

Report to the Southern Area Planning Committee

Date of Meeting	28 November 2013		
Application Number	13/04590/FUL		
Site Address	The Old George Brewery, 3 Rollestone Street, Salisbury, Wiltshire SP1 1DX		
Proposal	Change of Use from offices to form ground floor reception area, first floor restaurant/kitchen and second floor storage/staff rooms		
Applicant	Mr Bruce Cifci		
Town/Parish Council	Salisbury City		
Electoral Division	Salisbury St Edmund and Milford	Unitary Member	Cllr Dr Helena McKeown
Grid Ref	Easting: 414585 Northing: 130090		
Type of application	Full Planning		
Case Officer	Matthew Legge		

Reason for the application being considered by Committee

Cllr Dr Helen McKeown has 'called in' the application due to:

- Undue late night noise and disturbance and impact on neighbouring properties.

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission be **Granted** subject to conditions.

2. Report Summary

The main issues in the consideration of this application are as follows:

1. Application background
2. Principle of Change of Use
3. Visual Impact
4. Impact on Residential Amenity
5. Impact on Highway Safety & Sustainability

3. Site Description

3 Rolleston Street forms part of the listing for 19 and 21 Winchester Street which was previously The Old George Inn. The building has 14th century origins with 17th and 18th century rebuilding.

The building is Grade II* listed and is formed of two storeys with an attic and gabled end tiled roof. It is also located within the Conservation Area and Secondary Shopping Area of Salisbury.

4. Planning History

There is a long planning history for this site. The following is considered to be most relevant to this current application:

13/00373/FUL: Change of Use from offices to form ground floor reception area, first floor restaurant/kitchen and second floor storage/staff rooms. REF (for refusal reason, see body of report)

13/00374/LBC: Change of Use from offices to form ground floor reception area, first floor restaurant/kitchen and second floor storage/staff rooms. REF (for refusal reason, see body of report)

5. The Proposal

Permission is sought to change the use of the premises from offices to a restaurant. The ground floor will be converted to form a reception area while the first floor will form a restaurant area with kitchen to the rear, and the second floor will form a storage area and staff rooms.

6. Planning Policy

Salisbury District Local Plan policies G2, CN3, CN5 & CN8 as saved within Appendix C of the Adopted South Wiltshire Core Strategy.

South Wiltshire Core Strategy Core Policy CP5

NPPF

7. Consultations

Salisbury City Council:

Support

Wiltshire Council Highways Department:

No objection

Wiltshire Council Environmental Health:

No objection subject to conditions

Wiltshire Council Conservation:

No objections

Wiltshire Council Building Control:

None received

English Heritage:

No comment

Wiltshire Fire & Rescue Service:

General comments

8. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

24 letters of objection were received (from 19 Households). The main comments were:

- Concern over proposed noise mitigation being actually constructed and maintained.
- Additional light pollution and smell pollution from the restaurant
- Restaurant customers, delivery drivers and restaurant staff would park on both sides of Rollestone Street, again generating noise until very late in the evening.
- Customers at the restaurant would gather outside and smoke and chat. This would be an unwelcome sight to those of us who live opposite and would be noisy too.
- The proposal is for a restaurant to open from midday to 11:00pm at night every day of the week including Sundays and Bank Holidays. This would generate unacceptable noise and disruption until very late in the evening.
- Currently there are no restaurants or bars on Rollestone street. It consists of offices, a doctors surgery & residential dwellings. A restaurant would radically alter the nature of the street for the worse.
- The restaurant windows will look straight into the windows of the apartments opposite, in Three Cuppes Lane, so privacy will be lost.
- There will be increased traffic coming and going until late at night, also the problem of deliveries being made to the restaurant in a narrow road which already suffers congestion.
- The noise caused late at night by customers would impact on local residents as would the light pollution from the restaurant and smells and odours extracted from the kitchens
- We have problems in this area with a lot of antisocial behaviour so a curry restaurant that sells alcohol from 12 am till 11pm can only bring in more.
- Loss of property value.
- Concern over anti social behaviour and illegal activity

1 letter of comment has been received.

- Confirmation sought that another acoustics assessment will be completed once the build has been completed.

1 letter of support has been received from Wessex Property Consultants Ltd.

- Comments that the property has been vacant since October 2009 and has been unsuccessfully marketed as office space since then.

9. Planning Considerations

9.1 Application background

This application has been submitted following the refusal of the recent applications 13/00373/FUL and 00374/LBC.

