
Case Number	21/02633/FUL (Formerly PP-09916653)
Application Type	Full Planning Application
Proposal	Retention of lean-to timber framed covered seating area at side of building (retrospective application)
Location	322 Abbeydale Road Sheffield S7 1FN
Date Received	07/06/2021
Team	South
Applicant/Agent	Ms Nicola Jewitt
Recommendation	Grant Conditionally

Time limit for Commencement of Development

1. The structure shall be removed on or before 30 September 2023

Reason: The design of the structure is not of an acceptable quality and its permanent retention would be harmful to visual amenity

Approved/Refused Plan(s)

2. The development has been assessed in relation to the following documents:

Ground Floor Site Plan (published 7 June 2021)

Location Plan (published 7 June 2021)

Photograph dated 21 December 2021 (published 17.02.2022)

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. Notwithstanding the details shown on the submitted plans and photographs, the entrance doors into the extension shall be altered within a period of 6 weeks from the date of this decision such that no part of those entrance doors open out over the public footpath on Frederick Road.

Reason: In the interests of pedestrian highway safety and the amenities of local residents.

4. Notwithstanding the details shown on the submitted plans and photographs, the roof drainage system shall be altered within a period of 6 weeks from the date of this decision such that rainwater from the roof of the extension does not drain directly onto the public highway. Prior to carrying out such works, full details shall have been submitted to and approved in writing by the Local Planning Authority, and thereafter such revised system shall be retained unless agreed otherwise by the Local Planning Authority.

Reason: In the interests of pedestrian highway safety and the amenities of local residents.

Other Compliance Conditions

5. The extension shall not be used by customers, patrons or visitors of the business between the following times:

21:00 hours and 09:00 hours (the following day)

Reason: In the interests of protecting the amenities of nearby local residents.

6. No loudspeakers shall be fixed within or externally to the extension nor directed to broadcast sound inside the extension at any time.

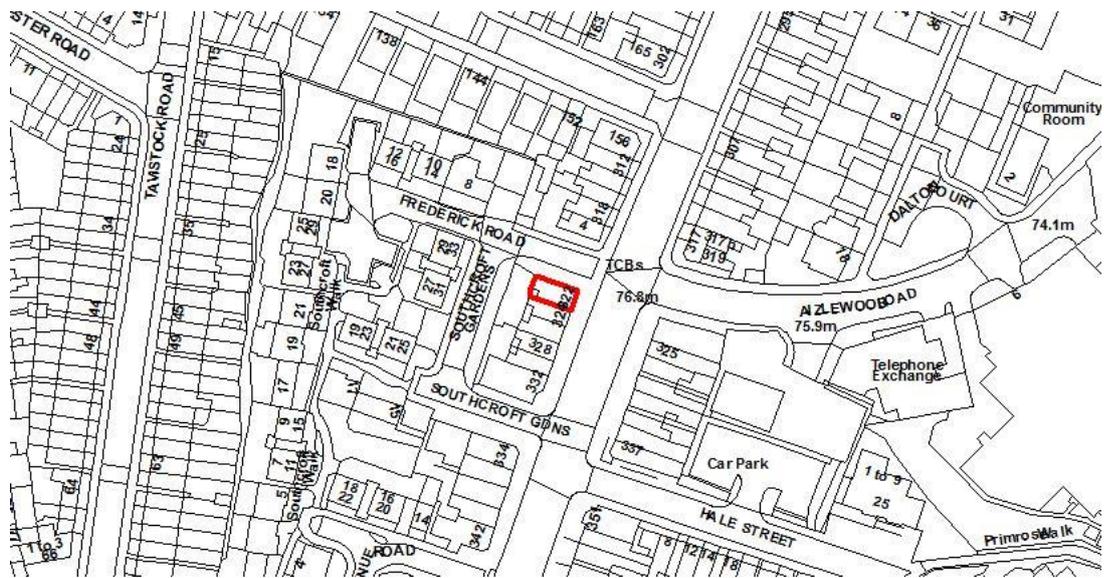
Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

