

**50 St Mary Street
Chapelhay, Weymouth
(to be known as “Baps and Pitta”)**

Applicant’s submission for the Hearing

Introduction

This is an application for the grant of a new Premises Licence authorising only the provision of late night refreshment in part of Weymouth that is within the Cumulative Impact Area of the Town.

The application has attracted representations from local people, the Town Council and the Police (but not from any other responsible authority).

There are here a number of issues to be considered but before addressing those, I will look at the application form itself.

The application form

This was not drafted by a specialist licensing lawyer and with respect to the author, it is defective in a number of ways.

It does not reflect the applicant’s intentions with regard to the opening hours of the premises and it is proposed to amend the same as follows:

Operating hours – Late Night refreshment

Sundays to Thursdays: 11 p.m. to 1 a.m

Friday and Saturdays: 11 p.m. to 4 a.m.

Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Opening Hours

Sundays to Thursdays: 11 p.m. to 1 a.m

Friday and Saturdays: 11 p.m. to 4 a.m.

Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Further, some of the conditions proposed are either:

Duplications of conditions proposed elsewhere in Section M of the form;

Duplicate other legislative or regulatory requirements and should not therefore be included;

Are unenforceable for one reason or another; and/or

Are badly drafted.

Please find attached two documents – the first includes all of the conditions originally proposed but is marked up with comments and additional conditions that are now proposed in response to the representation made by the Police in particular.

The second is in effect a “distilled” version containing only what the conditions would look like if the sub-committee was minded to both grant the licence and to accept the observations and proposals now being made.

In this regard, it is important to note that when granting a licence, the grant should be consistent with the Operating Schedule but not slavishly reproduce all that is included in the application form (and this is particularly true when the application has been made by someone who is not a specialist licensing practitioner, as is the case here).

The representations – an overview

Planning issues – hours sought

Much is made of the fact that the hours sought in the present application are not the same as were proposed in the planning application. However, it is important to note that the Planning Consents that were issued do not contain any restriction on hours. A copy of the same are attached (the Planning Consent itself and the Listed Building Consent).

As mentioned above, we propose an amendment to the permitted hours.

The toilet

In its response to the planning application (copied) the police commented on the risks attached to having the toilet open. The objectors request that it be kept open at all times. It is suggested that the police view should prevail (and this was included in the proposed conditions).

Eating in

The objectors ask that all late night refreshment be consumed inside the premises. This appears contrary to the view of the police and hence a condition was proposed that after 11 p.m. hot food and drink be supplied for take-away or delivery only – the police have not raised any objection to this.

The entrance lobby

Again, there seems to be a divergence of views. The plan submitted with the application shows what is proposed but to accommodate the concerns expressed by the police, further planning applications have been submitted. The applicant is content to take direction from the Licensing Authority and will change the entrance lobby if so requested (assuming planning consent is forthcoming).

Cumulative Impact

The consultant who submitted the planning application undertook a review of the opening hours of other licensed premises in the vicinity – a copy is attached.

The most significant of these is J's Kebabs at 54 St Thomas Street, but a few doors away from the application site.

These premises were trading until late for some time without a premises licence. When an application was eventually made, it attracted virtually no objections. Since being granted, we are not aware that the premises have caused any issues.

The relationship with planning

Planning and licensing are separate regimes but they overlap.

We pray in aid the planning officers report, a copy of which we attach but point to the following observations in particular (with my emphasis):

"It is considered that the use as a takeaway would maintain an appropriate mix of town centre uses which would benefit the vitality and viability of the town centre. As there are a variety of uses in the vicinity of the premises, the use as a takeaway would not result in a concentration of the same use in a small area of the town centre and therefore not necessarily be the cause of anti-social behaviour"

"The premises is located within a mixed commercial/residential area containing a high proportion of restaurant and bar uses as part of the town centre and served by busy roads where it is reasonable for residents to expect a certain level of activity close to their homes. There are a number of other premises within the town centre that have late night opening hours and the agent/applicant has provided a list of premises in the vicinity that are licensed to open as late as the applicant proposes. A site visit has verified that these businesses are operational.

"Given that the area comprises of a range of evening uses already and the character and function of the immediate area is well established in terms of serving the evening economy and given that the Environmental Protection Officer is satisfied that the development would not give rise to undue noise and disturbance and that there is no need for a condition to control hours of opening, it is considered that the addition of this one unit would not exacerbate the level of noise and disturbance to an unacceptable level that would be enough to justify refusing this application.

"The proposed use as a takeaway would have no significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy and would not generate a level of activity or noise that would detract significantly from the character and amenity of the area.

"As such, the development would accord with Policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).

"It is considered that the proposal, subject to appropriate conditions, would not result in an undue adverse impact on the amenity of neighbouring residents nor that it would harm the vitality or viability of the town centre. On the contrary, the re use and appropriate renovation of the premises would preserve and enhance the significance of this heritage asset within the Conservation Area. Therefore, the scheme complies with policies ENV4, ENV10, ENV12, ENV14, ENV16, ECON4, WEY1 and WEY2 of the West Dorset, Weymouth & Portland Local Plan (2015)".

In conclusion

This is clearly a contentious application but it would appear that the only responsible authority to have made a representation is the Police and the applicant is happy to accommodate an additional condition relating to door supervision.

It is of note that the application in respect of the premises at 54 Thomas Street did not attract similar objections and has not apparently caused any issues and that the Town Council made no objection to the planning application (which in turn was granted without any restriction on hours).

By allowing a further "late night take away" in this immediate locality, if it is submitted that the usual concern about "flashpoints" would be reduced as people wanting food would have a choice of venues and would not be forced to congregate in one place, thereby reducing queuing and resulting in earlier dispersal of crowds from the vicinity.

We therefore request that the application be granted, subject to the amended hours and conditions proposed.

