

ITEM 2

Application Reference	DC/089538
Location:	8 Vernon Street Stockport SK1 1TY
PROPOSAL:	Change of use from cafe/restaurant (Use Class E(b) to a drinking establishment (Sui Generis); retrospective
Type Of Application:	Full Application
Registration Date:	26.10.2023
Expiry Date:	20231221
Case Officer:	Dominic Harvey
Applicant:	Mr Andrew James
Agent:	

DELEGATION/COMMITTEE STATUS

Central Area Committee (4 objections contrary to recommendation)

DESCRIPTION OF DEVELOPMENT

This application seeks full planning permission for a change of use from café/restaurant (Use Class E(b) to a drinking establishment (Sui Generis), no external alterations are proposed to facilitate the change of use.

The application is retrospective, the supporting 'Noise Management Plan' (appended) specifies hours of opening as follows: -

Monday	CLOSED	Licensed 11:00 – 00:00
Tuesday	CLOSED	Licensed 11:00 – 00:00
Wednesday	CLOSED	Licensed 11:00 – 00:00
Thursday	16:00 – 23:00	Licensed 11:00 – 04:00
Friday	16:00 – 04:00	Licensed 11:00 – 04:00
Saturday	16:00 – 04:00	Licensed 11:00 – 04:00
Sunday	16:00 – 22:30	Licensed 12:00 – 22:30

It is indicated that the drinking establishment currently supports 3 full-time and 2 part-time employees.

SITE AND SURROUNDINGS

The application site comprises No.8 Vernon Street a two-storey (135m²) end of a parade of commercial unit located at the junction of Vernon and Turner Street and which falls within a designated other main shopping frontage of the Central Shopping Area and Market Underbank Conservation Area as identified on the Proposals Map of the Stockport UDP Review. The premises which has been open as a bar known as "Notion" the use of which is unauthorized lies within the historic core and neighbours a mix of residential, retail, commercial and food and drink uses to be typically expected within a town centre environment.

POLICY BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan includes-

- Policies set out in the Stockport Unitary Development Plan Review adopted 31st May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17th March 2011.

Saved policies of the SUDP Review

HC1.3: SPECIAL CONTROL OF DEVELOPMENT IN CONSERVATION AREAS

HC1.4: NEW USES FOR BUILDINGS IN CONSERVATION AREAS

PSD2.2: SERVICE USES IN THE TOWN CENTRE, DISTRICT AND LARGE LOCAL CENTRES

MW1.5: CONTROL OF WASTE FROM DEVELOPMENT

TCG1: TOWN CENTRE AND M60 GATEWAY

TCG1.3: PARKING IN THE TOWN CENTRE

TCG2.1: CENTRAL SHOPPING AREA

LDF Core Strategy/Development Management policies

CS5: ACCESS TO SERVICES

CS6: SAFEGUARDING AND STRENGTHENING THE SERVICE CENTRE HIERARCHY

AS-1: The Vitality and Viability of Stockport's Service Centres

CS8: SAFEGUARDING AND IMPROVING THE ENVIRONMENT

SIE-1: Quality Places

SIE-3: Protecting, Safeguarding and enhancing the Environment

CS9: TRANSPORT AND DEVELOPMENT

T1: Transport and Development

T2: Parking in Developments

T3: Safety and Capacity on the Highway Network

CS11: STOCKPORT TOWN CENTRE

TC-1: Stockport Town Centre

National Planning Policy Framework

An updated National Planning Policy Framework (NPPF) published by the Secretary of State for Levelling Up, Housing and Communities on 5th September 2023 replaced the previous revised/updated NPPFs. The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise. Relevant paragraphs within the NPPF include: -

Para. 1, 2: Introduction

Para. 7-14: Achieving sustainable development
Para. 38: Decision-Making
Para. 47: Determining applications
Para. 55-57: Planning conditions and obligations
Para. 81: Building a strong, competitive economy
Para. 86: Ensuring the vitality of town centres
Para. 92: Promoting healthy & safe communities
Para. 130 (f): Achieving well-designed places
Para. 174 (e): Conserving and enhancing the natural environment
Para. 185, 187: Ground conditions and pollution
Para. 194, 197, 206: Proposals affecting heritage assets
Para. 218-219: Implementation

Planning Practice Guidance

The Planning Practice Guidance is a web-based resource which brings together planning guidance on various topics into one place (published 29th November 2016) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

“Evening and night-time activities have the potential to increase economic activity within town centres and provide additional employment opportunities. They can allow town centres to diversify and help develop their unique brand and offer services beyond retail. In fostering such activities, local authorities will also need to consider and address any wider impacts in relation to crime, noise, and security”.

