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Case Number	19/01727/FUL (Formerly PP-07827772)
Application Type	Full Planning Application
Proposal	Change of use of retail shop (use class A1) to a micro pub (use class A4) including a retractable awning to shopfront and provision of a seating area
Location	D H Bowyer And Sons 4 Brooklands Avenue Sheffield S10 4GA
Date Received	15/05/2019
Team	West and North
Applicant/Agent	Mr James Eardley
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:

Red / Blue line site location plan  
Proposed Layout  
Proposed Front Elevation (Amended received 18.8.19)  
Proposed Side Elevation (Amended received 15.8.19)

Reason: In order to define the permission.

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

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

3. Before the use is commenced, full details of suitable inclusive access and facilities for disabled people to enter the building's main entrance shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the portable ramp and means to summon assistance from the kerbside. The approved inclusive access and facilities shall have been provided in accordance with the approved details before the building is brought into use. Thereafter such inclusive access and facilities shall be retained. (Reference should also be made to the Code of Practice BS8300).

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

4. 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.

### **Other Compliance Conditions**

5. No customer shall be permitted to be on the premises outside the following times: 11.30 -2300 on any day with the exception of New Years Eve when no customer shall be permitted to be on the premise outside 11.30 and 01.00 the following day.

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

6. Commercial deliveries to and collections from the building shall be carried out only between the hours of 0700 to 2000 on Mondays to Saturdays and between the hours of 0900 to 2000 on Sundays and Public Holidays.

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 2000 Mondays to Saturdays and between the hours of 0900 to 2000 on Sundays and Public Holidays.

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

8. No amplified sound or live music shall be played within the commercial use hereby permitted, nor shall loudspeakers be fixed internally or externally nor directed to broadcast sound outside the building at any time.

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

9. The retractable awning shall be installed as per the specification detailed in the design and access statement and accompanying photograph, unless alternative details have first been submitted to and approved in writing by the Local Planning Authority. The canopy shall be installed in accordance with the approved detail.

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

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.

# Site Location



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## LOCATION AND PROPOSAL

The application site consists of a vacant split level A1 retail unit situated within the Brooklands Avenue Local Shopping Centre. The applicant is seeking consent to use the premises as a public house (Use Class A4). In addition, small/ancillary proportion of the business would be retail, with speciality ale being available to purchase for consumption off site.

There is a small sloped forecourt to the front between the building and the highway. The applicant seeks to use this as a seating area with fixed furniture. A retractable awning is proposed projecting from the building.

The site is towards the edge of the commercial area. There are commercial premises alongside the site, however directly opposite are residential properties with the houses being a distance of approximately 19 metres from the site. Gardens associated with residential properties to the west are 15 metres from the site. Residential properties also exist above some of the two storey commercial properties on the opposite side of the road.

## RELEVANT PLANNING HISTORY

19/01728/ADV A tandem application is currently being considered for the installation of 1x externally illuminated fascia.

## SUMMARY OF REPRESENTATIONS

67 letters of representation have been received following publicity on the application. These consist of 59 letters of support, 7 letters of objection and 1 neutral comment from a Councillor.

In some cases more than 2 letters of representation have been submitted from the same address be it through different occupants commenting or duplication. This is summarised as (8 letters of support from 4 addresses and 2 letters of objection from 1 address)

The points raised through representation are summarised below;

Objection:

Amenity Issues;

-Noise and disturbance audible from within residential property and gardens, particularly from use of outdoor seating area and at closing time of the pub.

-Noise associated with the pub would cause sleep disturbance especially in summer when windows are open and there is more use likely of the outdoor seating area.

-Last orders at 11pm would mean people leaving the site well after 11.30pm. Other uses in the area have ceased by 11 pm.

