

Addendum to Agenda Items Tuesday 15th January 2013

9. ITEMS FOR NORTHAMPTON BOROUGH COUNCIL

Item 9 – Advert Applications and Listed Building Application:

N/2012/1237 – Ask, 10 St Giles Street
N/2012/1238 – Ask, 10 St Giles Street
N/2012/1239 – Corner of Victoria Promenade & Derngate
N/2012/1240 – Guildhall Road
N/2012/1242 – St Johns Terrace
N/2012/1243 – 4 Guildhall Road
N/2012/1244 – Corner of Albion Place & Derngate
N/2012/1245 – 9 Guildhall Road

Comments received from the Town Centre Conservation Area Advisory Committee –

Planning Applications for various advertising signs for the Cultural Quarter of Northampton Town Centre

N/2012/1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245.

Comments from the Town Centre Conservation Area Advisory Committee meeting on 7 January 2013.

1. We understand the applicants' desire to promote the arts and cultural venues within the self-described "Cultural Quarter" which will increase vitality and contribute to the local economy. However, we find the proposals contained within these applications unacceptable as they would have a significant and detrimental visual impact on the conservation areas within the town centre. They are ill thought out, lack any design flair, would add to street clutter and do not support Policies 1, 2 and 3 of the Central Area Action which not only require a reduction in street clutter but seek to enhance the quality of the built environment through the promotion of design excellence
2. The proposals are unimaginative and would, in our view, do nothing to enhance the attractiveness of the town centre as a destination for visitors and residents. Moreover, the street lecterns are likely to attract graffiti and vandalism as they would be regarded as just another piece of street furniture.
3. We recommend that these applications be withdrawn, or refused by the Planning Committee, until a more coherent, imaginative scheme is prepared.
4. We submit the following ideas, and are very willing to be involved in the design of the signs and their location:
 - a. Consider proper "gateway" signs at strategic points of entry which are bright and welcoming

- b. Make use of the history of the town in promoting the Cultural Quarter (e.g. poets, the boot and shoe industry)
- c. At street level, where lectern style signs are necessary, make them interactive so that stories and information about key buildings and areas within the Quarter can be downloaded via Apps to mobile devices, thus appealing to a wide audience, particularly younger visitors
- d. Create a town trail, using the interactive signs and leaflets which would provide information about key buildings across a larger area than just the Cultural Quarter
- e. Suggest using students at the University of Northampton to submit designs for new signs, through a competition.

5. With regard to the individual applications our views are:

N/2012/1237 and 1238 – Wall mounted signs on Mr Grant's house – unacceptable visual intrusion on a listed building and should be refused

N/2012/1239 – Victoria Promenade – street clutter at this important junction, the proposed sign would impact on the view of 82 Derngate, an important gateway building into the town. It's siting and design would have a detrimental effect on the streetscape and should be refused

N/2012/1240 – Guildhall Road – a very large, obtrusive banner which would dominate the street and impact adversely on the buildings in Guildhall Road, it should be refused

N/2012/1241 – Derngate Centre – this is unnecessary and would do nothing to enhance the area.

N/2012/1242 – St John's car park – a gateway sign here would be acceptable but not one of such poor design for this prominent location and it should be refused

N/2012/1243 – Central Museum and Art Gallery – completely unnecessary, adds to the clutter of signs already in this location, especially if 1237/8 and 1240 were to be approved so we recommend refusal

N/2012/1244 – Albion Place – an acceptable location for a new sign but see our comments about the design of these street signs

N/2012/1245 – 9 Guildhall Road – a large, obtrusive sign on an architecturally interesting building and is completely unnecessary, so should be refused (as per 1240).

We strongly urge the applicants to withdraw these applications but if they are to proceed to the Planning Committee we recommend that all be refused or not determined until a more cohesive, well designed scheme can be prepared for further consideration.

Officers' Comment – *While the comments of the TCCAAC are noted, as the applications have been thoroughly assessed by the Council's Conservation Officers as set out in the Committee report, the recommendation to grant advertisement consent is unchanged.*

Comments received from the Highway Authority –

N/2012/1239 Victoria Promenade - No Signage is to be placed on the Highway.

N/2012/1240 Guildhall Road, Northampton - No Signage is to be placed on the

Highway.

N/2012/1244 Albion Place, Northampton - We have no observation to make on the above application.

