

**REPORT OUTLINE FOR AREA PLANNING COMMITTEES****Report No.**

<b>Date of Meeting</b>	5 <sup>th</sup> April 2018
<b>Application Number</b>	17/08832/FUL
<b>Site Address</b>	40 Blue Boar Row Salisbury Wiltshire SP1 1DA
<b>Proposal</b>	Alterations to shopfront and change of use of ground floor from A3 use (Restaurant) to A4 use (Bar) and part first floor from B1 use (Office) to A4 use (Bar).
<b>Applicant</b>	Mr Godfrey Russell - Revolution Bars
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	ST EDMUND AND MILFORD – Cllr Hoque
<b>Grid Ref</b>	414414 130103
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Christos Chrysanthou

**Reason for the application being considered by Committee**

The application has been called in to committee by Councillor Hoque for the following reasons –

The Scale of development  
The visual impact upon the surrounding area  
Relationship to adjoining properties  
Design – bulk, height, general appearance  
Environmental/highway impact

**1. Purpose of Report**

To consider the above application and the recommendation of the Head of Development Management that planning permission should be APPROVED.

**2. Report Summary**

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of development
- Design and visual impact on the conservation area
- The Impact on neighbouring amenity

### **3. Site Description**

The application site is located within Salisbury city centre with its frontage on Blue Boar Row facing Market Place. Its current use is a restaurant with offices above and is operated by Pizza Hut. The rear of the property faces onto Chipper Lane which has a variety of properties along it including residential and commercial. The whole site is located within the Salisbury City conservation area.

### **4. Planning History**

Various planning and advertisement consents relating to signage at the front of the site but no significant applications that would affect this development.

### **5. The Proposal**

Planning permission is sought for 'Alterations to shopfront and change of use of ground floor from A3 use (Restaurant) to A4 use (Bar) and part first floor from B1 use (Office) to A4 use (Bar).

### **6. Planning Policy**

#### National Planning Policy Framework

Section 1 Achieving Sustainable Development

Section 2 Ensuring the vitality of town centres

Section 7 Requiring good design

Section 12 Conserving and enhancing the historic environment

National Planning Policy Guidance (NPPG) Noise

Noise Policy Statement for England (NPSE)

#### Wiltshire Core Strategy

Core Policy 1 Settlement Strategy

Core Policy 2 Delivery Strategy

Core Policy 20 Spatial Strategy: Salisbury Community Area

Core Policy 38 Retail and Leisure

Core Policy 57 Ensuring high quality design and place shaping

Core Policy 58 Ensuring the conservation of the historic environment

Saved Policies S1, S2, S3 Retail

Salisbury City Conservation Area Appraisal

### **7. Summary of consultation responses**

#### City Council

Initially Salisbury City Council supported the application but following the submission of new reports and reconsultation Salisbury City Council stated the following -

*SCC object to this application in light of new reports being submitted since the original consultation. Its objections are based on the noise pollution and the measures outlined in the report look to be inadequate for the residents living in close quarters.*

## WC Conservation

Initially the councils conservation officer objected to the proposed front and rear elevations as proposed particularly to sliding timber doors that were proposed across the whole of the ground floor elevation. The plans have since been amended and as such the conservation officer has stated the following in relation to the proposed plans -

*I have no outstanding objections to the proposals.*

## WC Public Protection

*We are in a position where we have two competent acousticians challenging each other with regards to technicalities of the report and obviously representing different clients from opposite perspectives. I have put a response together to Mr Gosling ( noise consultant to the neighbour) with regards to controlling Music Noise Levels.*

- 1. We are aware of the NR20 criterion and as you say, this was for new residential development being introduced to the source.*
- 2. In our professional opinion, the recommended external criteria (at 1m from residential windows) of 41dB LAeq (5mins)/NR35 before 23:00hrs and 33dB LAeq (5mins)/NR28 are totally commensurate and contextual with the locality, the scenario and the ambient/background noise levels.*
- 3. Internal levels (through an open window) before 23:00 hrs in living spaces should be c. 31dB/NR25 and c.23dB/NR18 after 23:00hrs in bedrooms.*
- 4. The recommended levels are, in our experience, relatively low in the context of an urban/commercial setting in close proximity to residential properties.*
- 5. Having visited the site, I am also confident that music source noise levels will be contained adequately within the room allocated for music and that the criteria will be comfortably met.*

## Beer Garden

*Whilst the proposed beer garden is likely to introduce a 'change' in residential amenity that does not currently exist, from our perspective, this impact is impossible to quantify in the same way as the music can be. It would therefore seem to be a matter for the planning officer to consider in 'planning' terms as to whether the impact (conflict in uses) would be so significant as to warrant a refusal. I will be recommending that consideration is given as a minimum to a time restriction on the use of the beer garden to differentiate day time from evening or evening from night time. This position may change as each of the applicants is contesting the degree of impact from the beer garden and it maybe that the applicant can give additional consideration to mitigating the impacts. I would suggest that we meet up to discuss this prior to you making your final decision.*

*In addition I will be recommending an informative to the applicant to manage the beer garden robustly would also seem prudent if approval is granted.*

## **8. Publicity**

The application was advertised by site notice, newspaper advert and neighbour consultation letters. Further consultation followed the submission of revised drawings and additional information.

