above. The remaining concerns raised are addressed below:

- The machinery of the tool manufacturing firm has been taken into account, however the proposed kitchen area adjacent is not considered to be a noise sensitive use
- It would not be reasonable to insist that the design incorporates boundary treatments on the flat roof to reduce potential for crime as the proposal is otherwise acceptable on planning grounds
- The extent to which the proposed business would operate as a bar or restaurant is not circumnavigating the planning process. There is a kitchen area proposed and the venue will serve food, and has been advertised as a mixed A3 and A4 use. The noise conditions imposed would protect the amenities of the locality regardless of whether the proposal is to serve food or not
- Whether the venue would be oriented towards students or not is immaterial as the conditions imposed would protect the amenities of the locality regardless of the clientele
- Neighbour letters were sent out on 21.08.2018 and comments have been accepted throughout the assessment process
- The Human Rights Act is not a material planning consideration
- The 2010 planning approval did not establish that later opening hours than those previously approved were unacceptable. The Local Planning Authority is obliged to consider the hours requested and in this case they have been demonstrated to be acceptable.
- The Interim Planning Guidance on Night Time Uses (2005) was superseded by the Supplementary Planning Guidance on City Centre Living (update 2011). The site falls outside the two designated areas covered by the strategy and the recommended cut-off time of 00:30 therefore does not directly apply. The planning assessment above has demonstrated that the proposal would accord with UDP Policy IB9 and it is not considered that the amenities of residents would be harmed by noise, traffic, odours or general disturbance.

SUMMARY AND RECOMMENDATION

The proposed development is of acceptable design quality and will bring an interesting, unused building into active use.

The submitted noise report has demonstrated that the required noise levels can be achieved, and these levels will be validated before the proposal is brought into use to avoid any unacceptable noise break out.

The noise report has also demonstrated that potential noise from the outdoor seating area will not lead to unacceptable levels, and a noise prevention strategy is conditioned to further mitigate disturbance in the locality. As such, the proposed use, and the proposed operating hours are considered to be acceptable.

It is therefore recommended that Members grant planning permission subject to the proposed conditions.

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