RELEVANT PLANNING HISTORY

None

NEIGHBOUR'S VIEWS

The owner/occupiers of neighbouring/surrounding properties have been notified and the application has been advertised as affecting a Conservation Area and as a Development of Public Interest by Site and Press Notice; to date four representations of objection have been received. To date four representations expressing objection has been received raising concerns the following concerns: -

- Increase in anti-social behaviour, noise/disturbance late at night when other drinking establishments have already closed, particularly during early Saturday and Sunday mornings at 4.30 am when patrons are leaving the bar and between the hours of 2.00 am and 5.30 am.
- Only bar in the Stockport open until 4.30 am, consequently customers are travelling from a wide area to visit the bar.
- Public order issues, intoxicated patrons, disturbance, and criminality resulting in the need for the police to attend.
- Noise from patrons congregating outside the bar to smoke shouting, screaming, laughing, police sirens and car/taxi doors banging.
- Drug dealing/taking, violence, fights, patrons urinating in public places.

- Detrimental impact on the amenities/wellbeing that town centre residents may reasonably expect to enjoy with noise/disturbance disrupting sleep when patrons are either on route to the bar or leaving walking along Shawcross Fold and onto Millgate.
- The late licence (4.30 am) and increase in patronage to the bar has resulted in a decline in the surrounding area and Marketplace.
- When the bar first opened it was providing food and was a pleasant place to spend time in, however since the bar stopped selling food and are only open on a Friday and Saturday night the clientele has changed.

CONSULTEE RESPONSES

Highway Engineer: Whilst a change of use it is not anticipated that the development will significantly change the nature or volume of traffic visiting the site. The site lies in Stockport centre with good public transport links for customers and clients. No objection.

Conservation Officer: No response

Environmental Health Officer (Noise):

Planning Ref	DC/089538	LOCATION	8 Vernon Street
Our Ref	STB/ 23/07310/B02		Stockport
App.Type	FULL		SK1 1TY
Planner	Dominic Harvey		
PROPOSAL	Change of use from cafe/restaurant (Use Class E(b) to a drinking establishment (Sui Generis); retrospective		

No Objection Request Conditions EQ Advisory **OBJECTION**

The proposal has been assessed in relation to impact upon the environmental quality of life to:

- EXISTING sensitive receptors, in proximity to the proposed development

OBJECTION

This service, OBJECTS to the ‘hours of operation’ TERMINAL HOUR of the drinking establishment.

There is no objection to the planning change of use of the premises: Change of use from cafe/restaurant (Use Class E(b) to a drinking establishment (Sui Generis); retrospective

OBJECTION - Reason:

Negative impact upon the wellbeing, amenity, and quality of life of noise sensitive residential receptors in the vicinity of the premises at 8 Vernon Street, arising from ‘people noise in the street and ASB’, resulting from the 04:30 terminal hour of the premises.

This service does not support a 04:30 terminal hour for the premises at this location.

SITE LOCATION



PROPOSAL

Change of use from cafe/restaurant (Use Class E(b) to a drinking establishment (Sui Generis); retrospective.

PROPOSED DEVELOPMENT - IMPACT UPON EXISTING RECEPTORS

OPERATIONAL PHASE – 04:30 TERMINAL HOUR

8 Vernon Street, Stockport, is an end building, located at the junction of Vernon and Turner Street. A central Stockport town centre location, with residential accommodation in proximity.

This is a retrospective application, amplified music and operational noise are not matters that have given rise to complaint since the premises were granted a Premises Licence in January 2023, which permitted a 4:30am terminal hour.

The hours of operation that this premises will operate is important to the assessment. Issues arising from the premises that are giving rise to substantial number of complaints to this service are 'people noise in the street and ASB' disturbances concentrated around the premises closing time and beyond the 04:30 terminal hour; when other Stockport town centre licensed premises/bars in this vicinity are closed at 1am or thereabouts.

NOISE COMPLAINTS FROM LICENSED PREMISES – PEOPLE NOISE IN THE STREET & ASB

The table below details eight separate residential households that have reported the 'people noise in the street and ASB' complaints to this service, arising from Notion and in vicinity of the premises.

