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Planning Control Committee

8 December, 2021

Application No: CH/21/0397

Received: 27-Sep-2021

Location: Shop 10, Victorian New Hall, 81, High Green, Cannock, WS11 1BN

Parish:

Ward: Cannock West

Description: Application under Section 73 of the Town & Country Planning Act 1990 to vary condition No. 4 (opening hours) of Planning Permission CH/21/0024 to extend the opening hours of the booking office

Application Type: Full Planning Application

Recommendations: Approve subject to conditions

Reason(s) for Recommendation:

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

Conditions (and Reasons for Conditions):

1. The development to which this permission relates must be begun not later than the expiration of 14th April 2024.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plan

Reason

For the avoidance of doubt and in the interests of proper planning.

3. No taxi cabs or private hire vehicles operating through the radio control at the premises, shall call at the office for the purposes of waiting or taking orders and instructions, collecting clients or for the purpose of taking refreshment.

Reason

In the interests of highway safety.

4. The premises shall not be open outside the hours of 08:00hrs to 01:00hrs on Sundays to Wednesdays and 08:00hrs to 04:00hrs on Thursday to Saturdays or Bank and Public Holidays.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

Notes to the Developer:

None

Consultations and Publicity

External Consultations

Crime Prevention Officer

No response to date

Staffordshire Highway Authority

No objection

Internal Consultations

Environmental Health

Thank you for referring this matter for consideration. I wish to confirm that I have no adverse comments, but I would like to reiterate on the comments made by the licensing department previously.

The location of the taxi rank is situated in an area of the town that is a hive of activity in the evening and especially at weekends with various bars and restaurants within the vicinity.

We have had noise complaints previously in this area, although not from the public but from the residents above the bars. Extended opening hours of the taxi rank to 4am may see the noise levels rise due to customers being intoxicated and waiting for taxis in that area. Although there is no evidence that this has happened it is a possibility.

The Officer has since clarified his comments as follows:-

To date we have not received any complaints for the rank so I feel this would not be an issue. I made reference to previous licensing comments as an advisory. But as none of their concerns have materialised, we have no issues.

Licensing Department comments

The willingness to employ a Taxi Marshal at the premises may be helpful if planning permission is granted, but for us, it serves to reinforce our concerns in so far as Corkys cars can also clearly envisage some difficulties arising from having a booking office within the town centre and just a few yards from the official taxi rank.

Although I recognise that the town centre environment can be busy, lively and at times noisy, we don't believe that the proposed office will be a benign addition to that environment and does have the potential for increased noise nuisance late at night or early into the morning as well as potential for an increase in anti-social behaviour.

Development Plans and Policy Unit

Thank you for consulting me on this proposal.

The development plan comprises the Cannock Chase Local Plan (Part 1) and the Staffordshire County Council Waste and Minerals Local Plans.

Having looked at the proposal and the provisions of the Development Plan I would advise that I have no specific policy comments to make.

Economic Development

The recommendation is that if the taxi booking office hours were to be extended to 04:00, the extended opening hours should be restricted to weekends only.

Property Services

No response to date

Response to Publicity

The application has been advertised by site notice and neighbour letter with one letter of support received:-

- this is not a residential area, is an established area of public resort with at least one takeaway food outlet and one licensed bar, both open until 3 am it would be reasonable to allow a taxi booking office to be open until at least the closing time of these venues.
- This would meet Council objectives of supporting local business, the night time economy and public safety, especially for more vulnerable members of the public who would benefit from the booking office acting as a safe space while they wait for a taxi home with a predetermined and contractually-agreed pick-up time.
- They may find the walk-in booking office option preferable to and safer than waiting on the taxi rank which is unsupervised and where there is no contractual guarantee in place that a taxi will come to pick them up in a timely manner during busy periods. The scenario of having to wait an indeterminate amount of time at the taxi rank is more likely to occur around and immediately after the closing time of the abovementioned establishments.

Relevant Planning History

CH/21/0024 Change of use from shop (Class E) to Taxi booking office (Sui Generis).
Full - Approval with Conditions 04/14/2021

1 Site and Surroundings

- 1.1 The application site relates to a unit within the recently modernised Victorian Newhall, High Green, Cannock.
- 1.2 The application site was recently granted permission for the change of use to a taxi booking office. The host building is accessed from the front and the side off Newhall Street. There is no separate access for the application unit directly from the adjacent highways. The application site is located with a frontage onto High Green and is sited within Cannock Town Centre.
- 1.3 The wider use of the building comprises a multi occupancy building with a mixture of retail, cafe and a micro brewery with residential accommodation on the first floor. The building has recently undergone a total refurbishment.

- 1.4 The site is within Cannock Town Centre Conservation Area and lies adjacent a number of Listed Buildings. The application site is also located within a Mineral Safeguard Area and is within a low risk development boundary as designated by the Coal Authority.

2 Proposal

- 2.1 The Applicant is seeking consent for Application under Section 73 of the Town & Country Planning Act 1990 to vary condition No. 4 (opening hours) of Planning Permission CH/21/0024 to extend the opening hours of the booking office.

- 2.2 The condition on planning permission CH/21/0024 read as follows:-

The premises shall not be open to staff outside the hours of 08:00hrs to 01:00hrs on any day. The office shall thereafter only be open to the public between the hours of 08:00hrs to 22:00hrs on any day.

