

PLANNING COMMITTEE

06/06/2018

Late Information as at 6 June, 2018

AGENDA DETAILS
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15	<p>PA/341119/17</p> <p>87-89 Yorkshire Street, Oldham, OL1 3ST</p> <p>Change of use of first and second floor from a night club (Sui Generis) and pub (A4 Drinking establishments) to 12 no. apartments (C3 Use Class) and self-storage units (B8 Storage or distribution)</p>
	<p>The following additional information was submitted by the applicant on 5 June 2018 in response to the officer's report. This is followed by the comments of the Council's Environmental Health Officer on that information.</p> <p>Members are also advised that additional information has been submitted in respect of the granting of planning permission for conversion of the property at 8-10 Horsedge Street, and of the various pictures seeking to depict residential accommodation in the vicinity of the site.</p> <p><u>Noise Assessment Summary and Application Report (PA/341119/17) Discussion Regarding Proposed Development at 87 – 89 Yorkshire Street, Oldham</u></p> <p>Acoustic Tests have been appointed by Mr Guy Barlow to review the application report referenced in the title of this document and comment on the various conclusions and statements within it from a noise perspective, referencing our initial report or suitable standards where appropriate.</p> <p><u>Proposed Drinking Establishment</u></p> <p>No noise assessment of sound transfer from the proposed ground floor bar to the upstairs residential areas has been carried out yet. We recommend the testing of the existing structure to be used a basis for</p>

proposed a scheme of sound insulation such that levels of noise transfer from the bar to the residential apartments are controlled to acceptable levels, possibly in conjunction with a specification of a noise limiter, should amplified music be proposed in the bar. Therefore, a planning condition such as 'a scheme of sound insulation to be submitted and approved' should be more than adequate at this stage.

Potential Disturbance from Late-Night Entertainment Venues (Not Including the Theatre)

The application report, under the heading "Consultations", states that:

"There are concerns with the proposal on the grounds that the location within an area which late-night entertainment venues which are known to generate significant levels of noise and disturbance would not ensure a suitable standard of living for future residents".

Firstly, we are not aware of any (significant) noise generating premises being adjoined to the proposed development, and therefore the "significant levels of noise and disturbance" are external ambient noise levels. Due to the lack of outdoor living areas (with the exception of the small terrace area proposed) this is irrelevant. We have proposed mitigation performance levels such that internal levels should fall within 'desirable' criteria (with reference to BS8233:2014) over the 'day' and 'night' period respectively.

It is stated that:

"The concerns remain that noise mitigation requires passive ventilation which can only be achieved by residents keeping windows closed."

The development does not "require" passive ventilation, this is simply what we used for our calculations when predicting internal ambient noise levels. As such, any form of ventilation with the same acoustic performance as stated in our original report can be used (provided operational noise levels are negligible), be it mechanical or a whole house system. A ventilation engineer would be required to advise on the ventilation requirements, systems, flow rates, etc.

Only developments in the quietest areas (and certainly not town centres) can expect to be able to open their windows to gain natural ventilation and still comply with 'desirable' criteria within BS8233:2014

We have been informed by our client that another similar development with a similar proximity to the late-night entertainment venues has been approved. This development is likely to be subject to similar external noise levels as a result of late-night entertainment venues as the development in question (again excluding the atypical noise events from the theatre), and as such, it is felt that the proposed development at 87 – 89 Yorkshire Street should not be rejected on the grounds of external noise levels, when developments in similar locations are being

approved.

Potential Disturbance from the Coliseum Theatre:

It is noted that the Theatre is due to be relocated at some point in 2020, and during this time they wish to continue operating without restraint, modification of operating practices or hindrance, however, it is not clear as to whether the Theatre has the right to restrict residential development due to its ongoing activities.

The loading area is situated on Bartlam Place and it is stated in the 'Representations' section that:

"...[Scenery / Equipment entering and exiting the building in this location] occurs approximately 30 times per year and takes place mostly on a Saturday night from 11pm until 4am Sunday morning."

This seems to be a worst-case estimate, as we received the following load-in / load-out schedule from Ms Lesley Chenery of the Coliseum Theatre via email on 10th April 2018:

"Wednesday 11th April 9-11am - Small load out

Friday 13th April - music gig in the theatre. This will load in from 2pm. The show starts at 7.30pm. The load out will be at 10pm.

Sat 14th April, 2pm – 4pm – small load in.