Attention is Drawn to the Following Directives:

1. The Local Planning Authority would welcome pre-application discussions to determine the most appropriate form and design for a permanent structure in this location. You are advised to enter into such discussions as soon as possible given that the existing structure must be removed within 18 months. Rather than refusing the application, which it is recognised might cause a significant impact on the business, the Local Planning Authority wish to engage with the applicant to secure an alternative proposal that is more sympathetically designed and built of more appropriate materials.
2. The applicant is advised that the assessment of this planning application has been made on the basis that the bar element of the business is ancillary to the main business which is a cafe/restaurant and retail sales shop (Use Class E). If there is an intensification of the bar aspect of the business such that it becomes a primary activity of the business, then the use of the premises would be classed as sui-generis and would therefore, subsequently require a planning application for change of use.

3. 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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INTRODUCTION & PROPOSAL

This is an application relating to an existing commercial property located in the Abbeydale Road area of Sheffield. The application is seeking retrospective consent for a single-storey side extension to an existing café/retail shop business (Use Class E). The applicant is applying to keep the extension permanently.

The property (known as “Coles Corner”) occupies a corner position at the junction of Abbeydale Road and Frederick Road. The property is an end terrace shop unit located within a short shopping parade (of 6 units) fronting Abbeydale Road. The shop/café/retail business operates the ground floor accommodation and there is a separate unconnected residential flat above. The immediate area is best characterised as having mainly commercial premises fronting Abbeydale Road with housing areas behind. Many of the shops in this parade of 6 units have residential accommodation above.

When originally submitted, the application was for a change of use to a sui-generis use (due to the bar element of the business), however, the applicant has now clarified to officers that the bar element of the business is ancillary to the café/restaurant and retail shop use and, on this basis, the bar element is not now considered to be a separate element that would otherwise have led this proposal to fall within the sui-generis category. If the bar element of the business were to expand and become a primary element of the business, then an application for change of use would be required (and the applicant has been made aware of this). This is because a ‘drinking establishment’ falls outside Use Class E (and is known as sui generis).

Due to the recent covid pandemic, Central Government introduced legislation to help shops and business expand their operational activity (by allowing them to use forecourts and other outdoor spaces) in order to help create more space; to allow increased separation between customers and because the virus spreads less easily where there is greater ventilation. The legislation related to temporary structures and was due to end on 31st December 2021. The legislation has further been amended and now extends the period for another year (until 31st December 2022). The applicant erected the single-storey side extension (that is now the subject of this application) on the back of this legislation. However, the extension as built would not be considered as a temporary structure because it is not moveable and therefore would fall outside the remit of being permitted development (the government legislation specifically relates to temporary, moveable structures).

The extension itself (as built) is approximately 12.2 metres long by approximately 2.0 metres wide. It has an eaves height of approximately 2.1 metres and an overall height of approximately 2.75 metres. The main structure is timber framed and the roof is a clear/translucent polycarbonate profiled sheeting.

Although not shown on the submitted application photographs and plans, the extension has been altered since originally constructed and now incorporates filled-in panels between the supporting posts. The filled-in panels are made of a mixture of materials and these include:- tarpaulin, vertical and horizontal timber slats, clear plastic sheeting capable of being rolled-up, as well as several doors that allow

access into the extension. In addition to the more permanent elements of the extension there are also several moveable landscaped planter boxes (which incorporate horizontal timber slats). The whole side extension structure is fixed on to a new slightly raised concrete base which was introduced to create a level platform (due to the sloping gradient of the side forecourt area). The structure also incorporates some external decorative lights.

There is no direct access for customers to walk from the side extension into the main shop premises. The only access from the main premises into the extension is via the existing kitchen area (which wouldn't normally be used by customers).

It is noted that some of the planters (which are moveable) are positioned on part of the public footpath and the 2 sets of door openings on the extension (along the Frederick Road frontage) open outwards directly over the public footpath.

