

# APPLICATION REPORT - PA/343995/19

Planning Committee, 18 December, 2019

**Registration Date:** 03/10/2019  
**Ward:** Saddleworth South

**Application Reference:** PA/343995/19  
**Type of Application:** Full Planning Permission

**Proposal:** Planning application for use of part of the ground floor of Unit 17 and part of the ground floor of Unit 18 as a drinking establishment (Class A4) in association with the existing brewery use of Unit 17 and 18 (Revised application to PA/343258/19)

**Location:** Donkeystone Brewing Co. Ltd, Unit 17/18 Boarshurst Business Park, Boarshurst Lane, Oldham, OL3 7ER

**Case Officer:** Paul Dowd

**Applicant** Donkeystone Brewing Co. Ltd  
**Agent :** Hourigan Connolly

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The application has been called to Planning Committee at the request of Councillor Curley.

## THE SITE

Donkeystone Brewing Co. Ltd occupies Units 17/18 of Boarshurst Business Park situated on Boarshurst Lane in Greenfield, with further industrial land to the south-west. The wider area has a residential character, with properties located on Kinders Lane immediately to the north-west in closest proximity.

The proposed use relates primarily to Unit 18, which includes a bar and tap room area along with sanitary facilities. Unit 17 to which it is interlinked mainly contains the brewing and storage facilities associated with the applicant's brewery business.

The application site includes 10 parking spaces allocated to the applicant's business under the terms of its lease.

## THE PROPOSAL

This is a retrospective application 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.

This application has been revised following a previous refusal and the applicant has indicated that the previously unauthorised operations have ceased pending the outcome of the latest application.

In terms of opening hours, the previously refused application proposed the following hours:

- Mondays – Fridays: 7pm – 11:30pm.
- Saturdays: 12pm - 11:30pm.
- Sundays & Bank Holidays: 12pm – 10pm

This present application proposes the following opening hours:

- Mondays – Thursdays: Closed.
- Fridays: 5pm – 10:30pm.

- Saturdays: 12pm - 10:30pm.
- Sundays & Bank Holidays: 12pm – 6:30pm.

Service of drinks will stop half an hour before closing time to allow half an hour drinking up time as required by the Premises Licence granted by the Council. All members of the public will be required to have left the premises by the closing times specified.

### **PLANNING HISTORY:**

PA/343258/19 - 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 - Refused 22 July 2019 for the following reason:

*The cumulative impact of noise, disturbance, and related activities that would result because of the change of use of Unit 18 would be harmful to the living conditions of existing residents and would therefore be contrary to Policy 9 of the Local Plan which seeks to protect the amenity of residents from unacceptable harm.*

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

PA/050111/05 - First floor extension to provide additional office accommodation - Approved 2 November 2005.

PA/042561/02 - Industrial unit - Approved 19 July 2002.

PA/038851/99 - Industrial units - Refused 24 January 2002 on impact on a listed building and overbearing impact grounds.

### **RELEVANT PLANNING POLICY**

The 'development plan' is the Joint Development Plan Document which forms part of the Local Development Framework for Oldham.

The application is located within a 'Business Employment Area'. Therefore, the following policies are relevant:

Policy 1 - Climate Change and Sustainable Development;

Policy 9 - Local Environment;

Policy 13 - Employment Areas; and,

Policy 14 - Supporting Oldham's Economy.

### **CONSULTATIONS**

Highway Engineer

Environmental Health

No objections

Having regard to the submitted acoustic information, there are concerns regarding the impact of noise on neighbouring residents. Therefore, it is recommended that permission should be granted subject to a restriction on hours of operation to avoid evenings and Sundays; to no amplified music being played, to windows and doors being kept closed, and controls over the use of external areas of the site.

Greater Manchester Police

Licensing Section

No objections

No objections

### **REPRESENTATIONS**

This application was publicised by site notice, press notice and neighbour notification letters.

63 individual letters of objection, a detailed letter of objection and an acoustic report "on behalf of a group of residents of Greenfield", and an objection from Saddleworth Civic Trust

have been received.