Attachments

- A copy of the conditions originally proposed with amendments and comments.
- A copy of the conditions now proposed
- Planning Consents (including Listed Building Consent)
- Police representation re planning
- Details of other premises opening hours
- Planning Officer's report

Philip Day – Partner
Laceys Solicitors LLP

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5th March 2024



Planning Services

County Hall, Colliton Park
Dorchester, Dorset, DT1 1XJ

) 01305 838336- **Development Management**

) 01305 224289- **Minerals & Waste**

8 www.dorsetcouncil.gov.uk

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date: 18 December 2023

Ref: P/FUL/2023/04773

Case Officer: Shanta Parsons

Team: Western and Southern

) [REDACTED]

* [REDACTED]

Planning Decision Notice

Full Planning Application

Town and Country Planning Act 1990

Town and Country Planning

(Development Management Procedure) (England) Order 2015

| | |
|----------------------------|---|
| Application Number: | P/FUL/2023/04773 |
| Location: | 50 St Mary Street Weymouth Dorset DT4 8PU |
| Description: | Change of Use from Class E(b) Cafe/restaurant to Sui Generis Hot Food Take-away |

Dorset Council **grants** planning permission for this development as detailed in the application. In making this decision the Council considered whether the application could be approved with or without conditions or should be refused.

This planning permission does not cover Building Regulations Approval or any other Byelaw, Order or Regulation. Please see our website www.dorsetcouncil.gov.uk/planning-buildings-land/building-control/building-control for more details about making a building regulation application and contacting our Building Control Team.

This planning permission is subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - PP001 Location Plan
 - PP021 Proposed Elevations
 - PP031 Proposed Sections
 - PP013 Proposed Roof Plan

PP010 A Existing and proposed ground floor plans

PP011 A Proposed ground floor plan

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

3. Prior to the development hereby approved being first brought into use, the approved kitchen extraction scheme as specified by Tunc Metal Ltd (London) contained within e-mail dated 02/10/2023 from Matthew Elsinor shall be installed and fully functioning and shall be retained for the duration of the permitted use.

Reason: In the interests of residential amenity.

4. Prior to the development hereby approved being first brought into use, the approved sound insulation as detailed within SoL Ecoustics Limited Technical Report dated 03/10/2023 shall be installed and shall be retained for the duration of the permitted use.

Reason: In the interests of residential amenity.

5. The new slate for the roof shall be natural slate to match the existing roof.

Reason: To preserve/enhance the character and appearance of the heritage asset.

6. All new and replacement rooflights shall be top hung metal Conservation rooflights with vertical glazing bar and fitted flush to the roof plane.

Reason: To preserve or enhance the character and appearance of the heritage asset.

Informatives:

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

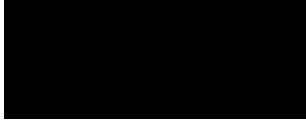
- offering a pre-application advice service, and

- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.
- The applicant was provided with pre-application advice.
- The application was acceptable as submitted and no further assistance was required.

Decision Date: 15 December 2023


Mike Garrity
Head of Planning
Economic Growth and Infrastructure

Planning Decision Notes

Power to grant planning permission

This permission is issued by Dorset Council as the local planning authority set out by the Town and Country Planning Act 1990 (as amended) and the Town and Country (Development Management Procedure) (England) Order 2015.

Site notice

If you have not already done so I would be grateful if you could take down and dispose of this application's site notice if it is still being displayed outside the property.

Conditions

You should not start work until you have agreed with the Council the information requested by the conditions. If you fail to do this the works on site could be unauthorised and the Council may consider enforcement action.

The information must be submitted in writing. There is a standard form which you can download from the website www.dorsetcouncil.gov.uk/planning. A fee is required each and every time you apply to discharge any or all of the conditions (£43 per request for householder applications, £145 per request for all other applications).

Please check that any plans approved under the building regulations match the plans approved in this planning permission or listed building consent. Do not start work until revisions are secured to either of the two approvals to ensure that the development has the required planning permission or listed building consent

Appeals

If you disagree with our planning decision or the attached conditions, then you can appeal to the Secretary of State (Planning Inspectorate) under section 78 (1) of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within Six Months of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against our enforcement notice, then you must do so within 28 days of the date of service of the enforcement notice.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. <https://www.gov.uk/appeal-planning-decision>

An appeal must be made by the applicant. Forms are available on-line at Appeals - Appeals - Planning Portal

The Planning Inspectorate can allow a longer period for giving notice of an appeal, but they will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems that we could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

The Planning Inspectorate does not normally refuse to consider appeals solely because we based our decision on a direction given by them.

For further information about making can be found at www.planningportal.co.uk

Southern Gas Networks – Overbuild Advisory

There are several risks created by building over gas mains and services. If you plan to dig, or carry out building work to a property, site or public highway you should check your proposal against the information held at <https://www.linesearchbeforeudig.co.uk/> for any underground services.

Purchase Notices

If either the Council or the Planning Inspectorate refuses permission to develop land or grants it subject to conditions, the owner may claim, in exceptional circumstances, that neither the land can be put to a reasonably beneficial use in its existing state, nor can the land be rendered capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

If this happens, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

Street Naming and Numbering

The Council is responsible for street naming and numbering within our district. This helps to effectively locate property for example, to deliver post or in the case of access by the emergency services. If this permission results in the creation, deletion or change to an address, you must let us know. You need to register the new or changed address by completing a form. You can find out more and download the form from our website www.dorsetcouncil.gov.uk



Planning Services

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Dorchester, Dorset, DT1 1XJ

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8 www.dorsetcouncil.gov.uk

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date: 18 December 2023

Ref: P/LBC/2023/04774

Case Officer: Shanta Parsons

Team: Western and Southern

) [REDACTED]

* [REDACTED]

Planning Decision Notice

Listed Building Consent

Planning (Listed Buildings & Conservation Areas) Act 1990

The Planning (Listed Buildings & Conservation Areas) Regulations 1990

Application Number: P/LBC/2023/04774

Location: 50 St Mary Street Weymouth Dorset DT4 8PU

Description: Carry out internal alterations, repair fascia, replace perspex roof with slate roof and install 2no. Conservation rooflights to enable change of Use from Class E(b) Cafe/restaurant to Sui Generis Hot Food Take-away

Dorset Council **grants** listed building consent for the works as detailed in the application. In making this decision the Council considered whether the application could be approved with or without conditions or should be refused.