The differences with this application relates to the level of information and nature of extraction system details and location of external vent openings. Also two of the first floor windows located within the elevation facing Rollestreet will now be fixed shut and obscure glazed. These windows will serve the commercial kitchen.

The reason for the previous refusal reason is as follows:

“The site is located in very close proximity to residential flats in what has largely been a quieter residential area of the city located away from the night time economy and adjacent to an office building. The proposed change of use to a restaurant is considered to cause significant detriment to the amenity of the occupiers of adjacent properties by reason of the noise and odour from the extraction system; and noise from the night time activities such as that generated by a commercial kitchen activity, music, and noise from customers coming/going and congregating outside to smoke. Therefore the proposal is judged to be contrary to policy G2 of the Salisbury District Local Plan as saved within the Adopted South Wiltshire Core Strategy, and the guidance contained within the National Planning Policy Framework, in particular paragraph 123.”

9.2 Principle of Change of Use

Policy CP5 states that applications resulting in the loss of employment should only be approved if the proposal will generate the same number or more jobs; it would facilitate the use of a greater part of the site for employment; it is not suitable for continued employment use due to the detriment to the environment or amenity of area; or there is evidence to show that the site is no longer viable for employment use.

A letter from the Owners of the application property state that the property has been vacant since January 2011 and marketed as office space with local agents. The Owners confirm that this property has received no noticeable interest (during the publicity period) other than from the current Applicant. While the proposal would result in the loss of office space within the city, it is a small space which is not particularly suited to modern office use due to being listed and comprised of small rooms on the first and second floor. In addition a restaurant use is likely to result in a similar number of jobs and therefore it is considered difficult to argue that the proposal would be contrary to CP5.

While there are currently no bars or restaurants located within Rollestone Street, the site is located within the city centre and is close to pubs and restaurants in Winchester

Street, making it difficult to argue that such a use would be inappropriate even if there are other premises available in Salisbury which already have the benefit of A3 use.

9.3 Visual Impact

The only external works are a mechanical extract duct through the roof to the rear and some signage to the front elevation (which is not the subject of this application). The duct will largely be hidden from the public realm being located to the rear, which is only visible from the service courtyard. Therefore the proposal is not considered to be visually detrimental to the surrounding Conservation Area.

9.4 Impact on Residential Amenity

There is a block of 21 flats directly across Rolleston Street and a large number of objections have been received from the residents on the grounds of noise, traffic, parking, disturbance, odour and loss of privacy. There are also some residential units in Winchester Street and further up Rolleston Street.

The recent refusal (which is a materially similar application) referred to:

“...The proposed change of use to a restaurant is considered to cause significant detriment to the amenity of the occupiers of adjacent properties by reason of the noise and odour from the extraction system; and noise from the night time activities such as that generated by a commercial kitchen activity, music, and noise from customers coming/going and congregating outside to smoke...”

Following the recent refusal this application has received further information and an amended scheme to provide air extraction/filtration from the kitchen. A Wiltshire Council Public Protection officer having reviewed the information has commented;

“...The noise assessment provided is satisfactory on the basis that the ventilation system is designed, installed and maintained as per the acoustic report and information submitted. I would also anticipate that this requirement will also be subject to an appropriate condition (on the basis that satisfactory information on the other questions above is provided)

With respect to other aspects of noise impact this application specifically relates to a restaurant and I am commenting on that basis only. Therefore I have commented on the basis that loud music noise would not be anticipated for this kind of use.

With respect to noise from people on the street I am mindful that this is a town centre location (albeit a relatively shielded one), is located on a road junction and that the premises is of a modest scale. In light of these factors and on reflection we don't expect this issue to be especially problematic. Obviously appropriate management and supervision practices, which we would expect responsible food businesses to implement in any respect, will be required. I should be clear that these comments are based on the premises closing to the public at 23:00. Given the proximity of the dwellings opposite this is a reasonable closing time in the town centre and I would have significant concerns about it opening any later. On the basis that other issues are resolved I would also expect to recommend a condition limiting the opening times of the restaurant to those listed on the application form...”