Officers' Comment – *Officers have established that the signs proposed at Victoria Promenade and Guildhall Road are within the adopted highway and therefore the Highway Authority can control this matter separate to the planning process . The applicant has indicated that agreement has been reached with the Highway Authority. Therefore the recommendation to grant advertisement consent is unchanged.*

10. ITEMS FOR DETERMINATION

ITEM 10A

N/2011/0867 - Change of use of cellar to extend restaurant and café and bar on the upper floors at 199 Kettering Road

E-mail received from Mr Noble, the owner of neighbouring flats at 195-197 Kettering Road and a bungalow to the rear at 102 Hood Street, dated Sunday 13th January 2013.

Officers' responses to the points raised by Mr Noble are given in italics.

The working file did not contain any pre-application correspondence from the Applicant or the Councils advice. Please forward details of all correspondence and notes.

Pre application advice is given confidentially to the applicant and this cannot therefore be provided.

I understand from previous discussions that it was suggested to the Applicant in order to clarify the permitted use on the 1st and ground floor he should apply for the relevant A4 use on these two floors with the basement application. The applicant did not agree. Did you pursue this matter?

The applicant has stated that he does not want a pub use and therefore would not make this application. The applications as submitted are therefore being considered on the basis of what has been previously granted planning permission and now applied for.

I refer to my emails to yourself on the 23rd & 24th August 2011 and yours of the 25th. It appears that the Council have continued to allow the unauthorised use of the 1st and ground floor and the continued development and use of the basement without taking action to remedy the situation.

The use of the upper floors has been examined on several occasions by planning enforcement, who have come to the view that this is in line with the permitted use.

The basement has been the subject of works for some time but has only recently been brought into use. This application is intended to regularise this recent breach.

Re. the Planning Application registered on the 6th. September 2011 the number of persons shown for the 3 floors is anticipated as a total of 70, however if you refer to an email from Mr Hepworth to Andrew Holden of the 21st November 2012 this number has increased to 84 and at a recent Licencing hearing was quoted at 90. I am sure the true

capacity will be in excess of 100 persons.

You were unaware of the discrepancy and had based your recommendation on the 70 figure in the application.

From a planning perspective the total number of persons on the site will be governed by the amount and configuration of the space available and it was on this basis that the assessment was made, but including reference to the e-mail from Mr Hepworth. The discrepancy had been noted and is herewith brought to the committee's attention.

According to the Office of National Statistics the number of the population that smoke is 21-22% and the BBC reported that 4 out of 10 persons that visited Pubs smoke, even using the lower figures this suggests a significant number of persons will be using the pavement or adjacent doorways as the smoking areas, there being no facility within the premises.

There is one doorway before those leading to 197 and 195 Kettering Road and as stated in previous correspondence it has been reported by occupants that use as smoking areas especially in the evening is not infrequent. When previously informed you replied to the effect that the 'smokers' were not necessarily from Olde England, however the problem had not been reported until the past year.

7.5 of your recommendation appears to doubt that persons from 199 use the doorways of 197 Hairdressers and the Residential doorways of 197 and 195, all occupied by tenants, these doorways are not some distance away.

However you accept the statement from the proprietor that 'customers who do smoke rarely go far from.....'. What do you consider as 'some distance away' and 'go far from'?

The nearest doorway to residential flats is separated from the door of the application premises by the width of the premises itself and two additional shop units, a distance of 13m. It was on this basis that it was considered unlikely, but not impossible, that smokers would walk such a distance, particularly bearing in mind that there is a similar door recess within 199 Kettering Road.

What figures have you used in deciding that persons smoking is unlikely to be a nuisance to pedestrians, residents and vulnerable people?

This is a matter of judgement rather than being based on any figures.

In the report 7.4 you comment that persons leaving the premises will merge with those from the Picturedrome, this is unlikely as the premises are on opposite sides of Kettering Road.

The report says persons will merge with other premises and does not specifically mention the Picturedrome. Such premises include restaurants and takeaways in the area.

Have you considered that persons arriving at and especially leaving the premises a PUB after a convivial time create their own immediate disturbance in addition to the less obtrusive transient noise of persons walking by?

The Police when asked for their observation stated '..... this application should be refused'.

I note that in 6.5 of the recommendation you do not report this conclusion but use less decisive language.

The comment from the Police was made on the basis of a potential conflict, on the basis of the soundproofing it is not considered that this potential would be realised.