- Concern about antisocial behaviour arising following consumption of alcohol.
- The outdoor seating could become the focus of groups congregating outside the operating hours of the pub, creating further noise nuisance.
- Public health issues arising from people smoking outside -The scheme contravenes Sheffield City Council Core Strategy Policy 2.17 –“to design environments that promote safety, health and a sense of well being for all”

-Loss of privacy

-Concern about litter

-Concern about use of garden wall for smoking

Highway Safety Concerns;

-Congestion

-Antisocial parking due to insufficient parking capacity affecting access to property

-Difficulties for people accessing shops

-Concern about deliveries to pub causing highway problems

Other Issues;

-Other pubs are close by, there is no need for this.

-Adverse impact on house prices

-The scheme would contravene a bye law that designates Fulwood as being a dry parish

-Observation is made that comments are being received from people not living in the immediate area

-Observation is made that multiple comments are being received from people living at the same address

Support;

-Welcome this amenity as it would add value to the area

-The development would improve community feel and create a meeting / focal point

-Sound proofing could overcome noise concerns, the venue is small and could not accommodate large groups

- There are other examples of pubs and small bars that operate successfully in residential areas eg S10 Wine Bar (Ranmoor), The Highcliffe (Greystones), the Rising Sun ( Nether Green), precedent is well established
- Similar establishments have a curfew at 9pm for outdoor seating
- Lack of this type of business in the area
- The business would enhance the shopping area which is deteriorating and help other businesses.
- The addition would make the area more desirable and increase property prices.
- Would like to see no music licence granted
- Antisocial behaviour would be unlikely to be a problem given the local demographic/ other micropubs are not rowdy or noisy outside (Broomhill)
- Other late night uses exist in the area
- There is ample parking, especially in the evenings

A neutral comment has been received from Councillor Woodcraft, raising the following points:

The provision of a community amenity is welcomed, however there is concern from local residents regarding potential problems with late night noise from the external seating area from clients and also non customers later at night if the seats are left out.

Suggestion is made that the seating could be conditioned to be put out only during operating hours.

If there are then any problems with clients of the pub causing noise, this could be addressed via the licensing service.

## PLANNING ASSESSMENT

### 1. Land Use

UDP Policy S7 (Development in District and Local Shopping Centres) states that although shops (A1) are preferred, acceptable uses within these centres also include food and drinking outlets (A3). Therefore, it is confirmed that the proposed use is acceptable, in principle, subject to other material considerations being addressed and accepted.

### 2. Dominance

Section a) within Policy S10 (Conditions on Development in Shopping Areas) within the UDP states that in such areas new development should not lead to a

concentration of uses which would prejudice the dominance of preferred uses in the area. Dominance in this case would be defined as 50% of ground floor units within the existing centre. As the existing premises has most recently been in A1 use, it must be ensured that the dominance of A1 uses is not prejudiced.

There are 14 premises in the Local Shopping Area as defined on the UDP proposals map of these, 3 premises are residential at the edge of the centre and are clearly an anomaly given the continued residential character beyond the defined shopping area. One premises is an electric substantial and is not counted as being a premises providing a role within the shopping area. This are discounted from this assessment.

Of the 10 premises of relevance to this assessment 9 are currently in A1 use or are vacant A1 premises. Following the implementation of the scheme this would be taken down to 8 out of the 10. It is also noted that there has been a recent prior approval application involving the loss of an A1 unit, if this were to be implemented the A1 use would fall to 70 %, well above the policy criteria outlined above. Therefore, it is concluded that the proposal complies with Policy S10 (a).

A new use for a vacant premises is welcomed and will enhance the offering of the shopping parade as well as having visual benefit. In addition it is considered that the new use would have community value.

### 3. Amenity Issues

Section b) within Policy S10 (Conditions on Development in Shopping Areas) within the UDP states that new development should not cause residents or visitors in any hotel, hostel, residential institution or housing to suffer from unacceptable living conditions.