Sunday 15th April, 9am – 12noon - small load in.

Saturday 5th May, 10pm – small load out.

Saturday 12th May – music gig in the theatre. This will load in from 2pm . The show starts at 7.30pm. The load out will be at 10pm.

Saturday 19th May – music gig in the theatre. This will load in from 2pm . The show starts at 7.30pm. The load out will be at 10pm.

Sunday 20th May, 9am – small load in.

Saturday 9th June, 10pm - Get-out into skip."

As can be seen from the above list, which spans a 2 month period, very few of these events indicate the duration of disturbance will be anywhere near 5 hours (23:00 – 04:00 as stated above), save – perhaps - the "Get-out into skip" scheduled on the 9th June.

Indeed, we attended and measured the Friday April 13th load out (a touring band loading up into a large lorry) and found the duration of significant noise to be a little over 1 hour. It is therefore thought that this is more representative of 'typical' (By 'typical' we mean the likely (approximate) median noise levels over the course of a year from the potential noise events) disturbance from the Theatre's noise events.

This is not to say, however, that these events are not noisy as they demonstrably are.

In the same section, it is stated that:

“The bedroom windows of Flats 5, 6 and 11 overlook the loading area.”

This is not correct. We understand that this was the original layout of the development, but this has since been changed such that only Kitchen / Lounge areas directly overlook Bartlam Place on this elevation, as detailed in our original report.

Kitchen / Lounges are considerably less sensitive to disturbance than bedrooms, and the times that potential disturbances take place (in the evening / early morning, typically on weekends) means that it's quite possible that these rooms may not even be occupied during these events, further mitigating the potential impact.

With regards to the Theatre's waste management; we have no measurements of the noise levels associated with this activity, and therefore can only speculate as to its impact. The application report states the following, again in the 'Representations' section:

“The bottle recycling from the theatre bars takes place at the end of the shift, usually on Tuesday to Saturday. The housekeeping department are on site from 7am and need to dispose of waste from the theatre into the bins, and there is no alternative location for this.”

Here we would suggest that some level of compromise with the Theatre should be sought. If there is no space to rehouse the bins internally, these bins could perhaps be relocated to an alternate external location away from Bartlam Place at – what we would assume to be – minimal inconvenience. We also see no reason why the noisier of activities cannot be either delayed or brought forward to a more socially acceptable time.

Additionally, we have been informed that the Theatre's bins are located on the public footpath of Bartlam Place which further supports the argument for their relocation.

Town Centre Impact

Under the heading 'Town Centre Impact' the application report states:

“The application site occupies a location close to establishment which offer a late night entertainment function, particularly at weekends, which can generate significant levels of noise and associated activity. As a consequence the premises will be subject to high levels of ambient noise at anti-social hours. Where conflict arises, powers exist under Environmental Health legislation to restrict the operation of noise generating business.”

As previously explained, these 'significant levels of noise' are external levels, we have demonstrated that over the entire day and night period respectively, the internal levels (N.B. by far the most important levels to look at) should fall within 'desirable' criteria (with reference to BS8233:2014), as such, there should theoretically be no quantitative basis for the imposition of restrictions on nearby noise generating premises (save the minor suggestions made regarding the Theatre's waste management), nor should it be necessary.

Draft Replacement NPPF

The application report discusses the draft replacement NPPF which it is understood is currently under consultation, and not yet formally recognised. The application report states:

"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community

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facilities...Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where an existing business...has effects that could be deemed a statutory nuisance in the light of new development (including changes of use) in its vicinity, the applicant...should be required to secure suitable mitigation before the development has been completed."

Firstly, as conceded in the application report, this draft replacement carries "limited overall weight".

Secondly, hypothetically assuming that the above guidelines are to be adhered to, it states that businesses should not have "unreasonable restrictions" placed upon them. What constitutes "unreasonable"? We would suggest that a relocation of waste storage areas is a minor restriction at most, and as previously explained the external noise levels as a result of nearby noise generating premises (i.e. nightclubs, bars, takeaways, etc) result in external levels for which we have already suggested suitable mitigation for.

Means of Ventilation

A ventilation engineer would be required to comment on the suitability or type of ventilation to be provided to this development, we simply use acoustic data for passive ventilation as a means of specifying the performance of the glazing and ventilation such that internal noise levels are adequately controlled.