6.3 Highways in their observation based on the figure of 70 persons (see paragraph 4 above) and five staff commented they had concerns stating 'the applicant will require a minimum of 5 car parking spaces....' they do note that there is limited on street availability and a facility on Racecourse.

Please make a copy of this email available to the committee.

7.9 [Para 7.7 in the current report] does not appear to reflect the actual situation in proximity to 199 or the amount of persons not arriving on foot.

Have you carried out a survey of the parking availability besides a 'drive by' especially at evenings and weekends, also in the Summer months when the Racecourse is particularly busy with families etc. enjoying the recreational facilities? The Racecourse is already the main car parking facility for persons using the Picturedrome, Star of India, the Jade Restaurant and the users of the Bowls, sporting and leisure facilities.

An email from Councillor Winston Strachan of the 25th May 2011 to Gareth Jones cc to Andrew Holden comments on the problems associated with car parking in this residential area.

Also an email from Susan Bridge to Winston Strachan dated the 26th August 2011 would appear relevant and defines the permission for the 1st and ground floor together with further observations.

Have you considered this?

I had reason to visit 197 Kettering Road on Saturday app. midday, there was no on street parking availability within 200 metres in Kettering Road, Hood Street or Colwyn Road.

I showed you a copy of a comment on Trip Advisor Pub Restaurant Review :-

'...On the downside, the parking is extremely difficult with you having to find a spot on the busy streets in the vicinity....'.

Also from information provided by the Applicant it is obvious customers often travel a considerable distance - Hitchin, Leicester, Hanslope, Brixworth, Wellingborough, Bedford, Kettering, Daventry and other areas together with persons from various parts of Northampton, not on foot except when entering the premises and certainly not all locals.

Has this information been assessed and taken account of?

Highways commented in their submission there is no provision for disabled persons

mobility transport. Is there accessibility to and on the premises for less able persons?

Item 6.3 [Para 6.4 in the current report] is greatly condensed and does not give a true resume of Highways comments.

Item 6.4 [Para 6.5 in the current report] of your recommendation once again does not give a true account of the many objections and questions raised over a considerable period from Environmental Health Officers.

Whilst the comments from the Highway Authority state that 5 spaces are required, this is based on superseded guidance. Since then changes in government policy have removed minimum parking standards and now state that parking standards should be set locally. No recent local standards have been seen, the most recently adopted guidance is NCC's Parking SPD which sets out "maximum" rather than "minimum" standards. Other uses of the premises including the former use as an A2 office or use as a shop would also generate demand for parking. As stated by Mr Noble parking problems are noted on websites and this may therefore deter those who may consider driving, Furthermore it is considered that the residential streets in the area are already heavily congested if not at capacity and this use will be unlikely to add significantly to this.

I refer to an email of the 29th November 2012 from Neil Polden, Environmental Health, to James Willoughby and particularly his comment in the final paragraph 'Whilst Mr Hepworth has intentions to run a quiet premises, his intentions aren't considered by the use class order. and would be grounds for an objection.'

I also refer to an email from Paul Mallard, Senior Environmental Health Officer, of the 7th December 2012 to A. Holden.

Although this long email raises extremely serious concerns and issues it does not appear to have been replied to.

Please ensure a copy of this email is presented in full to the Committee.

Did you fully consider the many concerns and observations raised by Paul Mallard in compiling your recommendation?

If so did you determine they were inconsequential and not worthy of reporting to the committee?

The e-mail is reproduced in summary in this addendum, with commentary.

I next refer to an email of the 9th January 2013 from Natasha Stanley to Andrew Holden, again this does not appear to have been replied to.

Please ensure the Committee are provided a copy of this email which once again states 'We maintain our objection'

There are numerous other emails over the past year from Environmental Health expressing concern that conditions on the previous permission have not been complied with despite repeated requests to the Mr Hepworth.

Have you fully considered these?

The e-mail from Natasha Stanley was received after the committee report had been prepared. It is also reproduced in this addendum, with commentary.

On the Planning Application the Hours of trading are shown as :- 10.00am - 11.00pm.

At a recent Licencing Hearing the opening hours applied for were 10.00am - 00.30am Mon.- Sat and

10.00am - 11.30pm Sunday this includes off licence sales. I understand although you received details of the Licence Application you did not question the hours applied for.

Have you considered this discrepancy in the opening hours?

The hours of operation would be as set by condition of the approval for the upper floors, 10am to 11pm. Recommended condition 4 would define the cellar area as being ancillary to the upper floors and therefore the same hours would apply and would be controlled accordingly.