The applicant seeks to open the premises between 11:30 hours and 23:00 hours with extended hours of operation on new year's eve where opening until 01 00 is proposed. The premises is at the edge of the commercial area. Within this area there are other later evening uses. The next door hot food take away operates until 23:00 hours and the Coop operates until 22:00 hours.

The premises is small scale which limits the amount of customers being able to attend at any one time. Due to this small scale and distance of residential properties from the building, there would not be significant disamenity arising from noise within the building, this is also controlled through planning conditions around noise breakout.

The proposals include a small outdoor seating area. The plans show 4 benches on the forecourt. The retractable awing would provide some shelter which has the potential to increase the scope of use of this area in different weathers. The applicant has put forward that they would be willing to cease use of this area at 21.00 and keep the door to the pub shut, rather than propped open beyond this time.

The character of the area to the south and west of the site is residential with family housing. The houses directly opposite have living rooms and bedroom windows facing the site. Properties to the west/south west have their gardens facing towards

the site. The bench style outdoor seating has the potential to accommodate an estimated 16 + people at any one time.

Officers consider that the noise generation associated with this area has the potential to cause unacceptable disturbance at a time where residents and families would be expecting quieter noise levels. For this reason a condition is recommended to cease the use of the extremal area at 19:00 hours to strike the correct balance.

The applicant is unhappy with this condition and draws reference to the hours of outside use at other pubs and refers to another business he operates at Ecclesall Road which allows external seating to be used until 21:00 hours. The character of Ecclesall Road is however different to the application site where there are a larger number of night time uses and activity and the road is busier which raising background noise levels.

The applicant refers to other premises that are put forward as operating late hours without similar restrictions, with residential premises in close proximity. The applicant points to;

- Rising Sun Inn, Fulwood Road, S10 3QA . -
- The Bull's Head, Fulwood Road, Ranmoor, S10 3GD
- West 10, Fulwood Road, Ranmoor S10 3GD –
- The Ranmoor Inn, Fulwood Road, Ranmoor S10 3GD -.

These venues are well established and are likely to have had outdoor drinking being part and parcel of their long term use and therefore not subject to separate control through planning conditions limiting use.

The exception is the Bulls Head, which was restricted to 21:00 hours in 2005. Whilst there are residential properties directly next door, a direct comparison cannot be made as sites differ. In this instance Fulwood Road is busier than the application site and therefore background noise levels differ.

The removal of the outdoor seating after 19:00 hours has been explored with the applicant, however the size of the premises prohibits storage of this and the nature of the seating is such that it would not be practical for a staff member to move. The applicant details that use of the benches out of hours is not an issue at his other premises on Ecclesall Road.

The limitations of the size of the premises is noted. The condition restricting the hours of use of the seating would adequately control use by customers. The seating would be on a private forecourt and separate legislation exists to address antisocial behaviour by non-customers associated with the presence of this seating, if this was to occur.

Some noise and disturbance could arise when customers leave the premises after closing time. This would be later than the existing uses in the precinct. The noise generation would not be significant due to the capacity of the venue and would not arise to the extent that refusal could be justified on this basis given the property is

within a Local Shopping Centre in which this type of use is considered acceptable in principal.

In order to further minimise noise and disturbance to adjacent occupiers conditions are proposed to limit the hours of deliveries and movement, sorting and removal of waste outside and to prevent amplified sound or live music and loudspeakers externally or internally.

The submitted information details that there will be no cooking odour and associated noise generated on site as bar snacks would consist of pork pies, pickles, nuts and crisps. The applicant plans to make use of existing air conditioning units. A condition it to be attached to control the specification of any new units in terms of noise generation.

The premises is sufficient distance from neighbouring property so that unacceptable loss of privacy would not arise through the proposed use.

The nature of the canopy is such that it would not cause significant amenity implications given the nature of the properties either side.

With the imposition of planning conditions the proposal is considered to be acceptable from an amenity perspective and is compatible with the expectations of Policy S10.

