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Case Number	19/02707/FUL
Application Type	Full Planning Application
Proposal	Erection of two storey and first-floor extension, external staircase and first floor terrace to existing restaurant.
Location	289a/289b Abbeydale Road South Sheffield S17 3LB
Date Received	22/07/2019
Team	South
Applicant/Agent	EDGE AD Ltd
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:

Proposed Floor Plans A18-44-04 Revision P2; Date Published: 5th March 2020  
Proposed Elevations and Elevational Key Plans A18-44-05 Revision P2; Date Published: 5th March 2020

Flood Risk Assessment Prepared by EWE Associates Ltd draft Rev0 November 2019; published 12th November 2019

Reason: In order to define the permission.

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

3. No development shall commence until a mines gas risk assessment has been undertaken and a desktop study report has been submitted to and approved in writing by the Local Planning Authority. The report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004).

Reason: In order to ensure that any mines gas risk is properly dealt with.

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

Reason: In order to ensure that any mines gas risk is properly dealt with.

5. No development shall commence until a method statement has been submitted to and approved in writing by the Local Planning Authority . The method statement shall demonstrate the adjacent operational railway will be protected during construction and should include details relating to construction methodology, use of plant and machinery, scaffolding, protection of boundaries and any required access onto Network Rail property.

Reason: To ensure the development does not affect the safety, operation or integrity of the operational railway and its infrastructure or undermine or damage or adversely affect any railway land and structures.

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

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

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

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

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

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

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

9. Before development is commenced full details of proposed external materials shall have been submitted to and approved by the Local Planning Authority.

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

10. Prior to the relevant works commencing, details of the external finish of the railway carriage including colour, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the finish shall be retained thereafter.

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

11. A 1.8m high obscured glazed screen shall be installed along the north side of the first floor terrace prior to the terrace coming into use. It shall be maintained and retained in a satisfactory and obscured condition for the lifetime of the development.

Reason: In the interests of the amenities of neighbouring occupiers.

12. A scheme to show the design and height of the proposed barriers around the first floor terrace and surfacing and landscaping relating to the first floor terrace shall be submitted to and approved in writing by the Local Planning Authority before the development of the first floor terrace commences, or within an alternative timeframe to be agreed in writing by the Local Planning Authority.

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

13. Prior to the development being brought into use, details of the size and location of a bin store shall be submitted to and approved in writing by the Local Planning Authority. The bin store shall be available to use prior to the development being brought into use and bins shall be stored in the approved bin store for the lifetime of the development.

Reason: In order to ensure bins are appropriately stored and do not cause amenity issues or compromise parking.

14. The development shall not be brought into use until unless a scheme for the installation of equipment to control the emission of additional fumes and odours from the premises is submitted for written approval by the Local Planning Authority. These details shall include:

- a) Drawings showing the location of the external flue ducting and termination, which should include a low resistance cowl.
- b) Acoustic emissions data for the system.
- c) Details of any filters or other odour abatement equipment.
- d) Details of the systems required cleaning and maintenance schedule.

The use of the first floor extensions shall not commence until the approved equipment has been installed and is fully operational and shall thereafter 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.

### **Other Compliance Conditions**

15. The first floor terrace shall not be used between the hours of 9pm and 9am on any day.

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

16. No amplified sound shall be played within the building except through an in-house amplified sound system fitted with a sound limiting facility capable of limiting the sound level output of the system to a pre-set level which may then be secured in a tamper-resistant manner, 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.

17. 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 boundary of residential accommodation:

- 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.

