

APPLICATION REPORT - PA/343258/19

Planning Committee, 17 July, 2019

Registration Date: 26/04/2019
Ward: Saddleworth South

Application Reference: PA/343258/19
Type of Application: Full Planning Permission

Proposal: Retrospective application for a change of use of industrial (Class B2) floorspace to use as a drinking establishment (Class A4) at Unit 18, in association with the existing brewery use at Unit 17
Location: Donkeystone Brewing Co Ltd, UNIT 17, BOARSHURST BUSINESS PARK, Boarshurst Lane, Greenfield, OL3 7ER
Case Officer: Hannah Lucitt
Applicant Agent : Donkeystone Brewing Co Ltd
Whittaker Design

THE SITE

The application site is located at Unit 18 of Boarshurst Business Park, accessed from Boarshurst Lane.

It is considered that the lawful use of Unit 18 is as a Class B2 'Industrial' Unit.

The wider applicaiotn site contains a number of industrial units constructed from corrugated metal sheeting. The site is accessed from Boarshurst Road.

A total of 10 car parking spaces are associated with the business, sited to the front of the units.

THE PROPOSAL

This retrospective application proposes to regularise the change of use from general industrial (Class B2) to a drinking establishment Class A4 in association with the established existing brewery use located within the adjacent Unit 17.

The application also proposes the retention of an outside 'smoking area' to the south-west (rear) of the unit, adjacent to the boundary with Kinders Mill Industrial Estate.

RELEVANT HISTORY OF THE SITE:

The permissions that are related to Boarshurst Business Park are as follows:

PA/050111/05 'First floor extension to provide additional office accommodation' was granted conditional planning permission on 02nd November 2005.

PA/042561/02 'Industrial unit' was granted conditional planning permission on 19th July 2002.

PA/038851/99 'Industrial units' were refused planning permission on 24th January 2002 on impact on a listed building and overbearing impact grounds.

In regard to application no's PA/042561/02 and PA/038851/99, the Site Location Plans do not show the extent of the application site to specific units (red line boundary). As a consequence, it is not clear what conditions and subsequent restrictions relate to each individual unit.

The Officer Reports associated with the above application site all identify the Boarshurst site as being 'Industrial' premises, rather than 'Light Industrial'. The reports also identify Boarshurst as a former mill site (Boarshurst Mill, formerly Kinders Mill), which are generally considered to be Class B2 (industrial). Given this, it is considered that the planning history demonstrates that, on the balance of probability, the original Use Class of the site was likely to be Industrial (B2 Use Class).

CONSULTATIONS

Highway Engineer	No objection.
Environmental Health and Licensing Section	No objection, subject to the inclusion of conditions addressing noise attenuation, the provision of waste storage facilities, restrictions on hours of use, and restriction of the use of the outdoor areas.
Greater Manchester Police Architectural Liaison Unit	No objection, subject to the inclusion of informatives.

REPRESENTATIONS

This application was publicised by way of a site notice, press notice and neighbour notification letters. At the time of writing, 68 letters of objection, 3 neutral letters, 1 anonymous objection letter, 139 letters of support, and 1 consolidated neighbour letter of objection have been received. Any further comments will be reported on the late list.

The above representations are summarised as follows:

Objections

Amenity

- The development is causing unacceptable noise and disturbance;
- The development results in a loss of privacy in residents properties;
- The nature of this development detrimentally affects the character of the area;

Other

- The development is causing an increase in localised crime;
- The development is located within a flood zone;
- There are discrepancies within the applications;
- The development has fire safety implications;

Highways

- The development has a harmful impact on highway and pedestrian safety, as well as causing an increase in localised traffic congestion;

Land Use

- There is no need for a further drinking facility in Greenfield;
- Should this application be approved, it would set a precedent for other similar applications; and,
- The development appears to also be operating as Class A3 Use (Restaurant).

Support

- The development brings economic benefits to the area;
- The development supports local businesses
- The development creates jobs; and,
- The development is a community asset.

Neutral

- States general support for the application; and,
- Raises concerns about the lack of soundproofing between the units currently.

Saddleworth Parish Council recommend approval:

"Subject to a condition being imposed that music is contained within the building to ensure no loss of amenity to near neighbours".

PLANNING CONSIDERATIONS

Land Use

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 within the National Planning Policy Framework (NPPF) reiterates this requirement.

In this case the 'development plan' is the Joint Development Plan Document which forms part of the Local Development Framework for Oldham. It contains the Core Strategies and Development Management policies used to assess and determine planning applications.