One of the side infill panels and the front facing panel of the extension incorporates some of the menu details. The business has a premises licence to sell alcohol.

The submitted plan shows that the external space is used mainly for dining purposes with the internal area used predominantly for retail purposes. The plans show that the side extension is capable of accommodating 4 tables with seating for approximately 16 covers.

Although the materials are relatively lightweight in nature, there is no doubt that the extension is intended to be a permanent feature of the building. It is certainly not capable of being dismantled and put away at the end of each day.

RELEVANT PLANNING HISTORY

There is planning history dating back to the 1980s but only the following applications are considered to be relevant to the current proposal:

85/02327/FUL – Application for use of a rear ground floor of building for the sale of hot food for consumption off the premises. This application was refused in January 1986.

87/01271/FUL – Application for use of premises for the sale of takeaway hot food. This application was refused in July 1987.

19/04316/A3PN – Use of retail unit (Use Class A1) as gift shop/café (Use Class A3). This application was refused as it was retrospective (so did not qualify for a prior approval)

21/00175/ENCHU – Enforcement Matter – It was alleged that the shop was operating as a sui-generis use (bar), with tables and chairs outside. This led to this current application being submitted.

SUMMARY OF REPRESENTATIONS

This application has resulted in 41 representations being received from 38 different

properties (this includes a letter of support from Cllr Alison Teal). All the representations received were in response to the original proposal which included the change of use element.

Of the 41 representations received 26 are in support of the proposal and 13 have raised objections. There are also 2 neutral representations in respect of the proposal. The comments have been summarised and are listed below:

Comments made by Cllr Alison Teal:

- Cllr Teal is saddened to see conflict between neighbours.
- As part of a summer event relating to music trails in which Coles Corner participated, there was some loud music performed at this venue and it did generate some loud noise for local residents and, as a consequence, local residents are worried that this could be repeated again in the future and more regularly.
- The business owners are extremely conscientious about being good neighbours and have no wish to inconvenience or disregard the rights of residents in the area.
- There are lots of supportive comments here with the application to illustrate what a highly valued business "Coles Corner" is to the community.
- The outdoor framed seating area has created an important addition to the amenity space.
- Cllr Teal would like to see the proposed extension approved.

Other Comments in Support

- The site was previously an eyesore (graffiti and litter etc.), the applicant has worked hard to improve and tidy up the appearance of the property.
- The works done have created a wonderful outdoor café space.
- The extension enhances this part of Abbeydale Road. It's a major asset to the streetscape and is to be applauded for its pleasing appearance.
- The outdoor seating area is small and enclosed.
- It's a trendy place for clientele to go for a quiet drink rather than go to other bigger bars in the area.
- This is not a big rowdy drinking establishment.
- Lots of events take place here such as world food eating days.
- Abbeydale Road has been run down for many years, but its now going through a popular transformation with nice independent food and drink establishments.
- Coles Corner sources locally produced products and provides employment for local people.
- The works undertaken at Coles Corner are commendable, those works brighten up this part of the road and makes it more attractive to visitors. It's become a vibrant hub for locals.
- Coles Corner showcases the very best in small, independent businesses.
- The external lean-to extension enables a modest number of people to safely enjoy each other's company.
- Supporting local independent businesses will be beneficial to the economy in general.

- The construction of the temporary outdoor seating area is an improvement to the street-scene.
- The outdoor seating area is essential in reducing the effects of Covid.
- The development is entirely within the applicant's own land and will not have an impact on footpaths or roads in the area.
- There's a brick wall at the rear of the site and this wall partially creates a physical screen from nearby properties on Southcroft Gardens.
- The plants that have been used in the planting beds are beautiful and help to make Abbeydale Road a nicer place to live.
- Drug dealers and youth gangs used to hang out here, they no longer do.
- The business provides an inclusive environment with something for people of all ages and communities which you can't get elsewhere on Abbeydale Road.
- The themed days at the café provide the opportunity to experience the music and food of other cultures.
- Coles Corner creates a positive atmosphere and attracts visitors that also go on to use some of the other shops and businesses in the locality.
- It was lovely to see Coles Corner as part of the 'Music Trail' in the city, where live music was enjoyed by many local people.