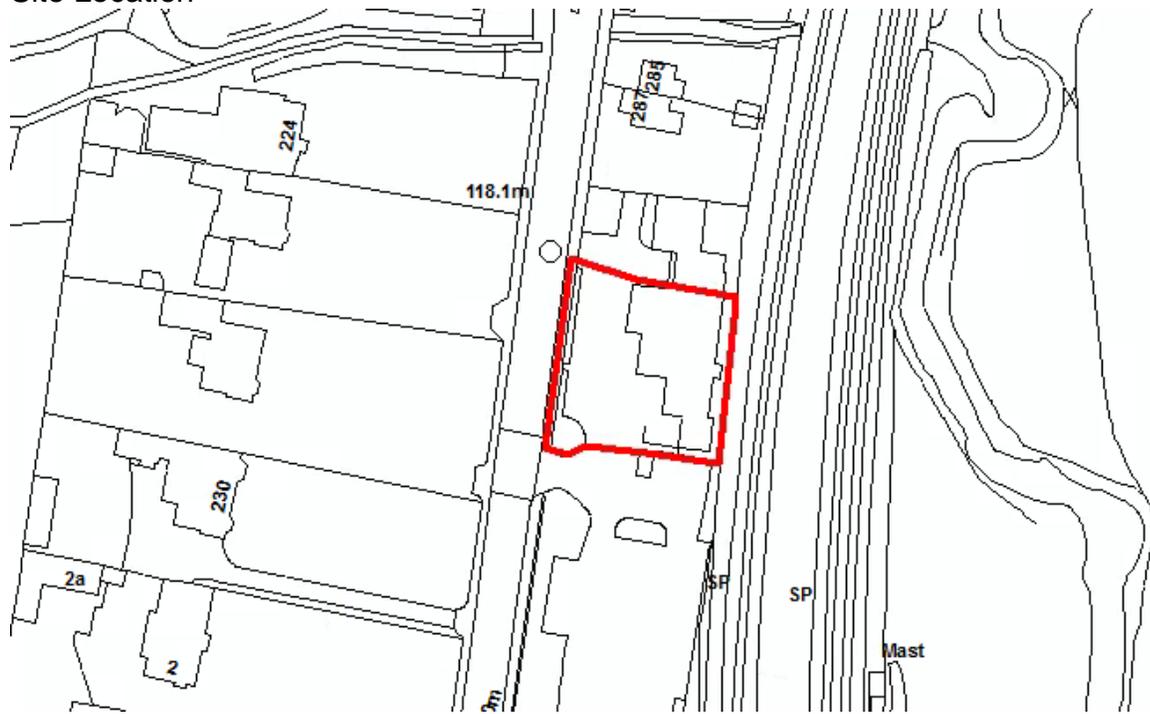
18. No loudspeakers shall be fixed externally nor directed to broadcast sound outside the building at any time.

Reason: In the interests of the amenities of the locality and occupiers of adjoining 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. To assist with the writing of a method statement and the discharge of condition 5, the developer is recommended to refer to the details and guidance set out in a letter from Network Rail dated 6th March 2020.

Site Location



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## LOCATION AND PROPOSAL

The application site is a restaurant known as The Summerhouse on Abbeydale Road. The internal layout of the restaurant has a dining area, kitchen and two informal bar areas. It is single storey only.

Externally the property has parking spaces to the front and is located alongside Dore and Topley railway station and a hair salon is next door. The wider area is residential with the nearest properties being located approximately 40m to the north, and 80m to the east (across Abbeydale Road South).

The building has been in commercial use for many years. In September 2015 the applicant converted the property into a restaurant and named it 'The Summerhouse'. Next door was a restaurant called 'Peppercorn', which the applicant bought then merged the two restaurants into one in December 2018. The existing restaurant has about 80 table covers.

This proposal seeks consent for a first floor extension on the rear, partly in the form of a railway carriage and a first floor external terrace on the front. A side extension is also proposed to create access to the first floor space. The proposed extensions would accommodate approximately 70 additional table covers.

## PLANNING HISTORY

15/02274/FUL: Change of use from retail (use class A1) to cafe/restaurant (use class A3) and erection of replacement single storey glazed extension to front elevation.  
Granted 15.08.2015

16/01405/FUL: Application to allow the extension to opening hours until 00:00 Thursday, 01:00 Friday & Saturday and 01:00 Christmas Eve and New Years Eve (Application under Section 73 to vary Condition 6 as imposed by planning permission 15/02274/FUL - Change of use from retail (use class A1) to cafe/restaurant (use class A3) and erection of replacement single storey glazed extension to front elevation).  
Granted 03.06.2016

## SUMMARY OF REPRESENTATIONS

The application has been advertised by sending neighbour notification letters. 20 representations have been received; 10 in opposition and 10 in support. The comments are summarised below:

Objection (10 representations)

- The proposal would increase existing issues, which include noise and disturbance to residential properties and comings and goings from taxis, especially late at night.

- Existing issues with the restaurant include rowdy behaviour, cooking smells and noise. These create an unacceptable and intimidating situation for staff and customers of an adjacent business. The proposal would worsen existing issues.
- Bin storage is a current issue. Consideration should be given to waste storage for the existing building and any increased capacity.
- The proposal would add to an existing parking issue.
- Concerns for construction parking. Without any consideration for construction parking it could encourage associated vehicles parking in the adjacent train station car park.
- Increased litter.
- An additional storey on the building would look out of character.
- Concerns that any conditions of the planning permission would not effectively control the noise and disturbance.

#### Support (10 representations)

- This is a well regarded restaurant that is of benefit to the local area. The proposed extensions and terrace are welcomed additions.
- The proposal would encourage investment into an existing business.
- A nearby business and property advises they have not witnessed any disturbance arising from the existing use. This is a business that attracts mainly over 25's and families and it is a pleasant place to visit.
- The parking issues are caused by the users of local station rather than the restaurant.
- The proposal would provide employment for tradesman during the build phase.

Network Rail are a Statutory Consultee given the proximity to the railway line and raise no objections in principle but state a construction method statement should be imposed as a planning condition.