#### 4. Design

Section (d) within UDP Policy S10 (Conditions on Development in Shopping Areas) states development should be well designed and of a scale and nature appropriate to the site. UDP Policy BE5 also seeks to promote good design as does Core Strategy Policy CS74. Minimal external alteration is proposed. An electric, black retractable sun awning is proposed to extend from the shop frontage. This is shown to be mounted below the fascia sign so would not appear obtrusive in terms of it's profile when not extended. The awning is detailed to project 2 metres from the shop frontage when extended. The applicant has submitted a photograph of the awning on his premises at Ecclesall Road to indicate the appearance. This would be acceptable in terms of appearance. A condition will be attached to ensure the canopy is installed in accordance with approved details. Other works involve the repair and repainting of the frontage. The plans show 4 external benches to the frontage. These would remain outside at all times.

The scheme would bring back a vacant premises into use which would enhance the appearance of the area which would be of benefit.

The resulting design and appearance of the premises would be acceptable and compliant with the above mentioned policies.

#### 5. Inclusive Access

UDP Policy BE7 (Design of Buildings Used by the Public) states that in all buildings used by the public, provision will be expected to allow people with disabilities safe and easy access to the building and appropriate parking spaces.

The shop is elevated above the highway with there being a step up both to the forecourt and then into the shop. The existing door width is appropriate to allow for inclusive access. There is an existing handrail which is shown to be retained. The gradient of the slope and nature of the frontage does not lend itself to achieving ramped access at a suitable gradient. The applicant proposes to use a portable ramp. The applicant has agreed to providing means of summoning assistance from the pavement. There is no scope for accessible parking given the nature of the site. Details of these measures to aid inclusive access will be controlled by condition.

## 6. Highway Issues

Section f) within Policy S10 (Conditions on Development in Shopping Areas) within the UDP states that new development should be adequately served by transport facilities and provide safe access to the highway network and appropriate off street parking and not endanger pedestrians.

The Local Shopping Centre is serviced by public transport and there is on street parking available in the immediate locality. It is also anticipated that the site would be frequented by people living in the local area by foot.

The accessibility of the premises and its size and nature would not generate significant parking demand, congestion or vehicle movements.

The bin storage is proposed to the rear on land within the ownership of the landlord. It is understood that similar arrangements existed for the previous use. Overall the scheme would have a neutral impact on highway safety.

## RESPONSE TO REPRESENTATIONS

Many of the issues raised through representation have been discussed above. Issues not addressed are discussed below;

Observation is made that comments are being received from people not living in the immediate area - The origin of the letters of representation have been noted and appropriate weight has been given to comments in light of this. It is noted that the letters of objection come from properties in close proximity to the site.

Concern is raised regarding the health implications arising from people smoking outside the premises. The premises is small scale and this matter could justify any intervention through the planning system.

Concern has been raised regarding antisocial issues following alcohol consumption. Antisocial behaviour can be addressed via separate legislation if it did occur.

The nature of the use would not be associated with significant litter production.

Concern is raised regarding use of neighbour's walls for smoking. This would be a private issue.

The following comments are considered to be non-planning issues;

-Other pubs are close by, there is no need for another.

-Impact on house prices.

-The scheme would contravene a bye law that designates Fulwood as being a dry parish

## SUMMARY AND RECOMMENDATION

The use of the premises as a micropub is acceptable in principle and does not prejudice the role of the Local Shopping Centre in terms of dominance. Whilst there are some concerns about the proximity of the site to residential properties and potential for disamenity in particular through noise disturbance, these concerns can be adequately addressed by conditions. Controlling hours of use especially the outdoor seating area is important.

The proposal would bring a vacant premises back into use and enhance the appearance and the offering within the Local Shopping Area.

The scheme does not pose significant highway safety implications.

It is concluded that the scheme is compliant with policies S10, BE7 and BE5 of the UDP and Policy CS74 of the Core Strategy. For these reasons approval is recommended.

Recommendation: Grant Conditionally.