The application is located within a 'Business Employment Area' as allocated by the Proposals Map associated with this document. Therefore, the following policies are considered relevant:

Policy 1 - Climate Change and Sustainable Development;
Policy 9 - Local Environment;
Policy 13 - Employment Areas;
Policy 14 - Supporting Oldham's Economy; and,
Policy 20 - Design.

The guidance within the National Planning Policy Framework (NPPF) is also a material planning consideration.

DPD Policy 1, in the context of this application, seeks to ensure the effective and efficient use of land and buildings by promoting the re-use and conversion of existing buildings and development on 'previously developed land' prior to the use of greenfield sites.

The application site is previously developed land, evident by the hard landscaping and existing use. As such, the proposal is in line with this Policy.

DPD Policy 13 addresses established employment areas. As the application site is an allocated 'Business Employment Area', Policy 14 is relevant in the consideration of the employment opportunities associated with the change of use.

DPD Policy 14 states that it is important Oldham has a range of sites to support the local economy. Employment areas are spread across the borough. They provide land for existing firms to expand and for new firms to locate here, so providing for job opportunities.

The existing unit has lawful Class B2 use, and there is no reason to consider that this use class would not have associated employment.

The regularisation of the existing Class A4 use would also include associated employment opportunities. Therefore, there would be no loss of employment by virtue of the A4 Use Class.

Furthermore, within Business Employment Area's the change of use to a Class A4 use facility is on the list of acceptable use classes.

Given the above, the development complies with Policy 14 and the principle of the proposal is therefore satisfactory. The loss of the Class B2 use is not considered detrimental in land use terms, and the new Class A4 Unit is considered a suitable use on this site.

Parking and highway safety

The development is located within an existing and well established business park.

The site is located within a designated employment area. It is not considered that the amount of traffic generated by the change of use would have any significant impact on the local highway network as the proposal does not significantly increase the amount of traffic generated, when compared to the lawful use of the Unit.

There is adequate parking provision within the site and the Highway Engineer raises no objection to planning permission because it raises no highway safety issues.

Therefore, the development is considered to be in compliance with DPD Policy 9 in this regard.

Amenity

DPD Policy 9 seeks to ensure development does not result in unacceptable adverse impact on amenity.

The nearest dwellings to the proposed development are The Garden House, and Kinders Lodge, to the north west of Unit 18. There are other nearby dwellings at 1 & 2 Kinders Gate, Kinders House, Ivy Cottage and dwellings facing Boarshurst Lane, and Kinders Lane.

It is acknowledged that the existing building is not adequately soundproofed and therefore noise and disturbance could be produced from within the Unit, from the informal 'smoking area' to the rear of Unit 18, plus late night outdoor drinking to the front of Unit 18.

The Environmental Health Team have assessed the application and have raised no objection, subject to the inclusion of conditions seeking noise attenuation, the provision of waste storage facilities, restrictions on hours of use, and restriction of the use of the outdoor areas.

In regard to the recommended condition on noise attenuation, Environmental Health have recommended that prior to the continuation of the A4 use, the applicant must provide a scheme to demonstrate that 'entertainment noise' from the premises shall be limited to 10dB below the background noise level (LA90) without the entertainment noise present, at the nearest noise sensitive location, in order to adequately mitigate the noise generated from within the premise.

A condition has also been included to ensure that windows and doors to the unit are closed at all times, with the exception of access and egress to the building.

It is considered that with the level of noise attenuation described above, this would be sufficient to mitigate against any noise and disturbance caused by virtue of activities associated with the Class A4 Use from within Unit 18.

Environmental Health have commented that there is a potential that noise from customers using the outside area to the rear of the premises may cause a noise nuisance to nearby residents. This view is reinforced by the number of objection letters that raise noise concerns.

Given the above, in regard to the use of outdoor areas for seating/drinking/smoking, it is not considered that the existing use of the land to the rear of the premises is appropriate.

As such, use of this area needs to be prohibited, and a condition has been imposed to

ensure this.

The Licensing Team have issued a licence which allows outdoor drinking until 21:00.

If activities associated with the outdoor use were limited to the front of Unit 18, the outdoor use would be sited 30m from the nearest dwelling.

It is considered that it would be impossible to justify a refusal on the basis of noise and disturbance, if any potential noise associated with the use was contained within the small outdoor area located to the front of Unit 18 and its use was limited to 21:00, taking into consideration the existing Class B2 Industrial Use.