## PLANNING ASSESSMENT

### Policy Context

There is support in planning policy to grow our economy and support the expansion of existing businesses. However, this should be balanced against other material planning considerations including design, the impact on surrounding land and highway safety.

Paragraph 80-82 of the NPPF focuses on growing our economy. The NPPF states great weight should be given to the need to support economic development and decisions "should help create the conditions in which businesses can invest, expand and adapt".

Paragraph 180 of the NPPF stipulates that planning decisions should consider the effects of a development. Paragraph 180 advises that "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".

Paragraph 127 and 131 of the NPPF states that developments need to contribute towards creating visually attractive, distinctive places to live, work and visit, whilst also being sympathetic to local character. Innovation should not be prevented but developments should add to the quality of an area whilst providing a high standard of amenity for existing and future users.

Local policies BE5 of the Unitary Development Plan and Core Strategy CS74 aim to promote developments that create distinctive places, preserve the character of buildings and promote a high standard of amenity for occupiers of the dwelling and the surrounding properties. These policies are considered to be in accordance with the objectives of the NPPF and can be given substantial weight in the determination of this application.

### Principle of the Proposal

The site falls within a Housing policy area as identified by the Unitary Development Plan for Sheffield. The proposal is to extend an existing restaurant for more dining space, which is accepted in principle as food and drink uses are acceptable within Housing Areas under the terms of policy H10. The extension to this restaurant would be in accordance with the economic principles of the NPPF.

Residents have raised concerns that the outdoor terrace would become a social drinking area rather than a place for additional dining.

The proposed plans show the space to be laid out with tables and the applicant has made it clear that the purpose of the terrace is for dining. The applicant is also installing a first floor kitchen, which indicates the terrace is to be used in association with the restaurant. It is acknowledged that not everyone using the terrace may eat.

However, the principal use is for dining. Furthermore, the lawful use of this building is a restaurant, falling within Class A3 of the Use Classes Order. It is not uncommon for restaurants to have bar facilities but the drinking element must be secondary to the principle use. If the use of the terrace was to be principally used as a drinking area then it would bring into question the lawful use of the building as a restaurant. This may then materially change the use of the building from a restaurant (Class A3) to a bar (Class A4), a change of use that would require planning permission in its own right.

### Noise and Anti-Social Behaviour Considerations

Policy H14(k) seeks to ensure new development does not lead to noise, smell, excessive traffic levels or other nuisance for people living nearby.

The building is located on Abbeydale Road, a main arterial route into Sheffield City Centre. The site is bound by a railway line at the rear and a car park and hairdressers on either side. The ambient noise climate is formed from road traffic noise, passing

trains and the comings and goings of the train station, The Summerhouse and the adjacent hair salon. The proposed extensions will increase visitors to the establishment.

This application has split public opinion. 10 objections and 10 letters of support have been received. The letters of comments are from a mix of local businesses, nearby residential properties and residents further afield.

The letters of objection comment that the property is becoming more attractive as a drinking venue, which is leading to noise and anti-social behaviour. The objectors are worried this proposal would further increase the alleged issues, leading to a residential amenity impact.

Letters of support advise that this is a well-run restaurant with no issues being previously observed.

The LPA has taken all of the public comments into consideration and have consulted with Licensing and Environmental Health. A site visit was also made.

At the officer's site visit, which was on a mid-week lunchtime, it was found that internally the property is laid out as a restaurant and all the customers were eating meals. There is a bar area although this was minor part of the building in comparison to the restaurant area. No customers were in the bar at the time of the visit. The site is located on a busy main road with regular footfall and passing traffic.

The Environmental Protection Service has considered this application and the potential noise and disturbance that could be created. The first floor terrace has the potential to significantly increase noise, which could lead to complaints.

As noted above the nearest residential property (287 Abbeydale Road South) lies to the north of the site, with an adjacent hairdressers business in between. There is a distance of approximately 25m from the edge of the proposed roof terrace to the dwelling's boundary, and 40m to the dwelling. The dwellings across Abbeydale Road South to the west are over 80m away and are unlikely to be adversely affected as a result by noise from the terrace and outdoor dining.

However, with effective conditions any adverse impact can be prevented. Conditions should include the terrace only being used between 9am and 9pm and no amplified music or live music to be permitted. This, and the separation from the dwelling should ensure no adverse impact on the occupants of this dwelling.

Licensing and the Environmental Protection Service have no recorded complaints about the use of the property.

The proposal will inevitably increase comings and goings but when taking into account the site characteristics, including the location on a busy main road, its location next to a railway station plus the size of the extension then the increased comings and goings would be not be distinguishable to workers and residents that are close by.