This consent does not cover Building Regulations Approval or any other Byelaw, Order or Regulation. Please see our website www.dorsetcouncil.gov.uk/planning-buildings-land/building-control/building-control for more details about making a building regulation application and contacting our Building Control Team.

This listed building consent is subject to the following conditions:

1. The work to which this listed building consent relates must be begun not later than the expiration of three years beginning with the date on which the consent is granted.

Reason: This condition is required to be imposed by reason of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2. The works hereby permitted shall be carried out in accordance with the following approved plans:

PP001 Location Plan

PP021 Proposed Elevations

PP031 Proposed Sections

PP013 Proposed Roof Plan

PP011 A Proposed ground floor

PP010 A Existing & Proposed ground floor

Reason: To preserve the architectural and historical qualities of the building.

3. The new slate for the roof shall be natural slate to match the existing roof and the proposed rooflights shall be conservation style rooflights.

Reason: To preserve or enhance the character and appearance of the heritage asset.

Informatives:

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.

Decision Date: 18 December 2023


Mike Garrity
Head of Planning
Economic Growth and Infrastructure

Planning Decision Notes

Power to grant listed building consent

This permission is issued by Dorset Council as the local planning authority set out by section 16 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and The Planning (Listed Buildings & Conservation Areas) Regulations 1990.

Site notice

If you have not already done so I would be grateful if you could take down and dispose of this application's site notice if it is still being displayed outside the property.

Conditions

You should not start work until you have agreed with the Council the information requested by the conditions. If you fail to do this the works on site could be unauthorised and the Council may consider enforcement action.

The information must be submitted in writing. There is a standard form which you can download from the website www.dorsetcouncil.gov.uk/planning. A fee is required each and every time you apply to discharge any or all of the conditions (£43 per request for householder applications, £145 per request for all other applications).

Please check that any plans approved under the building regulations match the plans approved in this planning permission or listed building consent. Do not start work until revisions are secured to either of the two approvals to ensure that the development has the required planning permission or listed building consent.

Appeals

If you disagree with our planning decision or the attached conditions, then you can appeal to the Secretary of State (Planning Inspectorate) under section 20 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within Six Months of the date of this notice.

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If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

An appeal must be made by the applicant. Forms are available on-line at Appeals - Appeals - Planning Portal

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The Planning Inspectorate need not consider an appeal if it seems that we could not have granted planning permission for the proposed development or could not have granted it without the conditions imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

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From: [Oldfield, Debbie](#)
Sent: 12 October 2023 12:18
To: [Shanta Parsons](#)
Subject: P/FUL/2023/04773 - 50 South Street, Weymouth

Good Morning Shanta

I have reviewed the plans and documents for the above proposed change of use and **object** to this application on the grounds of crime and disorder.

Late night food take-aways are often a “flash point” for anti-social behaviour especially when situated near to pubs and clubs and other late night establishments due to the large number of people congregating in one place.

The current layout of the building is not suitable for a late night food take-away. The entrance lobby is very confined which makes entering and exiting difficult especially if there are a group of people together.

The public toilet is not overlooked and access to it is gained via two swing doors. Unfortunately, public toilets bring their own issues of drug abuse and sometimes sexual assaults especially when people have been drinking and the toilets are not segregated.

The table and chairs are not going to be fixed to the floor making them ideal weapons should a disturbance take place within the premises.

If planning is granted for this application then I would strongly ask that the following statements are made a condition of planning.

- CCTV is fitted within the entrance lobby, the eating area and a CCTV camera is placed in the corridor facing the public toilet. All staff to be trained in how to use the system including down loading footage in a timely fashion if required by Police.
- The tables and chairs are fixed to the floor so they cannot be used as weapons.
- Ideally, the internal door from the entrance lobby needs to be removed so the entrance is open and people have a clear view of people coming out. I see from the ground floor layout that a new fire rated door is being fitted so removal must be done in conjunction with Fire Regulations and advice sought from the Fire Service.

If you require any further information from me please do not hesitate to get in touch.

Yours sincerely

Debbie

Crime Prevention/Designing Out Crime Officer

*Complex Problem Solving Team
Prevention Department
Dorset Police*

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For more information, or to contact us, please visit us at www.devon-cornwall.police.uk or www.dorset.police.uk

OPENING HOURS – OTHER PREMISES

| PUBS/BARS/NIGHTCLUBS | PERMITTED (LICENSED) HOURS |
|--|--|
| The Golden Lion 19 St. Edmund Street DT4 8AR | Mon-Thurs: 08.00 - 02.00; Fri/Sat: 08.00 - 03.00; Sun: 08.00 - 01.00 |
| The Duke of Cornwall 1 St Edmund Street DT4 8AS | Mon - Sun: 11.00 - 02.30 |
| The Closet 38a Maiden Street DT4 8BA | Mon - Sun: 09.00 - 05.00 |
| Chic Bar & Nightclub Maiden Street DT4 8BB | Mon - Sun: 11.00 - 03.00 |
| The Globe Inn 24 East Street DT4 8BN | Mon - Sun: 09.00 - 01.30 |
| The George Bar & Grill 2 Custom House Quay DT4 8BE | Mon - Sun: 08.00 - 02.00 plus some allowable exceptions (e.g. Bank Holidays): 08.00 - 03.00 |
| The Ship Inn Custom House Quay DT4 8BE | Mon - Sun: 08.00 - 02.00 |
| The Royal Oak 1 Custom House Quay DT4 8BE | Sun - Thurs: 10.00 - 00.00; Fri/Sat: 10.00 - 02.00 |
| The Anchor Custom House Quay DT4 8BE | Sun - Wed: 09.00 - 03.00; Thurs - Sat: 09.00 - 05.00 plus some allowable exceptions (e.g Bank Holidays): 10.00 - 06.00 |
| Rendezvous 49 St Thomas Street DT4 8AW | Sun - Wed: 09.00 - 03.00; Thurs - Sat: 09.00 - 05.00 plus some allowable exceptions (e.g Bank Holidays): 10.00 - 06.00 |
| The Sailor's Return 1-2 St Nicholas Street DT4 8AD | Mon - Sat: 06.30 - 02.30; Sun: 06.30 - 00.30 |
| The Swan 41-43 St Thomas Street DT4 8EH | Mon - Sun: 06.00 - 04.00 |
| Play Yard 59 St Thomas Street DT4 8EQ | Mon - Sun: 07.00 - 02.00 |
| Ayya 60 St Thomas Street DT4 | Mon - Sun: 10.00 - 02.00 |