### Summary of neighbour/third party representations

1 letter of no objection/support has been received and 11 letters of objection have been received siting the following material planning considerations:

#### Objections

- Loss of amenity to neighbouring dwellings, notably the adjacent dwelling at no26 Chipper Lane, in particular the impact of noise and nuisance/ disturbance.
- Would encourage antisocial/ disorderly behaviour thereby straining police resources
- Operating hours are too late
- Impact on heritage assets

#### Salisbury civic society

*While the Society does not normally become involved with general issues of noise in the city centre, this proposal would have a pronounced impact on the residential property at the rear, at 26 Chipper Lane. The change from a service yard at the rear of 40 Blue Boar Row to an external bar area, open until 2a.m. Monday to Saturday and 1a.m. on Sundays and bank holidays, would quite clearly damage the amenities of the flat in Chipper Lane.*

*The Society is all in favour of enhancing the commercial vibrancy of the city centre, but only if other existing uses do not suffer thereby. In particular, the impact of this proposal at the rear would seem not to meet this condition, and the Society therefore has to object to this aspect of the application.*

#### Neighbour (26 Chipper Lane)

*For the avoidance of doubt, change of use from restaurant to a night club style venue (late night bar), the overall noise from the venue plans as a whole, the lateness of the music hours and opening hours, the requested access to allow patrons to enter/exit/queue to and from Chipper Lane which was previously a quiet side street in the evening, and the change of use of the rear car park into a patron area are particularly firmly objected to, due to the extreme impact the plans present to the amenity of us as Salisbury residents immediately next door. (extract from email sent to the officer)*

#### No objection/support

- Quality establishment and will improve the offering for residents and visitors alike

## **9. Planning Considerations**

### Principle of development

The application proposes the change of use of the ground floor from A3 use (Restaurant) to A4 use (Bar) and part first floor from B1 use (Office) to A4 use (Bar). The remaining part of the first floor and the upper floors would be retained as offices.

The application site is located in the central shopping area and conservation area in the heart of Salisbury city with its primary frontage on Blue Boar Row. The current use of the site is a restaurant and is currently occupied by Pizza Hut.

The NPPF lists bars and pubs as a main town centre use. Section 2 of the NPPF promotes competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres.

A city centre needs to provide facilities for all ranges and ages of people and to compete with other neighbouring towns and cities the offer in the city centre must remain fresh and new. The substantive investment proposed by this application will provide a new offer in a new location that Salisbury does not have and will help with continued investment in the town centre.

The proposed use of the site as a bar is considered to be a compatible use with the city centre location and in accordance with the NPPF and the Core Strategy the proposal is considered to be acceptable in principle.

#### Design and visual impact to the conservation area

Core Policy 57 states a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

Core Policy 58 states that designation of a conservation area or listed building does not preclude the possibility of new development. In considering applications for new development, the council will seek to ensure that the form, scale, design and materials of new buildings are complementary to the historic context.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The façade of the building on Blue Boar Row would be refurbished consisting of a general redecoration and repairs with no new windows or material alterations. A new timber shopfront would replace the existing which appears to be sympathetically designed (following the submission of amended plans). The proposal also consists of various internal

alterations and utilising the existing rear courtyard as a beer garden area. New timber fixed gates with an escape door are proposed to the rear elevation.

In having special regard to the desirability of preserving and enhancing the appearance and character of the Conservation Area and the setting of nearby Listed Buildings, the Conservation Officer has considered the proposal and the amended plans and has responded with no objections to the proposal.

Officers consider the design and visual aspect of the development proposal to be acceptable. As the proposal would enable the façade to be refurbished complete with a new shopfront it is considered that there would be tangible improvements to the building which would enhance the appearance and character of the conservation area.

#### Impact on neighbour amenity

Core Policy 57 requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF's Core Planning Principles (paragraph 17) includes that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'

- Noise

NPPG Noise – Para: 006 states that 'some commercial developments including fast food restaurants, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity.'

