

Case Number	21/02186/FUL (Formerly PP-09801364)
Application Type	Full Planning Application
Proposal	Change of use of from retail (Use Class E) to pub/drinking establishment (Use Class Sui Generis), provision of a front covered terrace area, replacement of front windows and new first-floor windows, rear bin store and extraction flue to rear elevation
Location	JA Home Starlight 335 - 337 Abbeydale Road Sheffield S7 1FS
Date Received	10/05/2021
Team	South
Applicant/Agent	Melling Ridgeway and Partners
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:

Location/Block Plan Ref 6025-404 Published Date 10 May 2021  
Proposed Floor Plans Ref 6025-401 Published Date 10 May 2021  
Proposed Elevations Ref 6025-402A Published Date 10 May 2021

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 commercial use hereby permitted commences, a scheme of sound attenuation works shall have been installed and thereafter retained. Such a scheme of works shall:
- a) Be based on the findings of an approved noise survey of the application site, including an approved method statement for the noise survey.
  - b) Be capable of restricting noise breakout from the commercial use(s) to the street to levels not exceeding the prevailing ambient noise level when measured:
    - (i) as a 15 minute LAeq, and;
    - (ii) at any one third octave band centre frequency as a 15 minute LZeq.
  - c) Be capable of restricting noise breakout and transmission from the commercial use(s) and any associated plant or equipment, to all adjoining residential accommodation to levels complying with the following:
    - (i) Bedrooms: Noise Rating Curve NR25 (2300 to 0700 hours);
    - (ii) Living Rooms & Bedrooms: Noise Rating Curve NR30 (0700 to 2300 hours);
    - (iii) Other Habitable Rooms: Noise Rating Curve NR35 (0700 to 2300 hours);
    - (iv) Bedrooms: LAFmax 45dB (2300 to 0700 hours).
- Before such scheme of works is installed full details thereof shall first have been submitted to and approved in writing by the Local Planning Authority.  
[Noise Rating Curves should be measured as a 15 minute LZeq at octave band centre frequencies 31.5 Hz to 8 kHz.]

Reason: In the interests of the amenities of the locality and of the residential occupiers of the building it is essential for these works to have been carried out before the use commences.

4. Before the use of the development is commenced, Validation Testing of the sound insulation and/or attenuation works shall have been carried out and the results submitted to and approved by the Local Planning Authority. Such Validation Testing shall:
- a) Be carried out in accordance with an approved method statement.
  - b) Demonstrate that the specified noise levels have been achieved. In the event that the specified noise levels have not been achieved then, notwithstanding the sound insulation and/or attenuation works thus far approved, a further scheme of works capable of achieving the specified noise levels and recommended by an acoustic consultant shall be submitted to and approved by the Local Planning Authority before the use of the development is commenced. Such further scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained.

Reason: In order to protect the health and safety of future occupiers and users of the site it is essential for these works to have been carried out before the use commences.

5. Prior to the installation of any commercial kitchen fume extraction system full details, including a scheme of works to protect the occupiers of adjacent dwellings from odour and noise, shall first have been submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with Defra document; "Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems" and shall include:
- a - Plans showing the location of the fume extract terminating.
  - b - Acoustic emissions data.
  - c - Details of any filters or other odour abatement equipment.
  - d - Details of the system's required cleaning and maintenance schedule.
  - e - Details of a scheme of works to prevent the transmission of structure borne noise or vibration to other sensitive portions of the building.

The approved equipment shall then 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 it is essential for these works to have been carried out before the use commences.

6. Large scale details, including materials and finishes, at a minimum of 1:20; of the items listed below shall be approved in writing by the Local Planning Authority before that part of the development commences:
- Canopy
  - Windows
  - Doors
  - Bin store

Thereafter, the works shall be carried out in accordance with the approved details.

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

### **Other Compliance Conditions**

7. No customer shall be permitted to be on the premises outside of the following hours: 09:00 and 23:30 Monday to Saturday and 09:00 and 23:00 on Sundays and Bank Holidays.

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

8. The outside seating area shall not be used from 21:00 - 09:00hrs.

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

9. The folding doors within the new front elevation shall remain closed between 2100 hours and 0900 hours daily.

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

10. 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.

11. Site servicing shall be carried out between 0800 hours and 1900 hours Mondays to Fridays and between 0800 hours and 1400 hours on Saturdays, with no servicing on Sundays or Bank Holidays.

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

12. Movement, sorting or removal of waste materials, recyclables or their containers in the open air shall be carried out only between the hours of 0800 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.