However, the usage of the phrase "tiny vents (in each apartment)" is subjective comment with little in the way of numerical assessment and we recommend our client contact a ventilation engineer to discuss the

necessary ventilation requirements to find a solution that has a performance of no less than that suggested in our original report.

Comments of the Environmental Health Officer

Comments re ventilation- Yorkshire Street is very noisy at night, the noise report confirms this. The windows will have to remain closed at night for the residents to get to sleep, this is not in doubt. If windows are to remain closed additional ventilation will be required, especially in the summer months. The ventilation proposed is passive and has an area equivalent of less than 20cm squared. This is a very small area and will mean the flats will be very warm in the summer with no choice to open the window to try and get some cooling. If windows are to remain closed then a proper means of ventilation is required. I'm sure a whole building ventilation system could be used to do this, and this could also deal with my concerns re odours from adjacent takeaways and air quality issues, as the location of the inlet could be positioned to prevent these two issues being a problem to the occupiers of the development. However the design of a whole building ventilation system should be resolved before planning permission is granted as this design consideration could affect the layout and design of the apartments. Therefore I would like to see the ventilation issue resolved before planning permission is granted.

Comments re the potential of licenced premises below the apartments. There is no doubt that having a licenced premises directly below residential has the potential to cause noise nuisance to the residents if the design of the insulation between the two isn't right. The insulation has to be sufficient to ensure that airborne and structural borne sound doesn't become an issue. Again I believe this should be agreed and resolved before planning permission is granted as the layout and design of the apartments might well be altered to ensure that that noise doesn't become a problem, therefore I think it's essential that this is resolved prior to planning permission being granted. I don't believe stating that a noise limiter can be placed in the licenced premises is the way to resolve this matter. The problem should be designed out.

I still have concerns with the Coliseum's loading bay being so close to the apartments but accept that it isn't that often that this will be a problem, especially if the occupiers of the proposed apartments are able to keep their acoustically treated windows closed. I think this adds weight to the argument that the ventilation of the building needs resolving before planning permission is granted.

I am happy with the contents of your report.

Yew Tree Community School, Alcester Street, Chadderton, OL9 8LD

Retrospective application for the construction of an artificial surface - multi use games area (MUGA) and associated fencing on an area of the school playing field.

ADDITIONAL REPRESENTATIONS

Two representations and a petition containing 203 signatures have been received and are summarised as follows:

- Adversely affect residential amenity,
- Harm highway safety,
- Inadequate parking provision and access; and,
- Increase in noise, anti-social behaviour and general disturbance.

ADDITIONAL INFORMATION

The pitch has been laid and the fencing has been erected. As such this application has been made retrospectively. The description of the proposal has been amended accordingly.

AMENDMENT TO REPORT

None, the objections have been addressed in the body of the recommendation report.

AMENDMENT TO RECOMMENDATION

None. However, due to the retrospective nature of the application Condition 1 attached to the original recommendation has been omitted as it is not necessary. Condition numbers 3, 5 and 6 have been amended to require the submission of details to discharge the planning conditions to be within 28 days of the date of the decision.

Remove Condition 1

Amend Condition 3 to the following:

Within 28 days of the date of the decision a Parking Management Plan, showing the operation and availability of the school car park during the opening times of the proposed sports pitch, shall be submitted in writing to the Local Planning Authority. Following its approval in writing by the Local Planning Authority the measures that form part of the approved management plan shall be implemented and remain available for users of the facility.

Reason - To ensure that adequate off-street parking facilities are provided for the development so that parking does not take place on the highway to the detriment of highway safety.

Amend Condition 5 to the following:

Within 28 days of the date of the decision a scheme for the disposal of

foul and surface water from the site shall be submitted in writing to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall include:

- separate systems for the disposal of foul and surface water;
- details of the rate of surface water discharge from the site to any soakaway, watercourse or sewer, including any necessary flow attenuation measures and the use of SUDS (where appropriate), to ensure that the post-development discharge rate does not exceed the pre-development discharge rate (including an appropriate allowance for climate change).

The duly approved scheme shall be implemented within 28 days of the approval and shall be maintained as such thereafter.

Reason - To ensure that the development is not at risk of flooding and does not increase flood risk elsewhere and that adequate measures are put in place for the disposal of foul and surface water (including an appropriate allowance for climate change).

Amend Condition 6 to the following:

Within 28 days of the date of the decision, a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted in writing to the Local Planning Authority. The sustainable drainage management and maintenance plan shall include as a minimum:

- a) Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and,
- b) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason - To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.