COMP	OUR REF	REC DATE	RECEPTOR	COMP DETAIL
1	23/01925/ENH	01.04.2023	Vernon Street	<i>Every Friday to Sunday people shouting while queueing to enter or smoking at notion, sometimes fighting happens when closing hours which is now 4am</i>
2	23/03788/ENH	29.05.2023	Market Place	<i>opens till 4.30am on weekends Friday /Saturday and through the week as well.... the noise from the club is unbelievable and the fights that go on outside the establishment is unreal</i>
3	23/06180/ENH	15.08.2023	Market Place	<i>Pub closes at 4.00am - when every ones comes out they hang around the street screaming, laughing etc -. they get woken up all the time at closing time</i>
4	23/06310/ENH	15.08.2023	Shawcross Fold	<i>open till 4.30 in the morning people screaming and shouting,</i>
5	23/06637/ENS	03.09.2023	Shawcross Fold	<i>Every weekend is getting worse screaming fighting. Keeping all everyone up till 6am every Saturday and Sunday morning.</i>
6	23/06932/ENH	12.09.2023	Market Place	<i>Noise from persons shouting and screaming when leaving notion in the hours of the mornings and when it closes</i>
7	23/07444/ENH	02.10.2023	Millgate	<i>shouting, fighting, males and females urinating in the area all on route to or leaving bar Notion.... the bar is open until 04.30 Friday and Saturday. Issues are between 1am- 5am all noise is coming from their customers.</i>
8	23/07638/ENI	04.10.2023	Market Place	<i>noise and trouble at a night club called NOTION which is open til 4.30am Friday and Saturday night</i>

This service can take action under:

- 'Statutory noise nuisance' regime enshrined in the Environmental Protection Act 1990 or
- Licensing Act 2003 - call the Premises Licence in for Review, where there is evidence that the 'public nuisance licensing objective' is being undermined.

The success of any statutory noise nuisance action or Premises Licence Review is dependent on the evidence of the issue giving rise to complaint. As per this services noise complaint investigation procedure, noise event diaries were requested from the complainants. To date only 'one noise event diary' has been returned.

NOISE COMPLAINT - STATUTORY NUISANCE REGIME

The returned noise event log detailed: 'People noise in the street' and ASB.

Noise arising from 'people in the street and ASB' are not statutory nuisance categories enshrined in the Environmental Protection Act 1990. Therefore, the statutory nuisance regime cannot be used to remedy the matters giving rise to negative residential impact and noise complaint.

NOISE COMPLAINT – PUBLIC NUISANCE - LICENSING REGIME

This service is currently progressing the matters via the licensing regime - public nuisance limb. However, as only one noise event diary has been returned (from the 8 noise complaints reported to this service), this service is currently unable to progress a 'public nuisance' investigation; as evidence has only been provided from one complainant; this would not be considered widespread public nuisance under the Licensing Act 2003 to progress a Premises Licence Review.

This service is working informally with the premises operator to resolve the matters giving rise to complaint.

PREMISES LICENCE VARIATION: 8 Vernon Street APPROVED

In November 2021, the premises operator applied to vary a premises licence under the Licensing Act 2003 - 22/02558/LAPREV, Premises Licence No: 20/01737, to increase the hours for licensable activities Thurs to Sat:

Recorded music & LNR indoors	23.00 - 04.00.
Alcohol on sales	11.00 - 04.00
Hours open	11.00 - 04.30.

This service raised an objection to the 22/02558/LAPREV 'Premises Licence Variation' in November 2021 and presented a case to the January 2023 licensing sub-committee, against the terminal hour extension over 3 consecutive days: Thurs, Fri & Sat: concerning the 4:30am terminal hour.

Specifically, the EH representation raised concerns around people congregating outside the premises and the potential for noise nuisance on the neighbourhood fabric.

The licensing Sub Committee were satisfied that the applicant had demonstrated that, for the most part, sufficient mitigations were in place to address these concerns and in fact, the premises already operated until 02:30 hours without issue. However, the Sub Committee felt that a written dispersal policy would be sufficient to address EH public nuisance representation and the Premises Licence granted: supply of alcohol, recorded music (indoors) and late night refreshment, Thursday to Saturday to 04:00 hours. Effectively a 4:30 terminal hour – to allow for drinking up time.

The only additional condition required by the licensing sub-committee, was that the 'customer dispersal policy' should cover operating hours and closure time.

The premises operators has amended their Dispersal Policy. However, noise from 'persons in the street and ASB' continues to give rise to complaint and thereby negatively impacting the amenity of residential noise sensitive town centre residents in proximity to 8 Vernon Street.