13. 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.

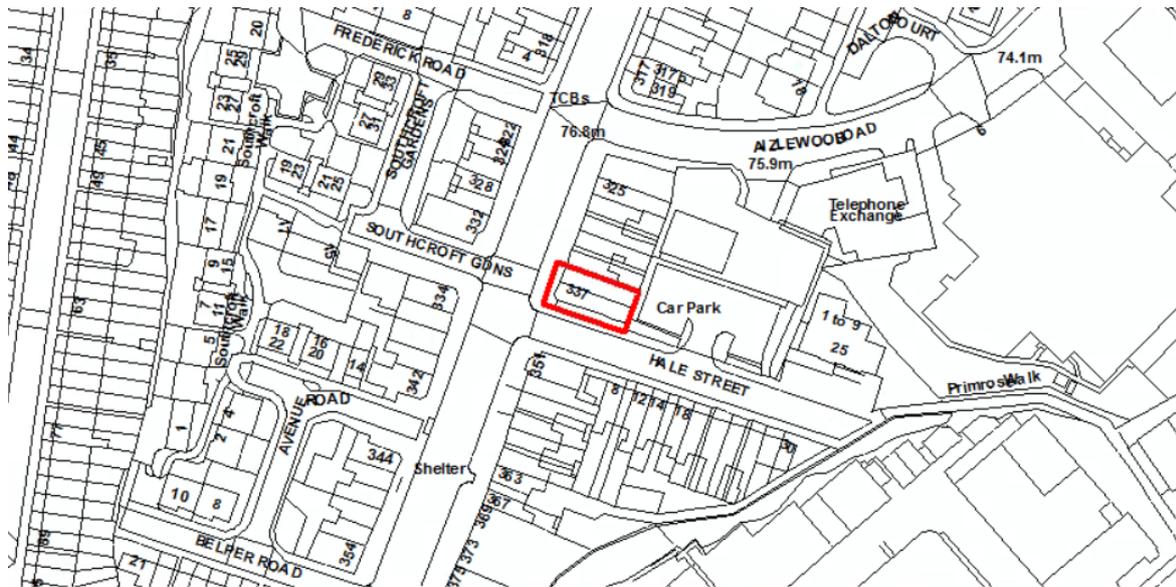
Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

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. The applicant is advised that the signage indicated on the submitted drawings is not approved as part of this permission and will require separate Advertisement Consent. To discuss arrangements for obtaining such consent, and to request application forms, the applicant should contact Development Control Section, Development

Services, on Sheffield (0114) 2039183 or go to [www.sheffield.gov.uk/in-your-area/planning-and-city-development](http://www.sheffield.gov.uk/in-your-area/planning-and-city-development)

## Site Location



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## LOCATION AND PROPOSAL

The application relates to a double fronted property at 335-337 Abbeydale Road, which is an end of terrace property in a parade of commercial buildings. The site is located at the junction with Abbeydale Road and Hale Street. Immediately to the rear of the site is a car parking area, with residential terraced properties located along both sides of Hale Street. The property at present is vacant, but was last occupied by JA Home Starlight, which sold kitchens/bathrooms/bedrooms, with showrooms to the ground and first floor, and storage above to the second floor. The site lies within the Abbeydale Local District Shopping Centre as allocated within the adopted Sheffield Unitary Development Plan (UDP).

Planning permission is sought for the change of use of from retail (Use Class E) to pub/drinking establishment (Use Class Sui Generis), including the provision of a front covered terrace area, replacement of front windows and new first-floor windows, rear bin store and extraction flue to rear elevation. The use extends to the ground and first floors of the building.

## RELEVANT PLANNING HISTORY

There is no recent planning history to the site.

A pre-application enquiry was submitted to seek advice about a change of use of the premises from retail to a pub/drinking establishment. The conclusion of this was that subject to conditions, the use could be viewed favourably.

## REPRESENTATIONS

Following publicity of the application, in total 35 Representations have been received.

1 representation is in support of the application:

- The proposal adds to the vibrancy of Abbeydale Road, bring up to date a disused and run down building
- It will bring jobs to the area and enhance an already established night time economy, bringing money to the area.