[8EQ](#)

Hardy's Hop House
[62 St Thomas Street DT4](#)

Sun - Thurs: 09.00 - 00.00; Fri/Sat 09.00 - 02.00

[8EQ](#)

Bar Batida
[36 St Thomas Street DT4](#)

Mon - Sun: 09.00 - 03.00

[8EH](#)

**FAST FOOD TAKE-
AWAYS**

J's Kebabs
[54 St Thomas Street DT4](#)

Mon - Sun: 23.00 - 04.00

[8EQ](#)

The Former McDonald's
[72-73 St Mary Street DT4](#)

24 Hours

[8PJ](#)

**50 St Mary Street
Chapelhay, Weymouth
(to be known as “Baps and Pitta”)**

Proposed amendments to the Operating Schedule

Operating hours – Late Night refreshment

Currently

Sundays to Thursdays: 11 p.m. to 3 a.m.

Friday and Saturdays: 11 p.m. to 4 a.m.

“Food served for consumption on the premises or takeaway before 11 pm with takeaway only after 11 pm”

“Bank Holidays to also open to 4 am

Proposed:

Sundays to Thursdays: 11 p.m. to 1 a.m.

Friday and Saturdays: 11 p.m. to 4 a.m.

Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Proposed limitation to be altered into a condition

Opening Hours

Currently

Sundays to Thursdays: 11 p.m. to 3 a.m.

Friday and Saturdays: 11 p.m. to 4 a.m.

“Bank Holidays to also open to 4 am”

Proposed:

Sundays to Thursdays: 11 p.m. to 1 a.m.

Friday and Saturdays: 11 p.m. to 4 a.m.

Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Section M

General

Late night refreshment shall only be provided by way of take-aways and deliveries – it's consumption inside the premises will not be permitted.

~~No alcohol to be served on the premises~~

Patrons shall not be permitted to consume alcohol on the premises

~~Staff trained to identify those under the influence of alcohol & drugs~~

~~Staff trained how to contact Police in the event of requiring assistance or~~

~~suspecting an incident may occur~~

All staff working in the premises after 23:00 hours shall be trained with regard to the four licensing objectives and the conditions of the Premises Licence. A written record of all training (including refresher training to be provided at least once a year)

Commented [PD1]: New proposed condition

Commented [PD2]: See below under staff training

shall be maintained and made available for inspection by Police and other authorised officers on request

~~Anti-social behaviour discouraged~~

~~CCTV in operation on site with signage displayed to notify patrons that CCTV is in operation on the premises~~

Commented [PD3]: This condition is unenforceable

Commented [PD4]: See reworded CCTV condition below

The prevention of crime and disorder

~~CCTV in operation on site with signage displayed to notify patrons that CCTV is in operation on the premises~~

~~CCTV system to be installed internally (inside service area, lobby to WC & internal lobby)~~

~~Staff to be trained in operation of CCTV & how to download footage in a timely manner if required by Police.~~

~~If CCTV fails staff are trained to inform Police by telephone & take steps to remedy the situation~~

Commented [PD5]: Replaced with the condition below

A digital CCTV system shall be installed and thereafter maintained in good working order that covers all internal parts of the premises, except the WC.

Recordings shall be retained for a minimum of 31 days.

Facilities shall be made available to allow Police and other authorised officers to view recordings whenever the premises are open to the public and to be provided with copies in a playable format as soon as is reasonable practicable, provided all requests to view recordings or be provided with copies are compliant with Data protection regulations.

A member of staff trained and authorised to operate the CCTV system shall be on duty whenever the premises are open.

The system shall be checked at least weekly, a written record shall be maintained of the checks, any fault notified to the police and rectified as soon as possible.

The holder of the Licence shall undertake a written risk assessment to determine whether or not it is appropriate to deploy SIA registered door supervisors on any particular days or times and shall then deploy such door supervisors as may be determined by the outcome of the risk assessment

The risk assessment shall be reviewed at least once a year, following any incident or crime and disorder at or in the near vicinity of the premises or at the request of the police. A copy of the risk assessment shall be provided to the Police and the Licensing Authority on request.

~~No alcohol to be served on the premises~~

~~No alcohol allowed to be consumed on the premises~~

~~No closed alcohol containers / cans / bottles to be allowed on the premises~~

~~Staff trained to identify those under the influence of alcohol & drugs~~

~~Staff trained how to contact Police in the event of requiring assistance or suspecting an incident may occur~~

~~Anti-social behaviour discouraged~~

Crime prevention notices are displayed warning customers of the possibility of crime which may target them, e.g. "Bags should not be left unattended", "Watch out for Pickpockets".