A condition, reflecting the above restriction has therefore been included in the recommendation.

Overall, on balance, the proposals impact on residents amenity is considered acceptable, subject to the imposition of conditions and their enforcement.

Design

The design of the industrial units is typical of the industrial sites within the area, and the external appearance would not be altered by virtue of this change of use.

Crime

There is no evidence to show that the proposed development would lead to an increase in localised crime. Greater Manchester Police Architecture Liaison Unit have raised no objection.

Other matters

The development is not located within a flood zone, as claimed in objections.

There is no legislative requirement to demonstrate a need for a further drinking facility, and no evidence that there is an over-concentration of such units within the area.

There is no evidence to demonstrate that granting conditional planning permission for this application would set a precedent for other similar applications.

Fire safety is a matter to be considered under Building Regulations, rather than planning legislation.

Historically, the Donkeystone Brewery appears to have had food stalls located within the car park for use by its customers. It is not considered that this occasional use would amount to a mixed Class A4/ A3 use. The historical food offering would appear to be incidental to the Class A4 Use.

Conclusion

The proposed use is acceptable and would have no significant impact on highway safety or the highway network. In regard its impact on residential amenity, the proposed development is considered acceptable, subject to the inclusion of the noise mitigating conditions. There are no design or other concerns raised by this application. As such, the application is recommended for approval, subject to condition set as below.

RECOMMENDATION

Approve, subject to the following conditions:

1. All activities associated with the Class A4 Use hereby approved, other than deliveries,

shall take place within the building at Unit 18 as shown on the approved plan received on 26th April 2019.

Reason - To protect the amenity of occupiers of nearby properties.

2. Prior to the Class A4 use of Unit 18, the applicant must provide a scheme to demonstrate that entertainment noise (LAeq) shall be controlled to 10dB below the background noise level (LA90) without the entertainment noise present, in each octave band at the nearest noise sensitive location, in order to adequately contain the noise generated within the premises.

The scheme must be submitted to and approved by the Local Planning Authority.

Any work implementing the scheme shall be completed prior to continued A4 use of the unit and retained at all times thereafter.

Reason - To protect the residential amenity of adjacent residents from noise nuisance.

3. Prior to the Class A4 use of Unit 18, the development hereby approved shall not be brought into use unless and until details of facilities for the storage and removal of refuse and waste materials have been submitted to and approved in writing by the Local Planning Authority and the agreed scheme has been fully implemented. Thereafter, approved facilities shall at all times remain available for use.

Reason - To ensure the adequate storage and removal of refuse and waste materials and to protect the amenity of adjacent residents.

4. The Class A4 use within Unit 18 hereby permitted shall not be open to customers, and no deliveries shall be made outside the following times:

Monday to Friday - 17:00 - 23:30

Saturday - 12:00 - 23:30

Sunday and Bank Holidays - 12:00 - 22:00.