- 2.3 The proposal would revise this condition in two ways:-

- 1) The office would stay open until 04:00 hrs for staff, and
- 2) The office would stay open to the public until 04:00hrs

- 2.4 No other alterations to the extant permission are sought.

3 Planning Policy

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

- 3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).

- 3.3 Relevant Policies within the Local Plan Include:

- CP1 - Strategy – the Strategic Approach
- CP2 - Developer contributions for Infrastructure
- CP3 - Chase Shaping – Design
- CP11 – Centres Hierarchy
- CP15 Historic Environment

- 3.4 The relevant policies within the Minerals Plan are

3.2 Mineral Safeguarding.

3.5 National Planning Policy Framework

3.6 The NPPF (2021) sets out the Government’s position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be “presumption in favour of sustainable development” and sets out what this means for decision taking

3.7 The NPPF (2021) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
86-91	Ensuring the Vitality of Town Centres
92-97	Promoting Healthy Living and safe communities
111	Highway Safety and Capacity
110	Considering Development Proposals
126, 130, 132, 134	Achieving Well-Designed Places
185	Noise Pollution
218, 219	Implementation

4 **Determining Issues**

4.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. However, new issues may arise after planning permission has been granted, which require modification of the approved proposals. Where these modifications are not fundamental or substantial, but still material in nature, a developer may seek to obtain approval for the changes through the provision of Section 73 of the 1990 Town and Country Planning Act.

4.2 An application can be made under [section 73 of the Town and Country Planning Act 1990](#) to vary or remove conditions associated with a planning permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied (Paragraph: 013 Reference ID: 17a-013-20140306 of the Planning Practice Guidance).

4.3 Section 73(2) of the 1990 Act states: -

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

4.4 The determining issues for the proposal are whether the proposed variations to conditions would be acceptable in respect of their impact on: -

- (i) The principle of the development
- (ii) The standard of amenity in the locality

4.5 The Principle of the Development

4.5.1 The principle of the development is already approved under the previous planning application ref no CH/21/0024. This permission has been implemented. Hence the principle for the change of use of the site has been firmly established and there have been no material changes in policy or circumstances that would alter this stance.

4.5.2 Impact upon Amenity

4.5.3 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".

4.5.4 Paragraph 130(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so (amongst others) (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

4.5.5 Of particular significance in this respect is the relationship between the application site and the residential uses above it. In this instance, it is noted that the application site is located within the Cannock Town Centre Boundary and is located within an area of mixed uses, some with residential units above and within

close proximity to several existing drinking establishments and take away units. It is noted that there is a bar and a takeaway unit within close proximity to the application site that operate until 03:00hrs.

- 4.5.6 However, there are also a number of flats in close proximity, including immediately above the application site. Harm to residential amenity from noise emanating directly from the proposed booking office is not generally an insuperable problem; and any noise generated is likely to be less distinguishable from other background noises and activity within the town centre location.
- 4.5.7 In this instance, the office comprises of communications equipment and is manned by two members of staff. The applicant proposes to allow the public into the unit however these would be monitored by staff. The applicant states that the extended hours would be beneficial to the local users who may be out later and require the safety and security of a booking office. The applicant further states that there have been no incidents and that their CCTV footage has assisted the police in the fight against anti social behavior.
- 4.5.8 The applicant was requested to submit evidence as to the potential demand for taxis up to 04:00hrs. The Councils Economic Development Officer assessed the evidence provided by the applicant and has stated that a demand had only been established during weekends. As such, Officers have recommended that if the hours are permitted until 04:00hrs a condition should restrict this to weekends and Public and Bank Holidays only.
- 4.5.9 The Councils Licensing Officer was consulted on the application and stated that the increase in opening hours of the booking office had the potential for an increase in noise nuisance as well as a potential increase in anti-social behavior issues. The Officer has confirmed that whilst they raised concerns regarding potential noise and anti-social behavior issues nothing has materialised, in in this regard since the booking office use commenced.
- 4.5.10 The Council's Environmental Health Officer was also consulted on the application and made no objections in terms of noise nuisance. The Officer stated that they had received noise complaints previously in this area, from the residents above the bars and they had concern that extended opening hours of the taxi rank to 04:00 hrs may see the noise levels rise due to customers being intoxicated and waiting for taxis in that area, however the officer continued that there is no evidence that this has happened and such behavior, whilst socially unacceptable, can be affectively controlled through licensing and or the police.
- 4.5.11 In considering issues such as noise it can be beneficial to look at appeal decisions to see how Planning Inspectors have approached the issue. One such case in West Lancashire involved a town centre taxi booking office. In this case, an inspector opined that an efficiently run taxi service could assist in the quicker

dispersal of people from the centre at night, in this instance from the nearby premises that benefit from late night opening.

- 4.5.12 Given the above, it is considered that the to the approved hours, subject to a condition restricting the revised hours to weekends only, would have no significant detrimental impact to the amenity of the neighbouring occupiers given the town centre location and as such the proposal is considered acceptable in accordance with paras.130 and 185 of the NPPF.

5 Human Rights Act 1998 and Equality Act 2010

Human Rights Act 1998

- 5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

Equality Act 2010

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equality Act.

6 Conclusion

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any

significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.

- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.