

Application:	2021/0380/FUL	ITEM 5	
Proposal:	Change of use from current retail use to a wine bar (sui generis).		
Address:	Unit 2-3, Knights Yard, Gaol Street, Oakham, Rutland, LE15 6AQ		
Applicant:	Mr Christopher Nix	Parish	Oakham
Agent:	N/A	Ward	Oakham North-East
Reason for presenting to Committee:	Objections received/Chairman request		
Date of Committee:	29th June 2021		

EXECUTIVE SUMMARY

The proposed use is an appropriate for the town centre, and would contribute to its vitality and viability. Conditions are imposed to ensure that hours of use and music level is controlled, in the interest of surrounding amenity.

RECOMMENDATION

<p>APPROVAL, subject to the following conditions:</p> <ol style="list-style-type: none"> <p>The development shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.</p> <p>The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, labelled; Location Plan 1:1250 (TQRQM21081202605215), Block Plan 1:500 (TQRQM21081202808979), 401 01 (Proposed Plan).</p> <p>Reason: For the avoidance of doubt and in the interests of proper planning.</p> <p>The premises shall not be used for the purposes approved other than between the hours of 12:00 and 23:00 Monday to Saturday, and not open for customers at all on Sundays and bank holidays.</p> <p>Reason: To ensure that as far as possible the proposed use does not become a source of annoyance to the nearby residents.</p> <p>The sound from amplified or acoustic music played on the site shall be inaudible at the boundary of the nearest residential dwelling(s).</p> <p>Reason: To ensure that as far as possible the proposed use does not become a source of annoyance to the nearby residents.</p>
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Site & Surroundings

- The application site is the former Hambleton fine foods butcher/deli. It is located in Oakham Town Centre, within the conservation area, and forms part of the Knights Yard retail redevelopment site that was undertaken in the mid-2000s. The site is the ground floor unit; above the site on the first floor is Oakham Dental Studio, and no. 8 Knights Yard (Witblitz Limited and Divorce Mediation Limited)

2. Gaol Street provides a pedestrian link between the main town centre area and Tesco to the south. In the Site Allocations and Policies Development Plan Document (2014) Gaol Street and the Knight's Yard development is classed as a secondary shopping frontage.
3. Across the road from the site are residential flats/units, as well as variety of shops and businesses.

Proposal

4. The application is for the change of use of the site to a wine bar. Under the recently altered Use Class Order (2020), this would now be classed as a sui-generis use (formerly an A4 use).
5. The proposed opening hours would be; Monday-Saturday – 12:00-23:00. It is not proposed to be open on Sundays or bank/public holidays. The proposed floor plan shows capacity for 46 covers. The plans have been altered slightly during the lifetime of the application following a request from the Highway Authority for the Gaol Street doors to open inwardly.
6. A Premise Licence for the proposed use has been granted by the Licensing Authority, though it should be noted that their parameters and considerations differ from planning considerations.
7. The proposed plans are attached as an appendix.

Relevant Planning History

No relevant planning history

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 6 – Building a strong, competitive economy

Chapter 7 – Ensuring the vitality of town centres

Chapter 9 - Promoting sustainable transport

Chapter 12 - Achieving well-designed places

Chapter 16 - Conserving and enhancing the historic environment

Core Strategy DPD

CS01 - Sustainable Development Principles

CS04 - The Location of Development

CS15 – Tourism

CS17 – Town centres and retailing

CS19 - Promoting Good Design

CS22 - The Historic and Cultural Environment

Site Allocations and Policies DPD

SP5 - Built Development in the Towns and Villages

SP12 – Town centre area, primary and secondary shopping frontages

SP15 - Design and Amenity

SP20 - The Historic Environment

Oakham Neighbourhood Plan

In its draft/consultation stage and does not carry any significant weight. Notwithstanding this, the following policies are noted;

Policy 4: Town Centre and Visitor Economy

Policy 6: Built and Cultural Heritage and Character

Consultations

Oakham Parish Council

8. Unable to comment as applicant is now on the council

Highway Authority

9. No Objections if built in accordance with drawing *440-01 Proposed plan* which shows the doors opening inwards.

LCC Ecology

10. No objections. The application site is within a Swift Alert Area, where opportunities for artificial nest sites should be taken within proposed development. However, this development does not provide an opportunity for this enhancement and no new nest boxes will be required.

Public Protection

11. Given the nature of the area and in order to permit the business whilst protecting amenity of the nearby residents I would advise a condition:
 1. The sound from amplified or acoustic music should be inaudible at the boundary of the nearest sensitive (residential dwelling) which I believe are the flats opposite. Given the applicant has said they only want ambient music this allows them to check the impact and set the music simply by walking to the boundary of the residential premises and listening for it and adjusting it. This step has been used widely and is a convenient and simple way to control it rather than use more complicated and expensive acoustic equipment.
 2. To control disturbance to nearby residents and harm amenity I would advise of a closing time of 11pm. This is to prevent the disturbance of sleep to residents who currently enjoy a quiet and peaceful environment.
 3. I appreciate the concerns of the dentist. I would expect though the sound transmission from below to be minimal. However, if there is a defect which permits high sound transmission this matter should be investigated and remedied.