Commented [PD6]: See comments above under "General" These are also duplicate conditions

Commented [PD7]: It will be for the sub-committee to determine if this is proportionate and appropriate

Commented [PD8]: The condition can only apply to a licensable activity

Toilet to be closed to the public after 11:00 pm

Public Safety

Where possible furniture to be fixed in place
 CCTV in operation on site with signage displayed to notify patrons that CCTV is in operation on the premises
 CCTV system to be installed internally (inside service area, lobby to WC & internal lobby)
 Staff to be trained in operation of CCTV & how to download footage in a timely manner if required by Police.
 If CCTV fails staff are trained to inform Police by telephone & take steps to remedy the situation
 No alcohol to be served on the premises
 No alcohol allowed to be consumed on the premises
 No closed alcohol containers / cans / bottles to be allowed on the premises
 We have conducted a suitable Fire Risk Assessment at the premises and implemented the necessary control measures
 Notices detailing the actions to be taken in the event of fire or other emergency are prominently displayed and maintained in good condition.
 Fire drill and emergency lighting tests are conducted weekly / monthly.
 Records of these tests are available upon request
 No glass bottles to be served for soft drinks only plastic / cans
 No other breakable items (eg. Pottery cups or plates) to be served
 First aid equipment kept on the premises & a first aider on duty.
 Planning & listed building has been granted for the change of use & building alterations, we are in the process of applying for LBC to remove the inner lobby & inner door to improve flow of customers & safety but while this further application is being considered by the council we will keep the outer door open at all times when the business is open.

The prevention of public nuisance

Bins are to be collected daily by specialist waste management company and not be accessible by patrons
 Signage shall displayed at the exit from the premises asking all patrons to "Leave quietly & respect our neighbours"
 No smoking signs on display
 Patrons will be asked to leave the premises once they have collected their order & not to congregate around the outside of the building
 Noise & odour information from planning / LBC applications (noise & odour assessments & mitigation) to be in action
 Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 23:00 hrs and 07:00 hrs to minimise disturbance to nearby occupiers.
 All ventilation and extract systems are to be designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties
 All bins / refuse receptables to be cleaned on a weekly basis
 Refuse to be collected daily by a specialist waste management company
 Toilet to be closed to the public after 10.30pm

The protection of children from harm

Commented [PD9]: Duplication - see above

Commented [PD10]: These condition relate to Fire Safety and under the Legislative Reform (Fire Safety) Order 2005 and duplicate other regulations

Commented [PD11]: Unnecessary as the LNR will be take-away only

Commented [PD12]: The plan shows the doors and any change would require a variation application to approve a new plan.

Commented [PD13]: This is no longer a legal requirement but smoking inside would be unlawful anyway

Commented [PD14]: These would be requirements under planning and building control consents so duplication of other requirements

Commented [PD15]: Duplicates condition above

Commented [PD16]: Duplicates condition above

~~Children to only be allowed on premises when accompanied by an adult~~

~~No children on the premises after 11pm~~

~~Children are kept under adult supervision at all times~~

~~Children are accounted for at all times in case of an evacuation or emergency~~

Children (i.e. persons under the age of 18) shall not be permitted in the premises after 23:00 hours

Commented [PD17]: Conditions re-written as most of this is irrelevant

**50 St Mary Street
Chapelhay, Weymouth
(to be known as “Baps and Pitta”)**

Proposed amendments to the Operating Schedule

Operating hours – Late Night refreshment

Sundays to Thursdays: 11 p.m. to 1 a.m.
Friday and Saturdays: 11 p.m. to 4 a.m.
Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Opening Hours

Sundays to Thursdays: 11 p.m. to 1 a.m.
Friday and Saturdays: 11 p.m. to 4 a.m.
Sundays falling on Bank Holiday weekends 11 p.m. to 3 a.m.

Section M

General

Late night refreshment shall only be provided by way of take-aways and deliveries – it's consumption inside the premises will not be permitted.

Patrons shall not be permitted to consume alcohol on the premises.

All staff working in the premises after 23:00 hours shall be trained with regard to the four licensing objectives and the conditions of the Premises Licence. A written record of all training (including refresher training to be provided at least once a year) shall be maintained and made available for inspection by Police and other authorised officers on request

The prevention of crime and disorder

A digital CCTV system shall be installed and thereafter maintained in good working order that covers all internal parts of the premises, except the WC.

Recordings shall be retained for a minimum of 31 days.

Facilities shall be made available to allow Police and other authorised officers to view recordings whenever the premises are open to the public and to be provided with copies in a playable format as soon as is reasonable practicable, provided all requests to view recordings or be provided with copies are compliant with Data protection regulations.

A member of staff trained and authorised to operate the CCTV system shall be on duty whenever the premises are open.

The system shall be checked at least weekly, a written record shall be maintained of the checks, any fault notified to the police and rectified as soon as possible.

The holder of the Licence shall undertake a written risk assessment to determine whether or not it is appropriate to deploy SIA registered door supervisors on any

particular days or times and shall then deploy such door supervisors as may be determined by the outcome of the risk assessment

The risk assessment shall be reviewed at least once a year, following any incident or crime and disorder at or in the near vicinity of the premises or at the request of the police. A copy of the risk assessment shall be provided to the Police and the Licensing Authority on request..

Toilet to be closed to the public after 11:00 p.m.

Public Safety

Where possible furniture to be fixed in place.

No glass bottles to be served for soft drinks only plastic / cans

First aid equipment kept on the premises & a first aider on duty.

The prevention of public nuisance

Bins are to be collected daily by specialist waste management company and not be accessible by patrons

Signage shall displayed at the exit from the premises asking all patrons to "Leave quietly & respect our neighbours"

Patrons will be asked to leave the premises once they have collected their order & not to congregate around the outside of the building

Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 23:00 hrs and 07:00 hrs to minimise disturbance to nearby occupiers.

