
Case Number	19/03536/FUL (Formerly PP-08141598)
Application Type	Full Planning Application
Proposal	Application to allow ground floor opening hours of 0800 to 0100 (Monday to Thursday), 0800 to 0200 (Friday and Saturday) and 0900 to 0100 (Sundays and public holidays) and first floor opening hours of 0800 to 2300 (Monday to Saturday) and 0900 to 2300 (Sundays and public holidays) (Application to vary condition number 5 (Opening Hours) imposed by planning permission 18/04090/FUL)
Location	Sinclairs 266 Glossop Road Sheffield S10 2HS
Date Received	26/09/2019
Team	City Centre and East
Applicant/Agent	NADA Architects - Mr Ahmed Choudhry
Recommendation	Grant Conditionally

Time limit for Commencement of Development

1. The development shall be begun not later than the expiration of three years from 07.02.2019.

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:

Proposed GA ground floor plan - 18-646 (06)001 PL0
Proposed GA first floor plan - 18-646 (07)001 PL0
Proposed GA front elevation - 18-646 (08) 001 PL0
Proposed GA side elevation - 18-646 (09) 001 PL0
Location plan - uploaded 20.10.18

Reason: In order to define the permission.

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

3. The restaurant 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 it is essential for these works to have been carried out before the use commences.

4. Prior to the installation of any commercial kitchen fume extraction system full details, including a scheme of works to protect the occupiers of adjacent dwellings from odour and noise, shall first have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- a) Plans showing the location of the fume extract terminating 1metre above eaves 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.
- e) Details of a scheme of works to prevent the transmission of structure borne noise or vibration to other sensitive portions of the building.

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 and it is essential for these works to have been carried out before the use commences.

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

Other Compliance Conditions

5. No customer shall be permitted to be on the premises outside the following times:

Ground Floor

08:00 to 01:00 hours (the following day) Monday to Thursday

08:00 to 02:00 hours (the following day) Fridays and Saturdays

09:00 to 01:00 hours (the following day) Sundays and Public Holidays

First Floor

08:00 to 23:00 hours Monday to Saturday

09:00 to 23:00 hours Sundays and Public Holidays

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

6. 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.

7. Movement, sorting or removal of waste materials, recyclables or their containers in the open air shall be carried out only between the hours of 0700 to 2300 Mondays to Saturdays and between the hours of 0900 to 2300 on Sundays and Public Holidays.

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

8. Amplified sound or live music shall only be played within the building and in such a way that noise breakout does not exceed the prevailing ambient noise level by more than 3dB when measured at 1m from the façade of the building:

- a) as a 15 minute LAeq, and;
- b) at any one third octave band centre frequency as a 15 minute LZeq.

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

9. 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.

10. Commercial deliveries to and collections from the building shall be carried out only between the hours of 0700 to 2300 on Mondays to Saturdays and between the hours of 0900 to 2300 on Sundays and Public Holidays.

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

11. No amplified sound or live music shall be played within the commercial use hereby permitted at above background levels and shall not be played on the first floor of the premises after 21:00 hours on any day. The specification, location and mountings of any loudspeakers affixed internally to the building