Comments in Objection to the Proposal

- The premises generate a lot of traffic which often leads to local residents and visitors being unable to park their cars near to their homes.
- There is loud amplified music regularly played at the café which has a direct impact for local residents.
- There are quite often large crowds of people standing outside which leads to noise issues and people staring at local residents (making them feel uncomfortable).
- When they are busy, the café often set-up tables and chairs on the public road. Do the owners of the business have a licence to serve food and drink outdoors and do they have a licence to set up tables on the public road??
- There are lots of people supporting this local business but, most of them are not local residents.
- The views of local residents should be considered.
- There are already too many bars in the area.
- The area already has problems with traffic congestion, and this will just add to the problem.
- Having music blaring away and people pouring out onto the street at 11pm is unfair to local residents. The music is often very loud.
- Music being played outside on the street is an issue, other bars don't have loud music playing outside.
- Why can't the building just remain as a café with normal operating times?
- The owner of the business won't allow people to park on her side of Frederick Road and she regularly asks people to move their cars if they are parked near the side extension.
- There is still too much noise after customers leave the building, some customers have been seen urinating on nearby walls.
- The submitted photographs and images of the extension are not accurate, they don't accurately show what's there now.

- Over time (from when it first opened) the premises is being used more as an outdoor bar venue with live and very loud music. This is also now attracting large groups of people on to Abbeydale Road and Frederick Road.
- Local residents are mainly working families with school-aged children and vulnerable elderly people, the proposed late night opening hours will lead to further problems.
- The activities at the premises should be limited to the indoor area only.

Neutral comments:

- There's no objection to the indoor activity being used between 09:00 hours to 23:00 hours but the outdoor seating area should have restrictions that control the operating times that it is used. The outdoor seating area should not be used by customers after 9pm and all the tables and chairs should be cleared away by 9:15 pm.
- The filling of the bins and arrangements for the disposal and collection of bottles and other waste should also be limited to social hours, again, to prevent disturbance for local residents. Other recent decisions for food and drink establishments have had these similar conditions imposed.

PLANNING ASSESSMENT

Policy Context

The Council's development plan comprises the Core Strategy (CS) which was adopted in 2009 and the saved policies of the Unitary Development Plan (UDP) which was adopted in 1998. The National Planning Policy Framework revised in 2021 (NPPF) is also a material consideration.

The Council's Development Plan (UDP and Core Strategy) predates the NPPF; the development plan does however remain the starting point for decision making and its policies should not simply be considered out-of-date if adopted or made prior to the publication of the Framework, as is the case in Sheffield.

The key principle of the NPPF is the pursuit of sustainable development, which involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life.

Paragraph 81 of the NPPF also seeks to ensure that the right conditions are created for businesses to invest, expand and adapt which ultimately could lead to jobs being created and economic growth. This assessment will have due regard to these overarching principles.

Key Issues

The main issues to be considered in this application are:

- Acceptability of the development in land use policy terms.
- Design Issues.

- Impact of the proposal on the living conditions/residential amenities.
- Highway Issues.

The site is identified on the Sheffield Unitary Development Plan (UDP) as being within a Local Shopping Policy Area and as such UDP Policies S7 and S10 are applicable. It is also considered in this instance that UDP Policy BE5 'Building Design & Siting' and Core Strategy Policy CS74 'Design Principles' are also relevant.