7 individual letters of objection were received including from Abbeydale TARA. Issues raised include:

- There is a free car park at the rear, but it is extremely difficult at times to find parking for residents, businesses and customers.
- The proposal will add to existing traffic problems in the area, including for deliveries. Customers will park outside local residents houses on the side streets which are already at capacity.
- People congregate in this area after normal office hours and there is a constant amount of litter, graffiti and damage to existing properties from anti-social behaviour. This may increase with intoxicated persons.
- The property is in good condition, so being able to re-let should not be a concern.
- Another drinking establishment on this very busy road is unwanted, with a number of other drinking places in the vicinity. This will also impact on the other pubs just overcoming the pandemic.
- A drinking establishment in a built-up area with lots of children can be intimidating to walk past with people standing outside drinking
- The proposal will create a highway obstruction, with people waiting to be seated/delivery drivers blocking the pavement.
- The proposal will create additional air pollution and noise pollution.
- The proposed extract flue will create unwanted noise and smell.

(TARA Abbeydale)

- There are too many Alcoholic Licence's are being granted
- The Residential area of Dalton Court etc will be used for extra parking
- The level of Crime this area is increasing at the present time
- The litter that all the Restaurant's create our Litter groups have to deal with.
- The Council are being very generous with the amount of Alcoholic establishments

27 individuals sent template letters objecting to the proposal. These object through 9 key points:

- Traffic Problems
- Parking Problems
- Delivery Problems
- Air Pollution

- Noise Pollution
- Anti-Social-Behaviour
- Effect on nearby pubs just overcoming a pandemic
- Littering Issues
- Highway Obstruction.

## PLANNING ASSESSMENT

The National Planning Policy Framework (NPPF) paragraph 127 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. This assessment will have regard to this overarching principle.

The main issues to be considered in this application are:

- Whether the proposed use is acceptable in land use terms,
- Design and external appearance of the proposed alterations.
- Any impact on existing occupiers of neighbouring properties
- Highways Matters

### Land Use

The site lies within an allocated Local Shopping Centre, therefore Policies S7 'Development in District and Local Shopping Areas' and S10 'Conditions on Development in Shopping Areas' of the UDP, and Policy CS34 of the Core Strategy are relevant in assessing the principle of this change of use.

Policy S7 lists Shops (Use Class A1 under the old classification) as the preferred use within the District Shopping Centre. This application seeks a change of use from a vacant building which had a previous use a shop (Class A1 under the old classification) to a bar/restaurant which is now a Sui Generis use under the new classification.

Policy S10 states that such a use will be permitted if it does not lead to a concentration of uses which would prejudice the dominance of the preferred use (retail A1) and would not cause occupiers of nearby residential property to suffer unacceptable living conditions.

Core Strategy Policy CS34 'District Centre's states: District Centre's will be encouraged in fulfilling their role of providing for everyday needs with a range of retail, leisure and community facilities, appropriate in scale and function to the role of the Centre. They may also include concentrations of specific shops or services in response to the market in their particular area.

As the existing premises has most recently been in retail use, it must be ensured that the dominance of retail uses in the Local Shopping Centre is not prejudiced. For information, 62% of the centre's units were in A1 use in 2019 before the change in the Use Class Order. Although some time ago, it is not considered that there have been enough changes in the Centre over this intervening period which would reduce

the percentage below 50%.

Furthermore, since the introduction of Class E 'Commercial, Business and Service' under the new Use Class order, less weight should be placed on S10, and instead focus should be on the principle in the NPPF paragraph 85, which supports the diversification of Centres in response to changing market conditions, and CS34 which encourages District Centres to provide for everyday needs with a range of retail, leisure and community facilities. A drinking establishment/public house is classed as a community facility in the NPPF (paragraph 92) and would contribute to the vitality and viability of the Shopping Centre, alongside the range of other existing Class E uses which exist in the Centre.

Therefore in land use terms, the proposal accords with the above mentioned policies, and will not impact adversely on the viability or vitality of the Shopping Centre.

### Design Issues

The Core Strategy policy CS74 'Design Principles' requires development to enhance distinctive features of the area, which is backed up through UDP policies H14 'Conditions on Development in Housing Areas' and BE5 'Building and Design Siting' which expect good quality design in keeping with the scale and character of the surrounding area.

Chapter 12 of the NPPF requires good design, whereby paragraph 124 states that good design is a key aspect of sustainable development and should contribute positively towards making places better for people. Paragraph 131 goes on to say that great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally, so long as they fit in with the overall form and layout of their surroundings.

It is considered that the design policies within the UDP and Core Strategy reflect and align with the guidance in the NPPF, and therefore are considered consistent with the NPPF and so can be afforded significant weight.

At present the existing building has a large shop front to the ground floor covering both of the units, which then wraps around the side of the building along Hale Street, with signage above in the fascia. The first floor of the building is then boarded up and has no openings, with a large advertisement hoarding on the side. The building at present is painted a yellow colour.