Wiltshire councils Public Protection officers have carefully considered the proposal, including the independent noise assessment submitted on behalf of the neighbour, in terms of its impact to neighbour amenity particularly the impact of noise on the neighbouring dwelling. The public protection officer has visited the site and considers that the music source noise levels would be contained adequately within the premises.

The installation of a front lobby arrangement and automatic closed doors, in addition to keeping external windows and doors closed when amplified or live music is being played would ensure internal music/noise is contained within the premises.

In addition a noise limiter would be installed within the premises and would be set up with the public protection officer present. To ensure that projected noise levels are achieved and frequency bands are controlled to minimise noise levels in order to mitigate the impact on neighbour amenity, the applicant has agreed to undertake post completion testing of the music environment in addition to a post completion noise monitoring exercise which would be conducted by a suitably competent acoustic professional.

- Use of beer garden area

With music/indoor noise adequately kept within the premises, the proposed beer garden area is considered to be the main source of new noise that could impact on neighbour amenity. The proposed beer garden would utilise the existing courtyard area to the rear of the site and adjacent to the neighbouring dwelling 26 Chipper Lane.

Following discussions with Wiltshire councils public protection officers and the Local planning authority, the applicant has agreed to close the beer garden area at 21:00 on Sunday – Thursday and at 22:00 on Friday and Saturday. The outside area (beer garden) to the rear of the premises shall not be used for patrons (including smoking) after these hours.

In officers view the combination of the restricted hours of use of the beer garden and the implementation of the noise mitigation measures proposed in the applicants acoustic reports are considered to be sufficient to ensure noise levels are kept to a minimum in accordance with guidance contained within the NPPG.

- External lighting

No details of external lighting have been submitted however it is acknowledged that external lighting would be required for the beer garden to be operational during the evening. A scheme of external lighting would be required for approval by the LPA prior to installation. In the interests of the amenities of the area any external lighting would not be illuminated outside the hours of 21:00 from Sundays through to Thursdays and 22:00 on Friday and Saturdays.

- Use of access on Chipper Lane

There would be an escape door within the new timber gates however this would not be used by patrons for access into the premises and would only be used in emergencies. Patrons of the bar would only be able to access the premises via the main entrance on Blue Boar Row. This is to ensure that patrons do not congregate or loiter outside the front door of the neighbouring residential dwelling.

- Deliveries

There is a loading bay located on Chipper Lane in front of the launderette and neighbouring dwelling (no26). Access to the site for deliveries would be gained from the retained corridor located next to the rear timber gates. In the interests of the amenity of the area deliveries to the site would be restricted to the hours of 08:00-18:00 Monday to Friday and between 08:00-13:00 Saturdays and none on Sundays and Public Holidays.

- Operating hours

The bar is proposed to be open during the hours of 10:00- 02:00 Monday – Friday and 10:00-01:00 Sunday and Bank Holiday. Whilst officers note most of the pubs around Market Place close at the latest between 23:00 and 00:00 there are examples of pubs and bars within the city centre that remain open until 02:00/ 03:00 (e.g. Yoyo, Queens Arms). As the

site is located in the heart of the city and given that a bar would be expected to remain open late at night, officers consider the opening hours to be appropriate for the proposed use.

## 10. Conclusion

The proposed change of use would ensure the site is kept in use thereby continuing to contribute to the vitality of the city centre and the night-time economy. The design and visual aspect of the proposal would result in improvements to the shop frontage and façade of the building thereby enhancing the appearance and character of the conservation area.

In planning policy terms, the proposed use of the site as a bar would be compatible with the city centre location. It is however acknowledged that there are residential properties adjacent to and in close proximity to the site.

With music/indoor noise kept within the premises, the proposed beer garden area is considered to be the main source of new noise and would be closed at the latest time of 22:00 to ensure sleep activities of neighbouring residents are not disrupted. Further noise insulation of the garden area would be provided by a solid insulated canopy roof and acoustic timber panelling to the exterior walls. Any exterior lighting would also be switched off when the beer garden is closed.

In the context of the city centre location and in line with national planning policy guidance on noise, officers consider that the combination of restricted hours of use of the beer garden and the proposed mitigation measures which would be secured by condition would minimise the impact of noise to neighbour amenity.

The letters of objection from local residents and third parties have been considered in full and having regard to the material considerations and all matters raised, the proposed change of use is considered to accord with government guidance contained within the NPPF, NPPG and relevant policies contained within the adopted Wiltshire Core Strategy, therefore the LPA recommends the application is approved subject to appropriate conditions.