All ventilation and extract systems are to be designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties

All bins / refuse receptables to be cleaned on a weekly basis

The protection of children from harm

Children (i.e. persons under the age of 18) shall not be permitted in the premises after 23:00 hours

Officer Report

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|--------------------------------|--|---------------------------------|----------|
| Application Number: | P/FUL/2023/04773 | | |
| Webpage: | https://planning.dorsetcouncil.gov.uk/ | | |
| Site address: | 50 St Mary Street Weymouth Dorset DT4 8PU | | |
| Proposal: | Change of Use from Class E(b) Cafe/restaurant to Sui Generis Hot Food Take-away | | |
| Applicant name: | Mr Osman Tanyel | | |
| Case Officer: | Shanta Parsons | | |
| Ward Member(s): | Cllr Orrell | | |
| Publicity expiry date: | 29 September 2023 | Officer site visit date: | 07-09-23 |
| Decision due date: | 12 October 2023 | Ext(s) of time: | 1 |
| No of Site Notices: | 2 | | |
| SN displayed reasoning: | One on post on corner of premises adjacent to the highway and the other within the window of the premises facing the highway | | |

1.0 Summary of recommendation: GRANT subject to conditions.

2.0 Reason for the recommendation:

- It is not considered that the proposal, subject to appropriate conditions, would result in an undue adverse impact on the amenity of neighbouring residents nor that it would harm the vitality or viability of the town centre. On the contrary, the re use and appropriate renovation of the premises would preserve and enhance the significance of this heritage asset. Therefore, the scheme complies with policies ENV4, ENV10, ENV12, ENV14, ENV16, ECON4, WEY1 and WEY2 of the West Dorset, Weymouth & Portland Local Plan (2015).

4.0 Key planning issues

| Issue | Conclusion |
|--------------------------|---|
| Principle of development | The site is within Weymouth's Primary Shopping Frontage, within the Primary Shopping Area and within the Town Centre as |

Officer Report

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|---|--|
| | <p>designated within the West Dorset, Weymouth and Portland Local Plan (2015) where there are various commercial businesses including retail units, hairdressers, cafes/restaurants, public houses and takeaways and where the principle of the use of the premises as a takeaway together with the upgrade and repair of this listed building is acceptable and accords with Policies ECON4, WEY 1 and WEY2 of the West Dorset, Weymouth and Portland Local Plan (2015).</p> |
| Impact on the Character of the area and heritage assets | <p>The development would positively contribute to the heritage asset and as such the development is considered to accord with Policies ENV4, ENV10, ENV12 and ENV14 of the West Dorset, Weymouth and Portland Local Plan (2015).</p> |
| Impact on amenity | <p>Taking into consideration the additional soundproofing and extraction system proposed to secure the necessary standard of noise and odour amenity, the development would not give rise to undue noise and disturbance to the neighbouring residential properties.</p> <p>Given that the area comprises of a range of evening uses, it is not considered that the addition of this one unit would exacerbate the level of noise and disturbance to an unacceptable level that would be enough to justify refusing this application.</p> <p>The development would accord with Policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).</p> |

5.0 Description of Site

50 St. Mary Street is a Grade II listed building, within Weymouth Town Centre Conservation Area, located on the corner of St Mary Street and St Edmund Street.

It is within Weymouth's Primary Shopping Frontage, within the Primary Shopping Area and within the Town Centre as designated within the West Dorset, Weymouth and Portland Local Plan (2015) where there are various commercial businesses including retail units, hairdressers, cafes/restaurants, public houses and takeaways.

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The property is currently closed but was formally used as a café with a flat above.

6.0 Description of Development

This proposal is to convert and renovate the café to form a takeaway. It is proposed to redecorate and upgrade the internal area to include a new servery counter, kitchen, floor, internal fire door, upgraded suspended ceiling for fire protection & acoustic insulation.

Externally, the fascia on both frontages would be repaired and the existing corrugated perspex roof which is currently over part of the building would be replaced with a new slate roof with 2 conservation type rooflights.

7.0 Relevant Planning History

P/LBC/2022/05295 - Decision: GRA - Decision Date: 02/02/2023
Replacement bay sliding sash window to first floor

8.0 List of Constraints

Grade: II Listed Building: 50, ST MARY STREET List Entry: 1132664.0; - Distance: 0

Grade: II Listed Building: 49, ST MARY STREET List Entry: 1132663.0; - Distance: 6.66

Grade: II Listed Building: DUKE OF CORNWALL PUBLIC HOUSE List Entry: 1132623.0; - Distance: 17.8

Grade: II Listed Building: 21 AND 22, ST EDMUND STREET List Entry: 1132629.0; - Distance: 9.49

Weymouth Town Centre Conservation Area

Primary Shopping Frontage; St Mary Street, Weymouth

Primary Shopping Area; Weymouth

Town Centre Areas; Weymouth

Town Centre and Commercial Road Area

Area of Archaeological Potential

Defined Development Boundary; Weymouth

Neighbourhood Plan Area; Name: Weymouth; Status Designated 18/05/2020;

DESI - Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012); - Distance: 2794.23

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076); - Distance: 2775.56

Flood Zone 3

Flood Zone 2

Radon: Class: Class 1: Less than 1%

ONR portland_12km_zone

9.0 Consultations

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All consultee responses can be viewed in full on the website.

Consultees

- 1. Environmental Protection Officer** – No objection. Recommends conditions regarding odour emission and sound insulation.
- 2. Conservation Officer**- No objection to the proposed internal layout. The alterations to the elevations of the building would preserve and enhance the significance of this heritage asset and would not have a negative impact on the Conservation Area.
- 3. Dorset Police Architectural Liaison Officer**- object on the grounds of crime and disorder due to the use as a takeaway near to pubs and clubs; the confined lobby into the building; public toilet not over-looked, loose furniture. If granted recommend conditions regarding provision of CCTV, fixings of furniture and removal of a door.
- 4. P - Weymouth Town Council** – No objection.
- 5. Cllr Orrell** - Material objection would be NPPF 185a with noise impact. Also, contravention of the local cumulative impact area policy for licencing. More anti-social behaviour being likely.