Saddleworth Parish Council recommends refusal on the grounds that "the proposal would result in a loss of amenity due to the impact of noise, disturbance and other related activities harmful to the living conditions of existing residents".

232 letters of support, and a supporting petition signed by 2166 people have also been received.

The objections can be summarised as follows:

- the activity has previously resulted in disturbance to neighbouring residents due to loud music, fast food retailers, and anti-social behaviour. The proposal is fundamentally the same as that already been refused at Planning Committee;
- the use conflicts with development plan policies and national planning guidance;
- an inadequate assessment of the planning history of the site has been carried out, which is a material consideration in assessing the proposal;
- the applicant's acoustic report is flawed and the required noise levels cannot be met;
- the recommended conditions to control the activity would not meet the six tests;
- the applicant cannot control patrons outside the premises;
- given the nature of the building it is not possible to adequately mitigate the impact of music played;
- the available parking provision is inadequate;
- the use would cause congestion and create a highway danger;
- the use would have an adverse impact on the setting of the listed building and the character of the area;
- the development results in a loss of residents' privacy;
- the nature of this development detrimentally affects the character of the area;
- the operators' past behaviour has shown them to be unsuited to this type of operation;
- 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.

The following points have been made in support of the application

- the development brings economic benefits to the area;
- the development supports local businesses
- the development creates jobs; and,
- the development is a community asset, which provides many positive benefits and supports local charities.

## **PLANNING CONSIDERATIONS**

The main considerations in respect of this proposal are:

- Principle of the use
- Residential amenity
- Other matters

### **Principle of the Use**

The site is located within a Business and Employment Area and DPD Policy 14 sets out the types of uses which are deemed permissible in such areas. These include Class A4 drinking establishments as proposed. Proposed uses should nevertheless be appropriate to their location, and not result in any unacceptable impact on adjacent uses of land.

The use supports an existing source of employment, and there is no evidence to show that its presence harms the employment objectives of the development plan.

NPPF Paragraph 86 requires a 'sequential test' to be undertaken before permitting such uses outside an existing centre. However, the nature of drinking establishments is that they are located throughout urban and rural areas where they serve local communities, not merely within established centres, and do so without demonstrably harming the vitality of

town and local centres.

The objectors have drawn attention to the planning history of the site. In particular, the presence of conditions on earlier applications controlling hours of operation, as demonstrating the sensitivity of the site.

Whilst this is noted, each application must nevertheless be assessed on its own merits. Such conditions do not impose a moratorium, and all conditions are capable of being varied or deleted where it is demonstrated that the activity can be undertaken without material conflict with planning policies or harm to the amenity of the area.

The proposed use is linked to the on-site brewery operation, and the applicant has indicated that a condition, requiring the proposed use to cease should brewing at the site end, would be appropriate. On-site tap rooms of this type are an increasingly common feature of the UK brewing scene, including where the brewery is sited in 'industrial' premises, and this can be accommodated without adverse impact on neighbouring businesses.

Such a condition linking the drinking establishment to the brewery is considered necessary and appropriate to protect the integrity of the business park as it would serve a valid planning purpose and be directly related to the proposal.

### **Residential 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 to the north-west of Unit 18. There are other nearby dwellings on Boarshurst Lane, and Kinders Lane.

The previous application was refused by Planning Committee on the grounds of the impact of noise, disturbance, and related activities on the living conditions of existing residents. Consequently, it is necessary to assess whether the changes to operations now proposed, and the acoustic evidence submitted, overcomes those earlier concerns.

Alongside the objections, an acoustic report has been submitted which critiques the applicant's own submission. It concludes that the conditional restriction suggested by the Environmental Health officer could not be achieved.

The applicant has indicated that there will be no live amplified or recorded music played at the premises, other than "low atmospheric level music using a *Sonos One* loudspeaker". Whilst such a unit is capable of producing loud volumes; this would not be necessary, and if this results in exceedance of the permitted noise level, an enforceable breach of planning control would result.