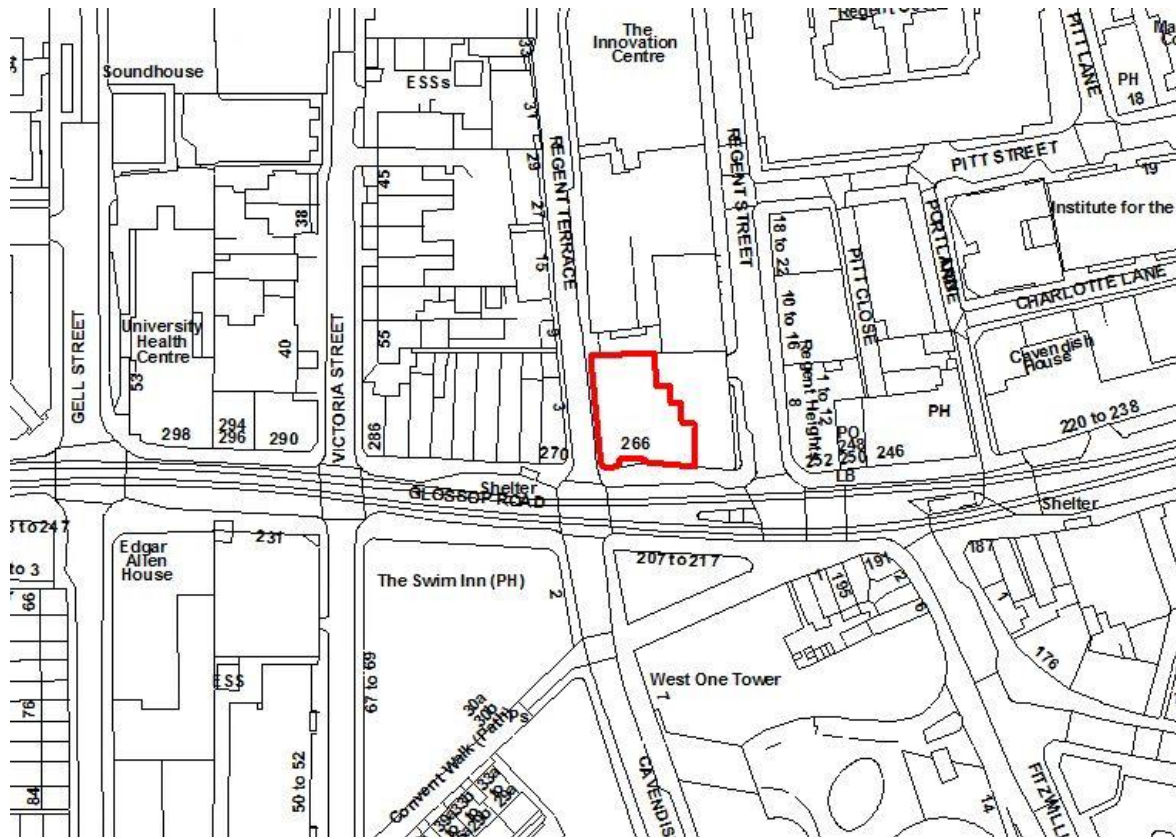
shall be subject to written approval by the Local Planning Authority prior to installation.

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. For the avoidance of doubt in line with National Planning Practice Guidance, Conditions 1 to 10 have been included on this Decision Notice for completeness and because they remain in force. Please note that repeat conditions are listed with the same numbering as the original decision notice. Condition 11 is an additional condition deemed necessary due to the amendments hereby approved. The plans referenced by Condition 2 are those approved by 18/04090/FUL.

Site Location



© Crown copyright and database rights 2016 Ordnance Survey 10018816

LOCATION AND PROPOSAL

The application relates to a recently approved restaurant (use class A3) on Glossop Road.

The application is made under Section 73 to vary condition 5 (opening hours) of the following planning permission:

18/04090/FUL - Change of use of Ground/First floor from retail (use class A1) to restaurant (use class A3) – Granted conditionally

Condition 5 currently states that no customer shall be permitted to be on the premises outside the following times: 07:00 hours to 23:00 hours. This is in the interests of the amenities of the locality and occupiers of adjoining property.

The application initially proposed to extend opening hours until 04:00 hours, however, this was considered unacceptable, and following negotiations, the applicant has agreed to the following opening hours:

Ground floor

- 08:00 to 01:00 hours on Monday to Thursday
- 08:00 to 02:00 hours on Fridays and Saturdays
- 09:00 to 01:00 hours on Sundays and Public Holidays

First floor

- 08:00 to 23:00 hours on Monday to Saturday
- 09:00 to 23:00 hours on Sundays and Public Holidays

The impact of these hours is considered in the planning assessment below.