Obviously the disparity between the hours of the licence application have been noted. These extended hours would require a variation of planning condition application which has not been made. If such an application was made it would be assessed separately on its individual planning merits.

I understand from Licencing that if an A4 use is granted for part of the premises the alcohol sold in that area can be consumed anywhere on the premises, this would create a Pub by default on the ground and 1st. floor.

Have you considered this in determining your recommendation or are you advocating a Pub use over the 3 floors?

The planning position is that the use is as defined by planning permission rather than licencing, anything which may be allowed under licencing does not override planning conditions or the need for planning permission and would not necessarily be allowed under planning.

You are aware The Premises, 1st and Ground Floor and the Basement is trading as a Real Ale Bar / Pub.

I refer to previous correspondence from 2011. Why is there no reference 7.6 to the fact that the conditions on the previous permission have not been satisfied and it has been operating outside the permission. Also that the Basement has already been opened as a Bar, the conversion work having started almost immediately after the 2011 Restaurant approval.

The consideration of the application for the basement area was delayed to enable the conditions in respect of the upper floors to be dealt with and this has taken some considerable time. All details have now been agreed other than the extraction system. The advice from Environmental Health was that this would require an external flue pipe, which would have been significantly visually detrimental within the street scene.

Building Control have not signed off the work relating to the 2011 permission or this application, neither have Environmental Health.

The works have not been signed off by Building Control although an application has

been made. The concerns of Environmental Health are covered separately on this addendum.

7.8 The Application includes A4 a Pub / Bar use. Reference to an ancillary seating area for the restaurant is misleading and I doubt that a condition to this effect could be enforced.

According to the Olde England web site, food is served :-

12 noon - 8.00pm Monday & Tuesday.

12 noon - 9.00pm Wednesday to Saturday.

12.30pm - 3.30pm Sunday.

The menu appears as a 'typical pub menu' not a restaurant menu.

Surely a Restaurant predominately serves food with beverages ancillary to the food.

A Pub / Traditional Inn sells Alcohol with ancillary food sales.

Indeed in email correspondence to Environmental Health Mr Hepworth comments that due to the limited food offered a comprehensive extraction system is not necessary - Environmental Health disagree.

It has been agreed by Environmental Health that the type of food may mean that a reduced standard of extraction may be appropriate.

I refer to :-

The 'A Board' regularly situated on the pavement outside 199 advertising Real Ale and Cider Bar & Basement Bar Open.

Restaurant is not mentioned. Photo which was taken last week can be provided.

www.theoldeengland.com website describes 199 Kettering Road as a 'Traditional Inn' and displays a photo of the Downstairs Bar.

Olde England Limited - Reg.No. 07568117 - is registered at Companies House under 'Public Houses and Bars'.

Other Web sites - eg Northants Pub Guide, Northant's Camra, cask-marque.co.uk (a plaque is displayed outside) refer to 199 as 'a medeival themed bar with real ale' and 'a Pub'. Nowhere is Olde England referred to as predominately a restaurant. On Trip Advisor the comments all highlight a Real Ale Bar / Pub / Bar similarly on Facebook.

Have you researched the various web sites before writing your recommendation?

7.10 In conclusion, You are effectively recommending a PUB use (A4) adjacent to Residential properties, please refer to my comment from Licencing above.

The proposal is not for a pub use, it is for ancillary seating for the restaurant use on the upper floors.

8. CONCLUSION.

8.1 The Kettering Road already has vitality and both the Police and Environmental disagree with your comment re the adjoining residential properties, both object to the application. This is not referred to.

9. CONDITIONS.

(2) The conditions attached to the previous permission have not been complied with, again no mention of this.

(3) The sound insulation has not been signed off by Environmental Health or Building Control so to refer to it as installed is questionable.

(4) The Applicant has already stated to Licencing that he intends opening until 00.30 Hours Mon - Sat and to 23.30 Sunday. This is not mentioned and who at Planning would monitor the hours?

(5) Although the application is A3/A4 The primary use applied for is obviously A4 a PUB how would this condition be monitored? You are aware the upper floors are not trading solely as a restaurant/cafe and I once again refer to Licencings comment. No mention is made about the questionable existing use that is already trading on the premises.

I am concerned that despite this application being registered 16 months ago the Recommendation does not appear to fully reflect the facts and the implications if approved.