OTHER EMISSION CONTROL REGIMES

National Planning Policy Framework, 2021

188.

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes).

Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 188 of the NPPF details the relationship between planning and other emission control regimes. Planning conditions can be varied by removing conditions and legitimately leave the control, in the case of:

- regulated entertainment to the Licensing regime.

LICENSING REGIME

The licensing regime provides a mechanism for a responsible authority or any other person, business or body to ask for a Premises Licence or Club Premises Certificate to be reviewed - dependent on the evidence of the issue giving rise to complaint. This process can be used to reduce operating hours and/or add additional conditions to promote the licensing objectives.

The planning and licensing regulatory regimes are not necessarily the same: *prevention of public nuisance, amenity and quality of life*. There are many instances (for example) where the Planning and Licensing conditions for a premise do not match. In these cases, the stricter regime takes precedence.

If the Planning Permission and the Premises Licence differ; for example, where the Planning Authority have set a terminal hour which is earlier than that conditioned by the Premises Licence; non-compliance with the earlier hour may result in enforcement action.

STATUTORY NUISANCE

Regardless of which regime takes priority, the statutory duty imposed by Environmental Protection Act 1990 Section 79, remains and as such, this service must investigate noise complaints and act in accordance with the statutory nuisance regime.

Noise arising from people in the street and ASB are not statutory nuisance categories enshrined in the Environmental Protection Act 1990. Therefore, the statutory nuisance regime cannot be used to remedy the matters giving rise to negative residential impact and noise complaint.

NOISE MANAGEMENT PLAN (NMP)

A NMP has been submitted in support of the application: Mercury Support, Noise Management Plan (NMP), Notion.

The following noise controls are detailed in the NMP:

1. Inside Music
 - Audio
 - Levels
 - Doors and Windows
 - Location of Speakers
 - Base Control
 - Noise Assessment
2. Deliveries
3. Smoking Areas, External Seating and Eating Areas
4. Refuse, Recycling and Bottle Collections
5. Staff Training
6. Complaints

EH ASSESSMENT - NMP

The NMP states that Notion music is **music is of a background nature**. This is a retrospective application, this service confirms that amplified music, addressed in the NMP are not matters that have given rise to complaint since the premises were granted a 04:30 terminal hour, variation to their Premises Licence in January 2023.

Rather it is 'people noise in the street and ASB' being **caused to residents in the vicinity** of the premises in the early hours of the morning around the 04:30 terminal hour, that is giving rise to disturbance, noise complaint to this service and negative impact upon residential wellbeing and amenity.

The ongoing noise complaints reported to this service are indicative that the business operator is unable to directly control the behaviour of their patrons, beyond the immediate vicinity of their premises. Therefore, further reason to curtail the 04:30 terminal hour of the premises, in order to protect the sensitive night-time periods for the benefit of noise sensitive residential receptors in the vicinity of 8 Vernon Street.

EH ASSESSMENT

OBJECTION TO 04:30 TERMINAL HOUR

This services ongoing primary concern is the protection to the wellbeing and amenity of residential receptors from unwanted sound intruding into their homes, during sensitive night-time hours, arising from 'people noise in the street' arising from the premises (8 Vernon Street) resulting from the 04:30 terminal hour over three consecutive nights Thursday, Friday, and Saturday.

It is the 04:30 terminal hour of operation, that is giving rise to 'people noise in the street and ASB' in the vicinity of 8 Vernon Street, after other licensed premises have closed; that is negatively impacting the wellbeing, amenity, and environmental quality of life of town centre noise sensitive residential receptors.

Apart from the casino, 8 Vernon Street FIRST and ONLY licensed premises with a terminal hour of 04:30 in Stockport town centre.

As this is a retrospective application, it has been demonstrated by the substantial number of noise complaints reported to this service, that the 04:30 terminal hour at this location, is having a substantial negative impact upon the amenity of Stockport town centre residents.

Planning 'amenity' provides a higher standard of protection for noise sensitive receptors in proximity to development than the statutory nuisance or public nuisance regimes. A significant loss of amenity will occur at lower levels of emissions than would constitute a statutory or public nuisance. Therefore, this service objects to the 04:30 terminal hour, based on the standard of 'amenity' planning criteria.

Balance is required between a vibrant town centre night-time economy and town centre residents. Where planning applications have given rise to objections, any appropriate planning conditions should focus on the most sensitive periods. For example, the most sensitive night-time period is considered 23:00 – 07:00, in order to protect noise sensitive receptors uninterrupted rest, relaxation and restorative properties of sleep.