## RECOMMENDATION

Approve subject to the following 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 and documents:

Location Plan Date rec. 15/09/17

Drawing No. 101/C Plans as Proposed (Revised) Date rec. 02/02/18

Drawing No. 102/B Elevations as Proposed (Revised) Date rec. 02/02/18

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

3) External Music noise level (MNL) shall not at any time, exceed the following levels: LAeq, 5 min 40dB,  
Leq, 5 min 55dB in the 63Hz octave frequency band,  
Leq, 5 min 50dB in the 125Hz octave frequency band,  
(when measured at 1m outside the façade of the nearest noise sensitive residential property;  
26 Chipper Lane).

Beyond 11pm on any day the external music noise levels shall not exceed the following levels:

LAeq, 5 min 25dB,  
Leq, 5 min 45dB in the 63Hz octave frequency band  
Leq, 5 min 40dB in the 125Hz octave frequency band  
(when measured at 1m outside the façade of the nearest noise sensitive residential property;  
26 Chipper Lane).

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.

4) The premises shall not be occupied until a written scheme for post completion noise measuring has been submitted to and approved in writing by the local planning authority. The written scheme shall provide details of how compliance with the sound levels in condition 3 will be demonstrated and include times and locations at which noise monitoring will take place and the equipment that will be used to take measurements.

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) The premises shall not be occupied until a post completion noise monitoring exercise has been completed in line with the agreed scheme in condition 4 demonstrating the Music Noise Levels in condition 3 have been achieved. The scheme shall be designed by a suitably competent and qualified person. The results of the noise monitoring exercise shall be submitted and approved by the local planning authority.

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) The councils Public Protection officers shall be invited to attend the setting of the noise limiter controlling music noise levels inside the premises. The exercise will be undertaken by a suitably qualified acoustic engineer through making observations from the boundary with the neighbouring residential property. Where Music Noise Levels can be detected the frequency bands will be adjusted to reduce the levels ensuring that the music levels achieve the levels specified in condition 3 and ensuring there is no loss of amenity to the nearest noise residential property.

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) All external windows and doors shall be kept closed at all times when amplified or live music is taking place except when being used for access and egress.

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.

8) All building services plant shall be so sited and designed in order to achieve a Rating Level of -5dB below the lowest measured background noise level, determined at the nearest noise sensitive receptor.

Measurements and assessment shall be carried out in accordance with BS4142: 2014.

REASON: In the interests of the amenity of the area.

9) The noise mitigation measures proposed by the applicant both in the original noise report dated 1st December 2017 (171107-R001) and addendum to the original report dated 2nd February 2018 (171107-R003) shall be implemented in full prior to the use of the outside area.

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.

10) The outside area (beer garden) to the rear of the premises shall not be used for patrons (including smoking) after 21:00 Sunday to Thursday and 22:00 on Friday and Saturdays.

REASON: In the interests of the amenity of the area.

11) The door to the rear of the premises that opens out onto Chipper Lane shall only be used by members of the public for access and egress in the event of an emergency.

REASON: In the interests of the amenity of the area.

12) The premises shall not be occupied until a scheme of works for the control and dispersal of atmospheric emissions, and in particular odours and fumes from cooking processes has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is first brought into use and shall be maintained in effective working condition at all times thereafter.

REASON: In the interests of the amenity of the area.

13) No external lighting shall be installed on site until a scheme of external lighting, including the measures to be taken to minimise sky glow, glare and light trespass, has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall be designed so as to meet the criteria for Environmental Zone E2, as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. The approved scheme shall be implemented in full before the development is first brought into use and shall be maintained in effective working order at all times thereafter.

The approved external lighting shall not be illuminated outside the hours of 21:00 Sundays to Thursdays and 22:00 on Fridays and Saturdays.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

14) No deliveries shall be made to or collections made from the development hereby approved except between the hours of 08.00 and 18:00 Monday to Friday 08:00 and 13:00 Saturdays and none on Sundays and Public Holidays.

REASON: In the interests of the amenities of the area

15) No bottles or refuse shall be placed outside in the patio area except between the hours of 08.00 and 18:00 Monday to Friday; 08.00 and 13:00 Saturdays and none on Sundays and Public Holidays.

REASON: In the interests of the amenities of the area

16) No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: In the interests of the amenities of the area

17) The use hereby permitted shall only take place between the hours of 10:00- 02:00 Monday to Friday and 10:00-01:00 Sunday and Bank Holiday.

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.

#### Informative

This permission does not permit the display of any advertisements which require consent under the Town and Country Planning (Control of Advertisements) (England) Regulations, 2007 or under any Regulation revoking and re-enacting or amending those Regulations, including any such advertisements shown on the submitted plans.