Furthermore, the buildings lawful use is a restaurant rather than a bar and no complaints have been made about its use to the Councils Licensing Team or Environmental Protection Service. Restrictive conditions, particularly a control on the hours of use of the terrace can also ensure no adverse impact occurs. When adding these factors together as a whole and balancing these against objections, it is considered that a residential amenity issue is unlikely to arise from the increase in capacity or the use of an outdoor terrace.

Extraction and ventilation is to be controlled by planning condition.

### Overlooking and Privacy

The first floor extensions look onto a main road and a railway line. The side of the proposed terrace has substantial planting that wraps around the corner of the terrace; this will ensure privacy of the nearby properties is unaffected. A condition will be imposed to ensure this planting is maintained to a height of no less than 1.8m and a further screen is installed behind in case of any gaps in the planting.

Overall therefore, the impact on neighbouring occupiers is considered to be acceptable and complies with the aims of policy H14 of the UDP and paragraph 127 of the NPPF.

### Design

Policy H14(l) of the UDP requires new development or extensions in Housing Areas to be on a scale consistent with the residential character of the area .

The proposal includes a first floor extension. The form of this extension at the rear is a railway carriage. This design has been chosen to reflect the close proximity to the railway station and the property backing onto a railway line. It is an innovative and distinctive extension that takes inspiration from its surroundings. It is not visible from Abbeydale Road South and is considered an interesting addition to the building that will bring life and interest to the railway elevation.

The proposed first floor terrace, first floor extension and side extension do not detract from the original building. They are proportionate to the building and would not look out of scale in this context. On the whole, the effect of the extensions and the terrace on the character of the area is deemed to be neutral.

The Councils Access Officer has made a number of recommendations to enable all users of the building to move around with equal ease. This has resulted in some amendments, such as wider doors.

The proposals are therefore in compliance with policy H14 of the UDP and the aims of paragraphs 127 and 131 of the NPPF

### Parking and Highway Considerations

Policy H14(k) seeks to avoid excessive traffic levels from new developments in Housing Areas.

The property is located on Abbeydale Road South and adjacent to the park and ride car park belonging to Dore and Totley train station. It is also accessible by bus with stops in close proximity.

Many residents who are in opposition to scheme have raised parking and highway concerns. The area around the Summerhouse and the train station is in high demand regularly for parking. On street parking nearby is common due to such high demand. Residents are concerned the increase capacity will add to the parking demand.

The proposal has the potential to increase parking demand in the area. However, the increased usage would not change the surrounding parking situation nor would it have a detrimental impact on the train station car park. The nearby streets are used for parking and this is predominantly due to rail users. The park and ride car park is regularly full. This proposal would not materially change the situation. Furthermore, the usage of the summerhouse is likely to be high in the evenings and weekends, which is at a time when the parking demand in the area is lower.

Parking restrictions are in place on both side of Abbeydale Road South, meaning that on street parking is not an issue immediately adjacent to the restaurant. This usually leads to customers (of both the restaurant and the Park and Ride) to seek on street parking on Dore Road, beyond the end of the restrictions. It is considered that, although the extension may lead to increases in on street parking on surrounding roads, the increase is not significant enough to consider it a severe impact on the highway network.

In this context the proposal is acceptable in terms of policy H14(k) and paragraph 109 of the NPPF.

#### Waste and Bin Storage

Local residents and SYPTE have reported that bins associated with the restaurant have been stored in the adjacent railway station car park. SYPTE have made contact with the owner in relation to this matter.

The proposal will increase capacity so it is important that waste and bin storage is properly thought out. The agent advises that a new bin storage area is being considered at the back of the building and the owner is in the process of developing a waste management system to reduce the amount of waste from the property. The waste management system would negate any increase in waste. A condition for bin storage should be a condition of any planning consent.

#### Flooding

The application site is within Flood zone 2. The restaurant is a less vulnerable use. Developments of less vulnerable use in flood zone 2 should follow standing advice set out by the Environment Agency. Standing advice requires a developer to consider surface water, access and evacuation and floor levels.

The submitted FRA addresses the required matters and is considered suitable. Furthermore, the proposal will increase the building from one to two storeys, a significant benefit for a property in a flood zone.

### Summary and Conclusion

The design although unusual in that it takes the form, in part of a railway carriage, is appropriate to its surroundings. There are no flooding or highway implications.

Objectors have advised the existing use is causing some issues for nearby properties. However, in contrast many letters of support have advised there are no ongoing issues with the business. The Councils Licensing Team and Environmental Protection Service have no complaints recorded.

The key consideration is to determine whether increasing the size of this restaurant will create an adverse impact on surrounding land and property. This is an existing business in a high activity area, it has a lawful use as a restaurant (not a drinking establishment) and a number of conditions can control the use and noise. The proposed restaurant extensions will also support and grow an existing business as well therefore complying with the economic principles of the NPPF, weighing significantly in support of the proposal.

The proposal complies with the aims of the quoted local and national policies and it is therefore recommended that planning permission is granted subject to conditions.

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