Reasonable steps to mitigate conflict between the licensed premises and their neighbours would be to reduce the premises terminal hour, similar to other licensed premises in the area. By reducing the 04:30 terminal hour, would go some way to remedying the late night-economy reveller frequenting 8 Vernon Street, resulting in: 'people noise in the street and ASB' in the vicinity of 8 Vernon Street, during sensitive night-time/ early morning hours, negatively impacting the amenity of residential receptors.

In line with other town centre licensed premises, hours of operation, this service recommends:

RECOMMEND CONDITION – HOURS OF OPERATION

The premises shall operate:

Monday – Thursday	08:00 – 00:00
Friday & Saturday	08:00 – 01:00
Sunday and BH	08:00 – 00:00

REASON

Reason: to ensure that the impact upon the environmental quality of life to:

— EXISTING sensitive receptors, in proximity to the proposed development

Accords with the National Planning Policy Framework, September 2023

- AMENITY: para. 130 (f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*
- NOISE: para. 174 (e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution*
- POLLUTION: para. 185 *Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative 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 they should:*
 - NOISE: para 185 (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*
- AGENT OF CHANGE: para. 187 *decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.*

ENVIRONMENTAL QUALITY INFORMATIVES

PREMISES LICENCE

It is the responsibility of the applicant to obtain other licensing consents/approvals which may be required in addition to the necessary Planning approval.

Provision of late-night refreshments (supply of 'hot food and hot drink' after 11pm), regulated entertainment and sale of alcohol, will require a Premises Licence from the local authority [Premises licence - Stockport Council](#)

There is an application fee and annual fee [Premises licence \(England and Wales\) - GOV.UK \(www.gov.uk\)](#)

For further information, please contact the Licensing team on **0161 474 4181** or email licensing@stockport.gov.uk

If the Planning Permission and the Premises Licence differ; for example where the Planning Authority have set a terminal hour which is earlier or later than those conditioned by the Premises Licence; non-compliance with the earlier hour may result in enforcement action.

ANALYSIS

At the heart of the NPPF is a presumption in favour of sustainable development (para 10). Para 11 of the NPPF reconfirms this position and advises that for decision making this means: -

- approving developments that accord with an up-to-date development plan or
- where the policies which are most important for the determination of the application are out of date, granting planning permission unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Members are advised that the policies which are the most important for the determination of this application are not out of date. As such the application of para 11 confirms that the proposed development should be determined in accordance with the development plan unless material considerations indicate otherwise.

Principle of Development/Use

Policy TCG2.1 indicates that within the Central Shopping Area proposals must accord with Policy PSD2.2 and goes on to state that a nucleus of activity should be created around the historic Market and Underbanks, with proposals enhancing the historic quality of the area and securing the reuse of buildings including amongst other uses bars. Policy CS5 references that an improved range, quality and level main town centre uses, including quality restaurants, cafés and bars will be provided at the Town Centre. Policy CS6 outlines that additional 'Main Town Centre Uses', will be provided within the Town Centre, at a scale commensurate with identified capacity for development in the borough, the scale, role and function of the centre and in a manner that safeguards centres and residential amenity from any adverse impacts. Policy AS1 outlines a target which seeks to increase the quantity and quality of main town centre uses, including amongst other uses drinking establishments in the Town Centre. No.8 Vernon Street lies within an 'Other Main Shopping Frontage' where Policy PSD2.2 allows for a variety of uses including appropriate non-retail uses such as a drinking establishment and it is note that the change of use complies with the sequential test under para.87 of the NPPF, which outlines that main town centre uses should be located in town centres. Overall, in principle the change of use would safeguard the vitality and viability of the Town Centre and is wholly consistent with the overall aims of development plan policy and the NPPF.

Impact on Residential Amenity

Policy CS5 seeks to safeguard residential amenity in the borough's centres, moreover policy SIE-1 requires the provision, maintenance, and enhancement (where suitable) of satisfactory levels of amenity for future, existing and neighbouring users and residents.

At the outset it is noted that whilst the Council's Environmental Health Officer raises no objection to the principle to the principle of the material change of use, raises an objection to the 'hours of operation' on grounds of the negative impact upon the wellbeing, amenity and quality of life of noise sensitive residential receptors in the vicinity of the premises, arising from 'people noise in the street and anti-social behaviour', resulting from the 04:30 terminal hour of the premises.