Use

UDP Policy S7 states that the preferred use in District and Local Shopping Centres is retail (A1), however A3 uses (food and drink outlets) are also acceptable. At the time the UDP was published, Use Class A3 would have included cafes/restaurants. However, recent changes to the Use Classes Order has resulted in Use Class A being revoked. A cafe/restaurant along with retail use would formerly have been Class A3 and Class A1 respectively but the uses both now fall under Use Class E. In respect of the bar/drinking element, it is understood from the applicant that the bar aspect is ancillary to the main business and not a primary aspect of the business. With this being the case, the use would not be classed as a sui-generis drinking establishment. The applicant has been made aware that if the bar function is a primary activity and accounts for a significant proportion of the sales, then the use would fall into the sui-generis category (and an application for change of use would be required).

However, in this instance, officers are taking the application at face value and determining the current use as a Class E use and not a sui-generis use. On this basis therefore, the use of the main premises is not being considered under this application as the operation as now defined would fall under Use Class E, which is already the authorised use of the premises. This application therefore solely relates to the construction of the single-storey side extension which has already been undertaken and is therefore retrospective.

The applicant has been made aware that if the alcohol sales and bar use were to intensify and become a primary element of the business, then an application for change of use would subsequently be required.

Design

The premises are located within a local Shopping Policy Area and is also adjacent to a Housing Policy Area as defined by the UDP. Abbeydale Road is also a major arterial road into and out of the city. Because the property is also located on a corner plot, any alterations on the side are visually prominent (particularly when travelling south, away from the City Centre).

As previously mentioned in this report, the extension is already constructed and is located on the side elevation of the premises (fronting onto Frederick Road). The applicant has applied for the extension to remain permanently.

The extension itself is built using lightweight materials (polycarbonate sheeting, tarpaulin and timber slats). The extension also has two entrance doors on the Frederick Road elevation (one allows access for staff and the other is intended for customers). The two entrance doors on the extension are hinged so as to open out over the public footpath, thereby creating more useable space within the extension. (The impacts relating to the doors opening out over the public footpath are considered in the highways section of this report.) The two entrance doors are different in colour and type and generally add to the uncoordinated array of materials that have been used to infill the side panels between the supporting timber posts, creating a somewhat cluttered appearance.

Given the very prominent corner position of the structure; ad hoc nature of the differing facing materials and the overall general design of the extension, it is considered that the extension displays a very temporary appearance and results in an adverse visual impact on the character of both the street-scene and host property. It is considered that the structure lacks any coordination, longevity or integrity in terms of facing materials.

Despite its poor overall design, the extension does provide additional space for the business and it is recognised that the extension enabled the business to operate through key stages of the covid pandemic (where separation space between customers and good ventilation was needed).

It is also acknowledged that the extension is on the side/gable elevation of the building and therefore, it does not in this instance cut across any significant architectural features.

However, it is considered that the overall design and choice of facing materials of the side extension has in this instance, resulted in a structure that detrimentally affects the character of the building and the street-scene, further exacerbated by the property's location on a prominent corner junction. As such it is considered that the extension fails to satisfy UDP policy S10(d) which requires new developments in shopping areas to be well-designed and of a scale and nature appropriate to the site. For the same reasons outlined above, the proposal would also be contrary to Policy CS74 of the Sheffield Core Strategy and UDP Policy BE5, which both require new developments to be well-designed (including the use of good quality materials) and to respect townscape character, views and vistas, building styles and materials. Policy CS74 also states that new developments should contribute to place-making, be of a high quality and should help to transform the character of physical environments that have become run down and are lacking in distinctiveness. These policies can be afforded substantial weight as they broadly align with paragraph 130 of the NPPF which states that decisions should ensure that developments add to the overall quality of the area, not just for the short term but over the lifetime of the development; and developments should be visually attractive as a result of good architecture.

Impact on Residential Amenity

UDP policy S10(b) requires development not to cause residents to suffer from unacceptable living conditions, including air pollution, noise, or other nuisance or risk

to health or safety. This aligns with Paragraph 130 of the NPPF which states that developments should result in a high standard of amenity; and Paragraph 185 which states that developments should avoid noise giving rise to significant adverse impacts on health and quality of life.