In respect of hours of opening, the previous application would have permitted activity into the late evening on each day of the week. The present application seeks to restrict such opening to the weekend period between Friday evening and early evening on Sunday, with an earlier finish time on each of those days.

Whilst noise within the unit is readily capable of regulation, concerns have also been expressed regarding noise from the comings and goings of customers. Entry to the building will be from the shared parking area which faces away from the nearest residential properties. There is also an access door to the tap room leading to an area in close proximity to neighbouring gardens. Use of this area has potential to generate noise, both from external activity and release of sound when the door is opened.

It is therefore recommended that this door is kept closed (except for emergencies) during opening hours of the tap room, and that no customers are permitted to use the rear area. Furthermore, it is appropriate to ensure restrictions are in place on the consumption of alcohol outside the building. This would not inhibit smoking, but the absence of any furniture or cover from the weather should assist in limiting the time spent outdoors.

Nevertheless, there are concerns that noise generated externally has the potential to cause disturbance to neighbouring residents. Consequently, it is recommended that the use should not be permitted to operate into the evening or on Sundays or Bank holidays.

The permitted hours of operation of the various units of the Business Park are unclear. However, given the established use of the site and levels of activity this could generate, it is considered appropriate for permission to be granted for the use to operate on weekdays and Saturdays between 11am and 6pm.

Overall, on balance, the impact of the amended proposals on residents' amenity is considered acceptable, subject to the imposition of relevant conditions.

### **Other matters**

The applicant has indicated that provision for 10 parking spaces are available within the adjacent car park, and it is noted that the hours of operation now proposed would reduce potential conflict with other users of the business park. The Highways Officer is satisfied that the level of traffic generated would be capable of accommodation on the site.

Whilst it is acknowledged that reports of anti-social behaviour have previously been received, and that specific events had taken place at the site which included the playing of live music and provision of fast food outlets within the car park; there is no evidence to show that the proposed use would of necessity lead to an increase in localised crime and Greater Manchester Police Architecture Liaison Unit have raised no objections.

There is no planning policy necessity to demonstrate a need for a further drinking facility.

The granting of conditional planning permission for this application would not set a precedent for other similar applications, and any such applications would be assessed on their own planning merits.

The site lies within the setting of the Grade II listed Kinders Lodge, and it is noted that impact is not limited to visual aspects. However, given the established presence of the industrial estate use, and the fact that all permitted additional activity will be confined to within the building, it cannot be concluded that there will be any significant impact on the historic relationship between the listed building and the site.

### **CONCLUSION**

The applicant has sought to address the previous concerns in respect of the amenity implications on local amenity. It is considered that subject to the recommended conditions, this can be achieved.

Those conditions satisfy the required tests in respect of their relevance to planning, to the development proposed, and that they are precise, reasonable, and enforceable.

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission.

Reason - To comply with the provisions of the Town & Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be fully implemented in accordance with the approved plan and specifications received on 3rd October 2019 which is referenced as 3750.4. The Class A4 use hereby permitted shall only take place within the area designated as 'Tap Room' and within no other part of the site.

Reason - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.

3. No drinking shall take place outside the part of the building specified in Condition 2, nor shall any furniture or related paraphernalia be taken outside for use by customers. The outside area at the rear of the premises shall not be used by members of the public at any time and (other than in emergencies) the rear door shall be kept permanently closed during the opening times of the premises.

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

4. The Class A4 use hereby permitted shall only be open to customers on Monday to Saturday between 11am and 6pm. All customers shall have left the premises by the defined closing time.

Reason - To protect the amenity of adjacent residents.

5. The use hereby permitted shall be restricted to the additional provision of a Class A4 drinking establishment and for no other purposes permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, and the use shall not be physically or operationally separated from the on-site brewery at any time. Should brewing operations cease, the hereby authorised use shall also cease.

Reason - To regulate any future changes of use to ensure that the amenities of the occupiers of nearby dwellings.

6. The 5min LAeq from any music or other amplified sound from within the building shall not exceed 24dBA when measured at the external boundary of any residential property.

Reason - To protect the amenity of adjacent residents.



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