Representations received

8 local residents and a community group (Respect Weymouth) object :

- There is too much noise from the pub opposite, this will increase anti-social behaviour and crime impacting on other businesses.
- Wrong type of business for this street which has a very small boutique feel.
- No need for a further takeaway in this area of town.
- Site is too close to residential areas.
- Other existing late night venues serving until 5 am are within walking distance and in less concentrated residential areas.
- Having another food business open so close to already existing takeaways is unfair and can take away trade for those already struggling.
- Will be messy and dirty.
- Increase obesity rates rising especially in children.
- Increases pressure on emergency services.
- Will increase more homeless people sleeping in doorways escalating situations between them and intoxicated people.

10.0 Duties

s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

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The Planning (Listed Buildings and Conservation Areas) Act 1990- section 16 requires that in considering whether to grant listed building consent, special regard is to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the 1990 Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

11.0 Relevant Policies

- INT1 Presumption in favour of Sustainable Development
- ENV1 Landscape, seascape & sites of other geological interest
- ENV2 Wildlife and habitats
- ENV4 Heritage assets
- ENV5 Flood risk
- ENV10 The landscape and townscape setting
- ENV 12 The design and positioning of buildings
- ENV 13 Achieving High Levels of Environmental Performance
- ENV14 Shopfronts & advertisements
- ENV 16 Amenity
- SUS2 Distribution of development
- WEY1 Weymouth Town Centre Strategy
- WEY2 Town Centre Core & Commercial Road Area
- ECON4 Retail and Town Centre Development

Other material considerations

Emerging Dorset Council Local Plan: Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and

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- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

Neighbourhood Plans

Weymouth Neighbourhood Plan - In preparation – limited weight applied to decision making.

Supplementary Planning Documents/Guidance For Weymouth:

Weymouth & Portland Listed Buildings and Conservation Areas (2002)

Weymouth & Portland Urban Design (2002)

Conservation Area Appraisals:

Weymouth – Town Centre Conservation Area Appraisal adopted December 2012

National Planning Policy Framework:

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Other relevant NPPF sections include:

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 6 'Building a strong, competitive economy',
- Section 12 'Achieving well designed places indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 advise that:

The Government attaches great importance to the design of the built

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environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- Section 14 'Meeting the challenges of climate change, flooding and coastal change'

Section 15. 'Conserving and enhancing the natural environment'- Ground Conditions and Pollution – Paragraph 185 (a): 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. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

- Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 203).

12.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

13.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics

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- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. The existing access would remain unchanged except for a fire door. This would not result in a disadvantage to users of the premises.

14.0 Financial benefits: None that are relevant material considerations.

15.0 Environmental Implications: The applicant’s design and access statements states that where economically feasible it is intended to use sustainable materials and employ environmentally friendly techniques. The efficient use of water will be promoted during the building phase and all disposable materials will be collected by a reputable local firm for recycling where possible. Local materials such as timber will also be specified for the proposed works and it is hoped to appoint a local builder to carry out the works thus helping to maintain and sustain the local economy. It is intended that the development will include low energy light fittings and low water use sanitary ware with appropriate controls, that all new white goods and other fittings will be energy efficient. In the rear portion of the premises, it is proposed to use rooflights in the replacement roof to provide natural lighting & natural background ventilation to this area.

16.0 Planning Assessment

Principle of Development

50 St. Mary Street is a Grade II listed building, within Weymouth Town Centre Conservation Area, located on the corner of St Mary Street and St Edmund Street.

It is within Weymouth’s Primary Shopping Frontage, within the Primary Shopping Area and within the Town Centre as designated within the West Dorset, Weymouth and Portland Local Plan (2015) where there are various commercial businesses including retail units, hairdressers, cafes/restaurants, public houses and takeaways.

The property is currently closed but was formally used as a café with a flat above and this proposal is to convert and renovate the café to form a takeaway.

In the adopted local plan policy ECON4, Retail and Town Centre Development, seeks to ensure that development likely to lead to significant adverse impacts on existing centres are not allowed and that any development will be expected to maintain an appropriate concentration and mix of retail and other town centre uses in the centre, to protect its vitality and viability.

Policy WEY1 seeks to support a thriving town centre with a range of traders, a rich and varied cultural offer throughout the year and an active night-time economy and reduce the co-location of uses likely to cause anti-social behaviour.

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It is considered that the use as a takeaway would maintain an appropriate mix of town centre uses which would benefit the vitality and viability of the town centre. As there are a variety of uses in the vicinity of the premises, the use as a takeaway would not result in a concentration of the same use in a small area of the town centre and therefore not necessarily be the cause of anti-social behaviour.

The principle of the use of the premises as a takeaway and the upgrade and repair of this listed building is acceptable and accords with Policies ECON4, WEY 1 and WEY2 of the West Dorset, Weymouth and Portland Local Plan (2015).

Character and impact upon heritage assets

In the adopted local plan Policy ENV14, Shop Fronts and Advertisements, supports high quality design in shop front redevelopment provided they respect the character, appearance and scale of the building and do not result in the loss of historic fabric.

Policy ENV4, Heritage Assets, seeks to protect the character of listed buildings and conservation areas.

50 St. Mary Street is a Grade II listed building, within Weymouth Town Centre Conservation Area.

It is proposed to redecorate and upgrade the internal area to include a new servery counter, kitchen, floor, internal fire door, upgraded suspended ceiling for fire protection & acoustic insulation. Externally, the fascia on both frontages would be repaired and the existing corrugated perspex roof to part of the building would be replaced with new slate roof with 2 conservation type rooflights.

The Conservation Officer confirms that there is no objection to the proposed alterations to the internal layout and that the alterations to the external elevations, which are in need of repair, would preserve and enhance the significance of this heritage asset and would not have a negative impact on the Conservation Area.

It is concluded that the proposal would cause no harm to the character and appearance of the town centre conservation area nor to this listed building or the setting of the neighbouring Listed buildings.