Whilst the principal of the café/restaurant/shop use is established, there is still a potential issue of noise nuisance being generated within the extension and affecting nearby residents living nearby (on Frederick Road or in the houses opposite or the neighbours living in the residential flat above) particularly given the flimsy construction. This would potentially be a more significant problem in the summer months when windows tend to be open and customers might prefer to sit or stand outside.

It is considered that the lightweight structure and the partially open frontage design of the extension is less-likely to insulate neighbours from noise in the same way that a brick or block-built structure would. In order to support a temporary consent, whilst a more permanent proposal is discussed, it is recommended that a suitably worded planning condition be imposed relating to the use of the side extension, to control matters such as the hours that it can be used and to ensure that no loudspeakers are installed externally. For consistency and given that there are residential properties in close proximity, it is considered appropriate that customers should be prevented from using the extension after 9pm.

Highway Issues

Paragraph 109 of the NPPF states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.

The extension has been constructed with 2 sets of doors that open directly out over the public footpath on Frederick Road. This is considered unacceptable from a highway safety point of view but this could be rectified by re-hanging the doors such that they open inwards (this would have a subsequent impact on the number of tables and chairs that could be accommodated within the extension). A condition is therefore recommended which requires the applicant to organise the doors to be re-hung so that they open inwards within 6 weeks of any subsequent granting of temporary planning permission.

It is also noted that the submitted drawings show the guttering and pipework collecting rainwater from the roof discharging directly onto the public footpath on Frederick Road, this is also potentially dangerous from a highway safety point of view and would need to be appropriately resolved. This potentially could be quick fix by introducing a water butt and recycling the water to use on the plants in the planter boxes or alternatively it might be necessary to redirect the water from the roof guttering of the extension to a more appropriate location (a drain). A condition is therefore proposed to ensure this is corrected within 6 weeks from the date of the decision.

These conditions are considered to be necessary and reasonable because the outward opening doors and roof drainage issues are both highway safety issues that

need to be resolved relatively quickly particularly as there are lots of elderly people living nearby.

RECOMMENDATION

Taking all of the matters raised into account, it is considered that the side extension (as built) has a detrimental impact in terms of visual amenity (as a result of it being unsympathetically designed and constructed in poor quality materials). The development also raises concerns in respect of highway safety (as a result of the two sets of doors opening out directly over the public footpath and surface water draining from the roof of the extension onto the public footpath).

For the reasons outlined above, it is considered that the development in its current form is contrary to Policies S10 and BE5 of the Sheffield Unitary Development Plan; Policy CS74 of the Sheffield Core Strategy and Paragraph 130 of the NPPF (which all relate to design).

It is however recognised that recent government legislation has resulted in many shops and commercial premises erecting both temporary and permanent structures on their forecourts. This is particularly evident in Sheffield along the Abbeydale Road corridor, where there are many unauthorised structures, and where officers are currently in the process of investigating such breaches and pursuing action where it is deemed appropriate.

It is also acknowledged that many commercial premises (particularly ones associated with the food and drinks industry) have, because of the covid pandemic and government legislation, built the forecourt structures out of necessity in order to keep their businesses afloat. As such, there are instances where a sensitive approach to planning decisions and enforcement can be adopted and it is considered that this is one of those scenarios where a sensitive approach is justified.

Despite its failings (in design and highway safety terms), officers consider that a temporary consent of 18 months can be supported, provided that the applicant resolves the 2 highway safety issues (doors and drainage onto the public footpath) within a period of 6 weeks from the date of this decision. The structure is not considered to be of an acceptable design quality to be in place for longer than 18 months in such a prominent location, but that time period could be utilised by the applicant to come forward with a revised proposal which addresses the design concerns highlighted above and gives sufficient time to obtain consent for and construct a new structure which meets the aims of the design policies in the development plan and the NPPF. This is considered to be a proportionate approach which allows the business to keep trading in their current style, whilst seeking a more permanent and well-designed replacement side extension / enclosure.

It is on this basis that officers recommend that the application be approved for a temporary time period of 18 months subject to the listed conditions.

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