

## Southern Area Planning Committee

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### MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 14 DECEMBER 2023 AT THE PUMP ROOM - THE OLD FIRE STATION ENTERPRISE CENTRE, 2 SALT LANE, SALISBURY, SP1 1DU.

#### **Present:**

Cllr Andrew Oliver (Chairman), Cllr Sven Hocking (Vice-Chairman), Cllr Richard Budden, Cllr Brian Dalton, Cllr George Jeans, Cllr Ian McLennan and Cllr Bridget Wayman

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#### 185 **Apologies**

Apologies were received from:

- Cllr Charles McGrath
- Cllr Rich Rogers
- Cllr Nabil Najjar
- Cllr Sam Charleston

#### 186 **Minutes of the Previous Meeting**

The minutes of the meeting held on 27 July 2023 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes.**

#### 187 **Declarations of Interest**

There were no declarations.

#### 188 **Chairman's Announcements**

The Chairman explained the meeting procedure to the members of the public.

#### 189 **Public Participation**

The committee noted the rules on public participation.

#### 190 **Planning Appeals and Updates**

The committee received details of the appeal decisions as detailed in the agenda.

It was;

## **Resolved**

**To note the appeals report.**

191 **Application Number: PL/2023/06801 - Second Floor, 31 Brown Street, Salisbury, SP1 2AS**

### Public Participation

Mr Tony Allen (Agent) spoke in support of the application.

The Senior Planning Officer, Julie Mitchell introduced a report which recommended that the application for Change of use from office/medical use (Class E) to a dwelling (Class C3) be refused. Key details included the principle of development, impact upon residential amenity, Highways (parking), visual and heritage impact and the River Avon SAC catchment.

The proposed unit was for a 2 bed apartment which did not include a car parking space.

It was noted that there was no objection in principle to the residential use, the objection related to the bedroom window as its location was adjacent to an outside licensed entertainment property.

The application did not include mechanical ventilation which would enable the windows to be fixed closed.

Members of the committee then had the opportunity to ask technical questions of the officer. Details were sought on the operating hours of the licensed premises next to the application site, and the impact that future noise complaints may have on that business.

It was clarified that noise complaints were not dealt with within the remit of the planning process, however under statutory nuisance legislation the Licensing Authority was duty bound to investigate noise complaints and where applicable take action on the operator of a business to remedy the issue, this could be in the form of additional condition applied to an operating licence or even closure.

As set out in the report, a satisfactory conclusion around the conflict of amenity had not been established which would protect the proposed development site from noise associated with the surrounding business premises. A noise protection fence erected through a previous application was in place to protect residents in another location, across the courtyard from the application site and was therefore not intended to or sufficient enough to provide protection to the application site.

The Officer noted that background noise was of a non-specific nature, noise which could not be pinned to one thing or another.

The Officer clarified that on residential development, conditions were not usually applied which restricted the opening of windows, as it was considered not a standard of amenity to be appropriate. A condition for mechanical ventilation could be applied if the Committee was minded to approve the application, however a scheme for this would need to be provided and approved under delegated authority to the relevant officer.

caused noise and receive complaints in relation to noise. There were no known instances of noise complaints in relation to the application site. Clarity on any prior instances which could have set a precedent in the area was provided, in that there had been other night clubs in the city centre which had caused noise and received complaints in relation to noise. There were no known instances of noise complaints in relation to the application site since the erection of the acoustic screen.

The Committee was advised that there was no provision in planning such as 'buyer beware' which could be applied to an application to prevent future residents from being able to make noise complaints, if they knowingly moved into a dwelling which was in close proximity to an entertainment venue playing outside music.

Members of the public then had the opportunity to present their views to the committee as detailed above.

The unitary division member, Councillor Paul Sample JP was not in attendance. Cllr Brian Dalton read a statement on his behalf which was in support of the application and noted the historic mix of commercial, residential and entertainment premises.

The need for smaller residential units within the city was emphasised, in line with government targets for creating more residential properties from redundant office and commercial and retail buildings.

Examples of other similar locations around the city where there was a mix of residential and other use were outlined in order to demonstrate that residential properties could mingle quite happily with busy pubs and music venues without complaint.

Cllr Sample believed that for the majority of the time, even with the windows open, there would be an acceptable residential environment and on very few occasions when music was played, the windows could be closed.

Cllr Ian McLennan then moved a motion for debate, of refusal, in line with Officer recommendation. This motion was seconded by Cllr Bridget Wayman.

A debate followed where the mix of residential and entertainment premises was discussed.

Legal advice was sought on whether any condition could be applied which would eliminate the risk of noise complaints from future residents. It was

confirmed that it was not possible to block residents from having a right to complain.

The Committee discussed the process followed when noise complaints were received and the impact such complaints may have upon the entertainment premises which had previously been granted planning permission.

The issue of noise was discussed in relation to what level of noise was considered acceptable for residents, with reference to the comments from public protection that those occupying the flat should not be compelled to have their windows close to avoid noise.

The Committee also noted that noise travelled through walls and solid materials not just windows and that the proximity of the entertainment venue with its outside music may at times be considered a substantial noise problem for whoever lived in the flat.

The impact on the entertainment business of future noise complaints arising from residents of the flat were considered on balance with the benefit of an additional residential unit in the city.

At the close of debate, the Committee voted on the motion of refusal in line with Officer recommendation.

It was;

### **Resolved**

**That planning permission for application PL/2023/06801 be refused, in line with Officer recommendation for the following reasons:**

**The layout of the proposed residential unit would have a bedroom with a large window on the rear elevation of the building, positioned immediately above the noise reducing barrier to the adjacent outdoor hospitality venue and facing the existing licenced premises at 29 Brown Street which includes an external staircase and the proximity and relationship of the proposed residential use is considered incompatible with the nature of established commercial uses in the immediate vicinity of habitable rooms.**

**The proposal has failed to satisfactorily demonstrate that future occupiers of the proposed residential accommodation would not be adversely affected by noise and disturbance from activity at established commercial premises and therefore fails to demonstrate a satisfactory standard of amenity, contrary to Policy CP57 of the Wiltshire Core Strategy and the aims of the National Planning Policy Framework, in particular paragraphs 119, 124, 126 and 130, which collectively require a high standard of amenity for existing and future occupiers.**

There were no urgent items

(Duration of meeting: 3.00 - 3.55 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@wiltshire.gov.uk)

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