As such the proposal accords with policy ENV4 of the West Dorset, Weymouth & Portland Local Plan (2015) and Section 16 of the NPPF (2023).

It is considered that the proposal also accords with Policies ENV10, ENV12 and ENV14 of the West Dorset and Weymouth & Portland Local Plan 2015.

Impact on Amenity

Policy ENV 16 of the West Dorset and Weymouth & Portland Local Plan 2015 seeks to ensure that development is designed to minimize its impact on the amenity and quiet enjoyment of both existing residents and future residents within the development and close to it.

The premises is located within an area where there are commercial uses on the ground floors and a number of residential uses above which is typical of many town centres.

The applicant proposes to open 7 days a week from 4pm each day, although they seek that a 12-noon opening time is agreed. The business would trade until 1am

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from Sunday to Thursday and until 4am on Friday and Saturday only in peak season with a 1am closing time for the rest of the year.

As part of the renovation of the premises, it is proposed to upgrade the existing extraction system internally and to upgrade the insulation between the ceiling of the existing ground floor premises and the first floor flat above.

A technical report on noise transfer and specification of the kitchen extraction system has been submitted in support of the application. The report considers the noise sources within the take-away, the kitchen extract system and the potential for noise from customers.

Taking into consideration the additional soundproofing proposed as part of this application, the Environmental Protection Officer confirms that provided the specifications and details regarding the sound insulation and the kitchen extraction system are implemented in order to secure the necessary standard of noise and odour amenity, there is no objection.

The Environmental Protection Officer is satisfied that the development would not give rise to undue noise and disturbance to the neighbouring residential properties and the necessary measures can be secured by planning condition and therefore addressing paragraph 185a of the NPPF.

In terms of the potential noise, disturbance and litter dropped from visitors to the takeaway, this is matter that would to a certain degree, need to be managed by the operators of the takeaway.

The premises is located within a mixed commercial/residential area containing a high proportion of restaurant and bar uses as part of the town centre and served by busy roads where it is reasonable for residents to expect a certain level of activity close to their homes. There are a number of other premises within the town centre that have late night opening hours and the agent/applicant has provided a list of premises in the vicinity that are licensed to open as late as the applicant proposes. A site visit has verified that these businesses are operational.

Given that the area comprises of a range of evening uses already and the character and function of the immediate area is well established in terms of serving the evening economy and given that the Environmental Protection Officer is satisfied that the development would not give rise to undue noise and disturbance and that there is no need for a condition to control hours of opening, it is considered that the addition of this one unit would not exacerbate the level of noise and disturbance to an unacceptable level that would be enough to justify refusing this application.

The proposed use as a takeaway would have no significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy and would not generate a level of activity or noise that would detract significantly from the character and amenity of the area.

As such, the development would accord with Policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).

Impact on Flood Risk

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Policy ENV5 of the West Dorset, Weymouth & Portland Local Plan (2015) seeks to ensure that new development or the intensification of existing uses should be planned to avoid risk of flooding.

The site is within Flood Zone 3. However, the new use as a takeaway would not result in a higher vulnerability classification in terms of flood risk. Furthermore, there is no extension or addition to the building footprint proposed & all finished floor levels (FFL) will remain as existing or will be increased to match the existing.

The development would not increase the vulnerability of flooding at the site or the surrounding area and as such accords with Policy ENV5 of the West Dorset, Weymouth & Portland Local Plan (2015).

Other Matters

- In respect of the comments of the Police Architectural Liaison Officer regarding the recommendation to provide CCTV, the fixing of furniture and removal of a door, this is a matter that will be considered under the application for a licence in terms of the prevention of crime and disorder; public safety and the prevention of public nuisance.
- The objection to the addition of another food business so close to existing takeaways and that is unfair appears to be based on competition between businesses which is not a material planning consideration.
- The application site is not adjacent or close to a school and the objection to the increase in obesity rates is not a material planning consideration.

17.0 Conclusion

It is considered that the proposal, subject to appropriate conditions, would not result in an undue adverse impact on the amenity of neighbouring residents nor that it would harm the vitality or viability of the town centre. On the contrary, the re use and appropriate renovation of the premises would preserve and enhance the significance of this heritage asset within the Conservation Area. Therefore, the scheme complies with policies ENV4, ENV10, ENV12, ENV14, ENV16, ECON4, WEY1 and WEY2 of the West Dorset, Weymouth & Portland Local Plan (2015).

18.0 Recommendation

Recommendation: Approve subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
PP001 Location Plan
PP021 Proposed Elevations
PP031 Proposed Sections
PP013 Proposed Roof Plan
PP010 A Existing and proposed ground floor plans
PP011 A Proposed ground floor plan

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

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Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

3. Prior to the development hereby approved being first brought into use, the approved kitchen extraction scheme as specified by Tunc Metal Ltd (London) contained within e-mail dated 02/10/2023 from Matthew Elsinor shall be installed and fully functioning and shall be retained for the duration of the permitted use.

Reason: In the interests of residential amenity.

4. Prior to the development hereby approved being first brought into use, the approved sound insulation as detailed within SoL Ecooustics Limited Technical Report dated 03/10/2023 shall be installed and shall be retained for the duration of the permitted use.

Reason: In the interests of residential amenity.

5. The new slate for the roof shall be natural slate to match the existing roof.

Reason: To preserve/enhance the character and appearance of the heritage asset.

6. All new and replacement rooflights shall be top hung metal Conservation rooflights with vertical glazing bar and fitted flush to the roof plane.

Reason: To preserve or enhance the character and appearance of the heritage asset.

Informative Notes:

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The application was acceptable as submitted and no further assistance was required.

Officer Report

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|--------------------------------|------------|---------------------------------------|------------|
| Case Officer Signature: | SHP | Authorising Officer Signature: | KT |
| Date: | 15.12.2023 | Date: | 15.12.2023 |