It is proposed in this application to install a new façade. This includes replacement windows and doors to the ground floor and to reinstate the first floor windows into their original openings. The replacement windows to the ground floor are detailed as powder coated bi-folding aluminium doors/windows. Bin storage is proposed to the rear in a new store.

It is also proposed to create an external terrace area to the front of the building which will be raised to provide level access, behind a metal balustrade. An external glass canopy extends over the external terrace area to the front of the building. This does

wrap around the side of the building, where the level access is provided. Limited details of this element are provided but the principle is acceptable provided the final product is of sufficient quality. Full large scale details can be conditioned on any approval to ensure a appropriate quality.

To the rear, it is proposed to install a flue which serves the kitchen area. This is considered to be acceptable in principle in this location and will not impact adversely on the character of this part of the street scene. It is also proposed to the rear of the building at first floor level to provide additional useable space between the existing pitched roof projections.

The alterations and extensions proposed in this application are considered to be in keeping with the surrounding street scene, and would actually enhance and improve the overall appearance of this building. The proposal therefore complies with the terms of policies BE5, S10 and CS74 and paragraphs 124 and 131 of the NPPF.

### Residential Amenity

Policy S10 'Conditions on Development in Housing Areas' part (b) requires that new development in shopping areas should not cause residents or visitors to suffer from unacceptable living conditions, including air pollution, noise, other nuisance or risk to health or safety.

The NPPF at paragraph 127 Part (f) requires a high standard of amenity for existing and future users.

The UDP policy is therefore considered to align with the requirement of paragraph 127 so should be given significant weight.

The nearest residential properties to the proposal are the flats to the upper floors of the adjacent commercial buildings and the residential terrace along Hale Street to the rear/side.

It is accepted in this instance that residents occupying flats above commercial premises within a Shopping Centre fronting onto a main road, would not reasonably expect or be offered the same degree of protection as residential property in an suburb, within an allocated Housing Area. Nevertheless, this part of Abbeydale Road does become significantly quieter later into the evening, so a reasonable level of amenity should be protected for existing residents.

There are no houses immediately to the rear of the site boundary, with the car parking area adjacent. There are houses along the southern side of Hale Street with the closest being No.8 Hale Street. The main entrance door to the application site is in the front elevation, with the side door intended as a secondary door. Therefore the main entrance and seating area is located away from those properties along Hale Street. There is a covered access way running along the side of the building, but this is just wide enough to provide level access to the property and is not be used as a seating area.

There is the potential to have noise transmission from the proposed use at first floor

level to the upper floors of 333 Abbeydale Road, and there would need to be improved sound attenuation measures installed which can be the subject of a suite of noise related conditions

Proposed opening hours are 09:00 hours until 23:30 hours on Mondays to Saturdays, and 09:00 hours until 23:00 hours on Sundays and Bank Holidays, This would limit late night activity, and be in accordance with similar uses on main roads within Shopping Areas. The outside seating area to the front should be limited to 21:00 hours, along with closure of the bio-folding doors. Again, this can be controlled through a relevant condition.

Therefore it is considered that the proposed change of use will not create a level of noise and disturbance which will adversely impact on the amenities of occupiers of nearby residential properties, complying with Policy S10 (c) and paragraph 127 of the NPPF.

### Highways

The NPPF seeks to focus development in sustainable locations and make the fullest possible use of public transport, walking and cycling. 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.'

In this instance, there is no off-street parking. However, the site is in a very sustainable location, with a large catchment area of people being able to walk to the site. In addition, a public car park is adjacent to the site. Therefore, there will be no unacceptable impact on highway safety.

### SUMMARY AND RECOMMENDATION

This is an application for a change of use of the ground and first floors of the premises to a bar/drinking establishment (Sui Generis use class).

The proposal is considered acceptable in land use terms, maintaining the vitality and viability of the Shopping Centre.

The proposed alterations and extensions to the facades of the existing building will improve its overall appearance, by removing the existing boarding and advertisement hoarding to the first floor and the reinstating the original windows. The ground floor alterations will modernise and tidy up the appearance of the existing ground floor and the quality of the external terrace canopy can be secured through condition. A flue is proposed to the rear of the property which is not readily visible.

Subject to conditions, in particular on hours of operation there will be no adverse impact on occupiers of nearby residential properties.

The proposals are considered to comply with the relevant UDP Policies, Core Strategy Policies and the NPPF as detail above, and it is recommended that planning permission is granted subject to conditions.