Reason - To protect the amenity of adjacent residents

5. The rear area of the premises shall not be used by members of the public or staff as a smoking/drinking area.

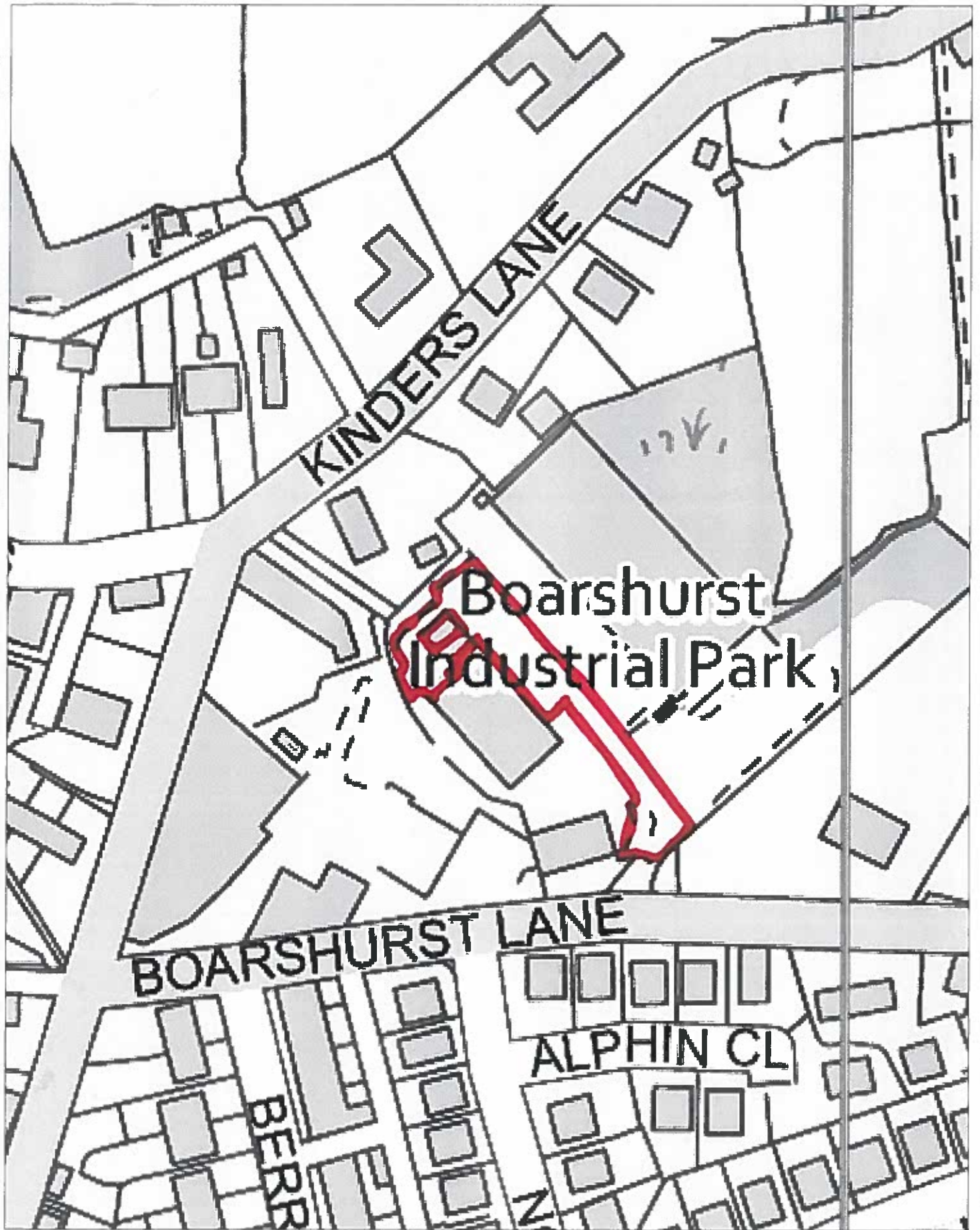
Reason: - To protect the residential amenity of adjacent residents from noise nuisance.

6. All doors and windows to the building shall be kept shut at all times except for access and egress to the building.

Reason - To protect the amenity of occupiers of nearby premises

7. The outside area shall not be used by customers for drinking at any time after 21:00.

Reason - To protect the amenity of occupiers of nearby properties.



PLANNING COMMITTEE - BACKGROUND PAPERS

REPORT OF THE HEAD OF PLANNING AND INFRASTRUCTURE

PLANNING AND ADVERTISEMENT APPLICATIONS

The following is a list of background papers on which this report is based in accordance with the requirements of Section 100D (1) of the Local Government Act 1972. It does not include documents, which would disclose exempt or confidential information defined by that Act.

THE BACKGROUND PAPERS

1. **The appropriate planning application file:** This is a file with the same reference number as that shown on the Agenda for the application. It may contain the following documents:
 - The application forms
 - Plans of the proposed development
 - Certificates relating to site ownership
 - A list of consultees and replies to and from statutory and other consultees and bodies
 - Letters and documents from interested parties
 - A list of OMBC Departments consulted and their replies.
2. **Any planning or advertisement applications:** this will include the following documents:
 - The application forms
 - Plans of the proposed development
 - Certificates relating to site ownership
 - The Executive Director, Environmental Services' report to the Planning Committee
 - The decision notice
3. Background papers additional to those specified in 1 or 2 above or set out below.

ADDITIONAL BACKGROUND PAPERS

1. The Adopted Oldham Unitary Development Plan.
2. Development Control Policy Guidelines approved by the Environmental Services (Plans) Sub-Committee.
3. Saddleworth Parish Council Planning Committee Minutes.
4. Shaw and Crompton Parish Council Planning Committee Minutes.

These documents may be inspected at the Access Oldham, Planning Reception, Level 4 (Ground Floor), Civic Centre, West Street, Oldham by making an appointment with the allocated officer during normal office hours, i.e. 8.40 am to 5.00 pm.

Any person wishing to inspect copies of background papers should contact Development Management telephone no. 0161 770 4105.