Neighbour Representations

12. 2 objections received from the office and dentist surgery and office above the site, on the following grounds;
 - Application should only cover the ground floor and not the first floor

- Owners of part of the back of the site, do not give consent for access to/use of that area
- Originally was not notified by the applicant of the application (certificate b)
- Loss of retail unit/contrary to local plan for development in the town centre
- Impact on highway safety
- Vehicular access to yard required 24/7
- Installation of private business CCTV would lead to a loss of privacy for surrounding businesses and local residents/GDPR risk
- Noise and disturbance resulting from use/music/vibrations heard through floor/people coming and going
- Capacity of people using site would be significantly greater than the current use
- Disruption to businesses as a result of noise/use
- Smells/litter from smoking – Dental Practice requires windows to be open due to COVID 19
- Gates to Knights Yard's inner court-yard locked at 6pm - crime/security issues arising from potential access/use to the rear of the site by patrons, as well as fire escape route
- Restrictive covenants in place
- Financial impact on maintenance costs of Knights Yards as a result of the use
- Potential use of the courtyard for the proposed use not part of the application
- Enquiring about the Alcohol designation order for Oakham (Police).
- Care Quality Commission (CQC) restriction in place for the Dental Practice as a result of COVID 19 that are likely to carry on past the 21/06 lifting of restrictions; back door to the site directly adjacent to entrance to the first floor units – conflicts with the health and safety measures in place
- Safeguarding of children and vulnerable adults risk due to the close proximity of the site to the Dental Practice
- Waste – bin area not large enough to accommodate extra bins needed for the use/smells/vermin risk
- Risk of litter/debris/broken glass in the courtyard
- Knights Yard unsuitable for a hospitality use, conflicting with the other small business uses
- No opening windows for the site – fire risk and lack of natural ventilation

13. Additionally as of 10th June, 25 statements of support have been received.

Planning Assessment

14. The main issues are:

- Principle of development
- Residential amenity/noise/nuisance
- Highways/access
- Conservation Area

Principle of development

15. Prior to the changes to the Use Class Order last year a wine bar was an A4 use, now classed as 'sui-generis'. Notwithstanding this, it nevertheless remains, in principle an appropriate use for a town centre, supported by Sections 6 & 7 of the NPPF (2019), Policies CS01, CS04, CS15 & CS17 of the Rutland Core Strategy

(2011) and Policy SP12 of the Site Allocations and Policies Development Plan Document (2014).

16. However whether this use is acceptable in this particular location would then be subject to consideration of its site specific constraints, specifically the impact upon residential amenity/surrounding uses.

Noise/Residential Amenity

17. The objections from the occupiers of the first-floor units above the site are noted, and have been given due consideration. Many of the issues raised however are private legal matters relevant to the interested parties, as opposed material planning considerations, or covered by separate legislation. Notwithstanding this, noise and hours of opening is relevant. Public Protection has considered the proposal in light of the objections received, and do not wish to object to the proposed use, subject to appropriate conditions to control the hours of opening, and noise from music played on site.
18. It is understood that the adjacent unit in Knights Yard (no. 2B) functioned as a restaurant/bar that had similar opening hours to those proposed between 2006 and 2011, before changing use to offices.
19. The applicant has stated that sound deadening insulation materials have been installed into the ceiling cavity, along with overboard ceiling and walls with sound deadening acoustic boards.
20. The applicant has not formally applied for the use of the courtyard as part of the wine bar area – the use would be restricted to the footprint of the unit. Any use of the rear courtyard would require a further change of use application, and it is understood that there are legal covenants and a management committee in place separate to the planning process that relate to the use and function of the courtyard.
21. With regard to bins, the applicant states that the amount of waste generated by the use would be likely to be considerably less than the previous use of the site as a butcher/deli, and bin emptying times have been agreed with the Licensing Authority to mitigate disturbance.
22. It is considered that the proposed use would not have a significant detrimental impact upon the residential amenities of the occupiers of adjacent properties or neighbouring uses, in accordance with the Section 12 of the NPPF (2019), Policies CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

Highway/access issues

23. The site does not have any off-street parking. Notwithstanding this, being in the town centre there are numerous public car parks within close proximity. Following comments from the Highway Authority revised plans were received to show the doors opening internally rather than externally. On this basis the Highway Authority have no objection to the proposal, which would not have an unacceptable adverse impact on highway safety in accordance with the Section 9 of the NPPF (2019).

Conservation Area

24. At the Statutory level, the Local Planning Authority is required to ensure that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area, through the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 72.
25. Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (NPPF 2019). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
26. As stated above the town centre is an appropriate location for this use. The existing frontage is not being physically altered. Signage details have not been included in the application; which would be subject to the criteria and restrictions of the advertisements regulations (2007, as amended). The proposal would not conflict with the existing character or appearance of Oakham Conservation Area, and would not be contrary to Sections 12 and Section 16 of the NPPF (2019), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014).

Crime and Disorder

27. It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

28. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

Conclusion

29. Taking the above into account, it is considered that the proposal is appropriate for its context and is in accordance with the NPPF (Sections 6, 7, 9, 12 & 16 of the NPPF (2019), Policies CS01, CS04, CS15, CS17, CS19 & CS22 of the Rutland Core Strategy (2011) and Policies SP5, SP12, SP15 & SP20 of the Site Allocations and Policies Development Plan Document (2014).