SUMMARY OF REPRESENTATIONS

8 letters of objection have been received from occupiers of the building in question (the Sinclair Building, no. 3 Regent Street) and neighbouring residential buildings. In summary raising the following concerns:

- Strongly object to opening hours of up to 04:00
- Later opening and music falls into the night club category
- There would be an unacceptable increase in noise created by amplified music, customers, traffic, taxis etc., much greater than currently experienced. Occupants of the Sinclair Building would be especially affected.
- In the Night Time Uses planning document the Sinclair Building falls outside the night time economy area and within the residential area with a permitted closing time of 00:30
- The area is mostly residential in nature and the proposal would change the nature of the area. 23:00 closing is acceptable in a residential area
- A mixed demographic, including families, live in the area and it is important that the concept/demarcation of night time and residential areas are protected

- Acknowledged that the building is within the inner city but noise does not normally exceed 23:00, although the night time economy does currently affect some occupants when bars and restaurants close after 23:00.
- The building is open on the inside and the atrium above the proposed development will transmit noise pollution.
- The front door is directly under apartment no. 22.
- It does not matter about soundproofing if owners ignore planning conditions. The premises should be randomly monitored by the noise team.
- Risk of anti-social behaviour, litter and vermin.
- A lobby should be fitted for sound leakage.
- Devalue the price of the flats within the building.
- This will open the floodgates and other establishments will follow suit.
- Not aware of any market research or consultation with residential neighbours. Cannot see any demand after midnight in this residential part of the city centre for a restaurant.

PLANNING ASSESSMENT

The National Planning Policy Framework (NPPF) is not directly relevant to this proposal because the land use has already been established and this application seeks an alteration to the hours of use. Nevertheless, paragraph 85 of the NPPF does advocate that planning decisions should support the role of the town centre by taking a positive approach to their growth, management and adaptation and promoting their long-term vitality and viability by allowing them to respond to rapid changes in the retail and leisure industries. Balanced against this, Paragraph 180 of the NPPF recognises that decisions should mitigate and reduce to a minimum the potential adverse impacts resulting from noise from new development and avoid giving rise to significant adverse effects. This report assesses the balance between these two competing objectives in reaching a recommendation.

The unit in question has ground and first floor levels with A3 restaurant consent. The unit is located within a six-storey building with residential uses to the second, third, fourth and fifth floors. As has already been demonstrated by the previous consent, the principle of a restaurant is acceptable in this area.

There are no other internal or external alterations proposed and the key consideration is therefore the impact of the proposed later opening hours on the amenity of neighbouring residents, particularly those living above the unit within the Sinclair Building, in terms of noise, nuisance or other disturbance.

In summary, the extended hours would only apply to the ground floor and the proposal would involve the ground floor being in use for 2 no. hours later on Sundays to Thursdays (closing at 01:00 hours) and 3 no. hours later on Fridays and Saturdays (closing at 02:00 hours).

In the City Centre Living Supplementary Planning Guidance (SPG) (updated 2015) and the Night Time Uses Interim Planning Guidance (IPG) (2005), the site does not lie within a designated 00:30 hours closing zone, nor does it lie within an area where night time leisure uses will normally be expected (Plan 1).

Guideline 10 of the SPG was superseded by Guidelines 1 and 2 of the IPG. However, the relevant night time uses discussed in the IPG are drinking establishments (A4), hot food takeaways (A5) and nightclubs.

The proposal for a restaurant (A3), outside a designated 00:30 hours closing zone, is therefore not of direct relevance to these supplementary planning documents, and the impact is determined on its individual merits, against Unitary Development Plan (UDP) policies.

The site is located within the Central Shopping Area, as designated by the UDP, and therefore Policy S10(b) applies. Whilst it is not considered that the area can be reasonably described as residential in character, Policy S10(b) still requires developments not to cause residents to suffer from unacceptable living conditions, including air pollution, noise, other nuisance or risk to health and safety.

The unit fronts Glossop Road/West Street, which is a mixed commercial and residential area, comprising a mix of shops, restaurants, bars etc at ground floor and residential and office accommodation above. The area has a strong night time economy and is a busy thoroughfare, including pedestrians, trams, buses, taxis and cars. Glossop Road/West Street therefore has relatively high background noise levels through the day and into the evening. However it is noted that background noise levels reduce into the late evening.

The closing time of the first floor level of the restaurant, directly below neighbouring residents, would remain at 23:00 hours, as previously approved. The proposal would offer an improvement to the opening hours, proposing an 08:00 hours start (Monday to Saturday) and a 09:00 hours start (Sundays and Bank Holidays) compared to the previously approved 07:00 hours start.