I believe that there are serious questions raised in this and my previous emails which do not appear to have been fully addressed and if possible I would appreciate your response before the Planning Meeting.

Please provide the Committee with a copy of this email.

Second e-mail from Gordon Noble also dated Sunday 13th January 2013 –

Your email of the 20th November 2012 to Paul Hepworth [*the applicant*] especially the penultimate paragraph.

What 'significant issues' have been addressed to change the view of your managers and I assume yourself?

There does not appear to be any evidence in the file for a 'softening' of the view of your managers

'.....that the cellar bar is not acceptable....', indeed I would have thought the correspondence since from senior members of Environmental Health would have convinced you that the Planning Application is not acceptable.

It appears the Committee have not been made fully aware of the amount of concern and objections raised by Council staff

in Environmental Health and managers in the Planning Dept. Surely they should have been given this information to assist in making their decision.

It appears to me that the Recommendation of Approval should be reconsidered.

Please make a copy of this email available to the Committee.

This e-mail was written in order to make the applicant aware of the issues which were outstanding at this point in time. His response to this e-mail has informed the current committee report, in particular he has clarified that live music is not proposed, this had been the major factor in stating the proposal was considered unacceptable. With regard to disturbance by smokers the comments made by Mr Hepworth have been taken on board and the situation re-assessed.

An e-mail dated 9th January 2013 has also been received which summarises the concerns of Environmental Health –

- 1) We maintain our objection, based on the shared wall with residential premises.
- 2) We don't consider that the existing planning conditions on the upper floors have been complied with.
- 3) We consider that approval of a general A4 use for this premises will lead to noise problems
- 4) We consider that if you are minded to approve against our advice, any consent should be made personal to Mr Hepworth (as his current use of the premises is not at present leading to noise problems)
- 5) Paul has already commented below on the sound insulation and its limitations in his last email to you.
- 6) With No 5 in mind, a condition should be added that prohibits live music being played in the basement.
- 7) Background music only should be played and a condition to this effect needs to be added should you approve. (For clarity background music is taken to mean music which is played at such a level where this would not interfere with normal levels of conversation between two individuals when spaced 1m apart)

Officers' comments - *Environmental Health have not previously referred to their views as amounting to an objection. However, this point aside the matters they refer to either relate to concerns that the use of the greater building may deviate from the permitted / proposed use or can all be addressed by the proposed conditions. The Planning Authority must determine planning applications on the basis of what has been permitted and what is proposed and it is on this basis that therefore that the application has been assessed.*

*Nonetheless, it is recommended, for clarity, that condition 2 is modified to state additionally **"for the avoidance of doubt background music only shall be played and there shall be no live music"***

The comments made by Paul Mallard of Environmental Health and referred to by Mr Noble (see comments elsewhere in this addendum) can be summarised as follows (officer comments in italics) –

Mr Mallard is sceptical that the basement area can accommodate the drinkers who would be displaced from the upper floors – *this is speculation and is not a relevant consideration for Planning or Environmental Health.*

The noise test referred to, as we have advised before, merely demonstrates that the sound insulation complies with current Building Regulations for domestic premises. It does not provide evidence that there will not be a problem from music on the premises.

Whilst the incorrect noise test was carried out, it does nonetheless demonstrate that background music would not cause a problem. Live music is not proposed and this can be controlled by condition.

There are 9 temporary entertainment licences which have been applied for. However, it would appear that there have been no noise complaints concerning these activities.

Therefore, it seems to me that this application for the cellar use is predicated on an illusion, there is little likelihood that the suggested conditions will be complied with and the applicant is intending to extend the use (whatever it is) of the upper floors beyond the current planning consent regardless.

I would respectfully suggest that the use of the upper floors needs to be sorted out to see if the applicant's intentions are acceptable under planning before an extension into the basement is contemplated.

The majority of matters covered by the conditions have been dealt with, other than the fume extraction, as referred to elsewhere in this addendum. This is a separate matter to the application for the basemen, which must be assessed on its individual planning merits.

ITEM 10B

N/2012/1132 - Erection of one three-bedroomed detached dwelling and associated access at Land adjacent to Southfields Cottage, Billing Lane

Nothing to add

ITEM 10C

N/2012/1169 - Change of use of land to domestic garden and erection of perimeter fence/wall (2060mm in height) at 54 Thorn Hill, Briar Hill

Nothing to add