As a result of the above comments, Officers considered that the amended extraction system is now acceptable and will limit harm (which could otherwise result by virtue of the fumes, odour and noise from the extraction unit) to the amenity of the neighbouring dwellings. Officers are also aware that such units need to be continually maintained and a Wiltshire Council Public Protection Officer has added further comments:

“...I do not have a sufficient basis for recommending refusal of the application on this basis at this time should it become apparent after the development comes into operation that those living or working nearby are suffering a nuisance this department will take the necessary action against the business operator to resolve the problem under the provisions of the Environmental Protection Act 1990 and/or Licensing Act 2003. Needless to say action to retrospectively resolve any problems of this kind are likely to cost more – both financial and interruption to the operation of the business – than introducing a robust odour control system at the outset. This email will be kept for our records and will be directly relevant should any such action be required in the future...”

It is clear that if in the future the extraction system which is presented as part of this application is not maintained in a proper or responsible manner then such matters can be resolved under the provisions of the Environmental Protection Act 1990 and/or Licensing Act 2003. Given the no objection comments received from Wiltshire Council Public Protection, officers consider that this amended application now satisfies concerns as raised within the recent Local Authority refusal reason.

In addition, the LPA is able to impose a condition which can be added to any approval to prevent or limit the playing of amplified music thus further mitigating towards the recent refusal reasons.

With regard to the possibility of overlooking from diners of the restaurant, while the concern of the residents of the flats is understood, as the windows are already there, it is difficult to substantiate a reason for refusal on these grounds. For the same reasons the increased amount of light emitting from the building is difficult to object to, particularly as it is a city centre location with street lighting, limiting the additional impact from the windows at night.

This application has proposed to obscure glaze and fix shut the two windows (facing the opposite flats) which serve the high activity area which is the kitchen and as such there would be no chance of these windows being opened thus no further noise and or odour will be omitted from these windows.

While the concern raised by third parties with regard to groups of people congregating nearby to smoke and chat is understood, and mentioned as part of the recent refusal reason, Officers recognise that this is a city centre location, it would be very difficult to reiterate such a reason for refusal as the Local Planning Authority has received the following comments from the a Wiltshire Council Public Protection Officer:

“...With respect to noise from people on the street I am mindful that this is a town

centre location (albeit a relatively shielded one), is located on a road junction and that the premises is of a modest scale. In light of these factors and on reflection we don't expect this issue to be especially problematic..."

Officers therefore on balance consider that the concern over night time activities resulting from the new A3 use could not now be substantiated into a defensible refusal reason.

Conditions are added to limit the hours of use and times of deliveries in order to minimise disruption to nearby properties.

9.5 Impact on Highway Safety & Sustainability

No car parking will be provided for customers or staff but as the current use as offices does not allow for off-street parking, the proposed use is not considered by Highway Officers to worsen the situation. A Wiltshire Council Highway Officer has commented:

"The site is within a city centre location and within easy walking distance of public transport and other local facilities thus minimising the need for a private car. It is considered that the development proposed will not have any significant impact on highway safety and I therefore recommend that no highway objection be raised to it."

The site is located in the city centre which is well served by public transport and public car parks. On this basis Highway Officers do not object to the proposal. Although third parties have raised concern that the spaces on Rolleston Street will be more difficult to use, there are a very limited number of spaces which are short stay, pay and display and the proposed use is not considered to affect the availability of these any more than the previous office use might.

10. Conclusion

On balance, it is considered that the proposal has now overcome the reasons for the recent refusal of application 13/00373 and is acceptable in principle and will not be visually detrimental to the Conservation Area, will have minimal impact on residential amenity, and will not have a detrimental impact on highway safety.

Recommendation

Planning Permission be Approved subject to conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

1410/P07	Submitted on 26/09/13
1410/P08 Rev A	Submitted on 26/09/13
1410/P09 Rev B	Submitted on 26/09/13
1410/P10 Rev E	Submitted on 26/09/13
Details of odour and noise control	Submitted on 26/09/13

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

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment)(England) Order 2005 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case.

- 4 Deliveries to and from the site shall be limited to the hours of 08:00 and 18:00 on Mondays to Fridays, 09:00 and 18:00 on Saturdays, and at no time on Sundays and Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 5 There shall be no customers/members of the public on the premises outside the hours of 12:00 (midday) and 23:00 on Monday – Saturday and on 12:00 to 18:00 on Sundays and public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 6 No sound-amplifying equipment, loudspeaker, shall be installed/operated within the premises hereby approved or its curtilage.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 7 The two first floor sash windows (serving the kitchen) within the eastern elevation facing Rolleston Street shall be glazed with obscure glass only and permanently fixed shut prior to the first use of the A3 development hereby permitted and shall be permanently maintained in perpetuity.

REASON: In the interests of residential amenity and privacy.