Condition numbers 4, 6, 8 and 9 attached to the original permission limited amplified sound (noise breakout not exceeding the prevailing ambient noise level by more than 3dB), required the specification of the in house amplified sound system (with a sound limiter) and required full details of kitchen extraction and any other externally mounted equipment. These conditions would still form part of any future planning permission to prevent unreasonable noise disturbance to neighbours from amplified sound or structure borne vibrations.

In addition to the above, a condition would be added preventing amplified music to the first floor after 21:00 hours. This is an improvement to the original consent, which permitted amplified music up to 23:00 hours throughout the premises.

The controls placed on the first floor (directly below neighbouring residents) would ensure the impact of the use of this floor would not be materially more harmful when compared to the existing consent. Only the hours of use of the ground floor are in effect being extended, with the first floor providing a buffer inbetween after 23:00 hours.

The above conditions would still ensure that between 23:00 hours and 01:00 hours (02:00 hours on Fridays and Saturdays), amplified noise from the ground floor would still not exceed the prevailing ambient noise level by more than 3dB, which is almost

inaudible when measured 1m from the façade of the building. Such low levels of amplified noise would not be considered to unduly harm the amenity of neighbours two floors above, even accounting for the lack of an internal lobby, any double height spaces due to open stairs, the atrium roof over the first floor level or the proximity of neighbouring windows above.

Whilst background noise levels within Glossop Road/West Street drop after 2300 hours, on Friday and Saturday nights there remains a good level of activity due to the extent of night time uses, and it is not considered that additional comings and goings after 23:00 hours associated with the restaurant would materially increase activity to an extent that would lead to unacceptable noise disturbance caused by customers coming and going, by taxis and traffic etc.

RESPONSE TO REPRESENTATIONS

The representations received related to the initial proposed opening hours of up to 04:00 hours. Therefore, some concerns may have been alleviated by the amendments. It was not considered necessary to re-notify neighbours of the amendments to the proposal given this involved a significant reduction in the proposed hours of opening, and the impact on neighbouring amenity is considered in full in the planning assessment above, addressing all concerns raised.

In response to the other comments made:

- The premises has a restaurant (use class A3) planning consent. There is no indication that the premises would operate as a night club. Any night club (Sui Generis) use would need planning permission.
- Owners need to accord with all planning conditions. These are not all necessarily routinely monitored, but if these are breached then this can be reported by neighbours to the Council's Planning Enforcement team
- It is not considered that there is a necessarily a link between later opening hours and increased litter, vermin or anti-social behaviour.
- Any issues of anti-social behaviour would need to be addressed by the Police.
- Any issues of statutory noise nuisance or issues relating to litter and vermin should be reported to the Council's Environmental Protection Service. It is noted that an internal bin store would be provided.
- The impact on the value of property is not a material planning consideration.
- Any other applications for later opening would be determined on their own merits.
- While early consultation with neighbours by applicants is encouraged by the National Planning Policy Framework (NPPF) there is no statutory obligation to do so. It remains to be seen whether there is a demand for a late night restaurant; however, this is not a material consideration in determining the acceptability of later opening.

SUMMARY AND RECOMMENDATION

The first floor of the restaurant would not be used after 23:00 hours, as agreed in the previous application. Amplified sound to the first floor would not be permitted after

21:00 hours and the opening hours of the restaurant would be later in the morning, offering an improvement over the existing permission.

Despite the extension to the closing time to the ground floor, amplified noise levels would be very low at all times, and it is not considered that any increase in activity in this busy street would be materially harmful.

The proposed conditions would ensure that the proposed additional opening hours would not cause residents to suffer from unacceptable living conditions, including air pollution, noise, other nuisance or risk to health and safety, according with UDP Policy S10(b) and the National Planning Policy Framework and maintaining acceptable living conditions for neighbours.

Given the amendments sought during the course of the application, as detailed earlier in the report, it is considered that the revised proposals now strike the right balance between protecting the living conditions of adjoining residents, whilst addressing the future needs of the business. It is therefore concluded that the proposals accord with the requirements of the Development Plan and are in conformity with the requirements of the National Planning Policy Framework. It is therefore recommended that planning permission is granted subject to the listed conditions.