It is noted that the Council's Environmental Health Officer's references the receipt of a substantial number of complaints regarding 'people noise in the street and anti-social behaviour' with disturbances concentrated around the premises closing time and beyond the 04:30 terminal hour, when other Stockport town centre licensed premises/bars in this vicinity are closed at 01.00 am or thereabouts.

Bearing in mind that town centres are locations to which national and local policy direct late night uses including drinking establishments and where late-night activity into the early hours of the morning is to be expected neighbouring residents cannot reasonably expect the same level of tranquillity, peace and quiet as residents living within wholly residential locations and accordingly the issue of amenity will take a lower priority than it would within predominantly residential locations.

The site lies within area of the town centre populated with residential occupiers living within ancillary and/or self-contained flats located above commercial premises, where the unauthorised use of the premises as a drinking establishment has already generated a significant number of complaints. Whilst complaints relate to anti-social behaviour which are public order matters, noise, and disturbance, particularly at unsociable times of the day is a legitimate material planning consideration.

Moreover, in respect of potential noise and disturbance, it is noted that the town centre accommodates a variety of late-night food and drink uses, accordingly neighbouring residents already experience high levels of background activity and noise at all times of the day.

Nonetheless in respect of the application site it is acknowledged that the late-night opening hours proposed for Friday and Saturday nights (Saturday and Sunday morning 04.00 am) and associated noise and disturbance appear excessive given the proximity of residential accommodation and are out of step with other late-night uses. Moreover, the bar has already clearly resulted in harm to the amenities, peace and quiet that those residential occupiers living nearby may reasonably expect to enjoy albeit living within a vibrant town centre location.

In the interests of maintaining both consistency with other late-night drinking establishments within the town centre locality and striking the correct balance between seeking to accommodate a vibrant town centre night-time economy whilst ensuring that no unreasonable noise would occur during unsociable hours and thereby safeguarding the amenity of town centre residents.

Overall, the fact that the site is within the town centre, where both national and local planning policy direct late night uses such as that proposed, must be afforded due weight and accordingly it would be both appropriate and reasonable to impose a

condition restricting hours of opening to 08:00 – 00:00 (midnight) Sunday – Thursday including Bank Holidays and 08:00 – 01:00 am Friday & Saturdays in accordance with the recommendation of the Council’s Environmental Health Officer and in accordance with the provisions of policies CS5 and SIE-1.

Parking and Highway Safety

The Council’s Highway Engineer raises no objection noting the town centre location and proximity to bus/train stations, bus routes and car parks and that the proposal should not result in a material increase in vehicle movements and the servicing and parking requirements are unlikely to be materially different to those of a café/restaurant. Overall, the proposal will not give rise to conditions prejudicial to highway safety and accords with the provisions of Policies CS9, T1, T2 and T3.

Impact on Heritage

It is noted that no external alterations are proposed as such the proposal would have no material impact on the special character and appearance of the ‘Market Underbanks’ Conservation Area and accordingly there is no conflict with policies HC1.3, CS8, SIE-1 and SIE-3, which require protection of the historic environment.

Conclusion

Sustainability which is multi-faceted; where the NPPF establishes three overarching objectives to sustainable development – economic, social, and environmental, which are interdependent and need to be pursued in mutually supportive ways. The NPPF outlines that decisions should apply a presumption in favour of sustainable development and in this context it is noted that the proposed change of use would give rise to the following positive impacts: -

- Enhancing customer choice of drinking establishments in the town centre and supporting a vibrant night-time economy
- Increasing the diversity of uses to enhance the vitality and viability of the Central Shopping Area
- Keep the building in economic use and providing investment for maintenance and repairs to a property in the ‘Market Underbanks’ Conservation Area
- Providing employment opportunities for 3 full-time and 2 part time employees

Overall, whilst acknowledging concerns of interested parties the proposal accords with the prevailing policies of the Development Plan and amounts to Sustainable Development; given there are no material considerations to suggest otherwise it is recommended that permission be granted subject to the imposition of a condition requiring that no part of the premises shall be open for trading purposes and no customers shall be within the premises outside of the following hours: -

- Sunday – Thursday & Bank Holidays 08:00 – 00:00hrs
- Friday & Saturdays 08:00 – 01:00hrs

In the interests of safeguarding the amenity of neighbouring residents situated in proximity to the proposed drinking establishment in accordance with the provisions of policies CS6 and SIE-1.

RECOMMENDATION

Grant subject to conditions