



Your ref: 16/0845  
Our ref: 38222  
DD: [REDACTED]  
E: [REDACTED]  
Date: 09/01/17

Development Control  
Blackpool Council  
Municipal Buildings  
Corporation Street  
Blackpool  
FY1 1NF

Dear Miss P Greenway

**Erection of five-storey building comprising 2 no. bar/restaurants at ground floor level (Class A3 & A4 uses) and 15 no. self-contained flats on the upper floors, with associated vehicular accesses from Bolton Street to car parking facilities for 16 vehicles, with refuse storage and cycle parking to the rear (Outline Application) at 429-437 Promenade, Blackpool, FY1 6BQ (Council ref: 16/0845).**

On behalf of our client, Stonegate Pub Company, who have two public houses in the vicinity. We are instructed to make representations against the above application for the reasons set out below.

## 1.0 The Dutton Arms

1.1 The Dutton Arms at 441 South Promenade, Blackpool operates as a very successful, large capacity public house providing leisure and entertainment to local residents over many years. It opens until midnight on Fridays and Saturdays and until 23:00 on all other days of the week.

## 2.0 Yates Pub

2.1 The Yates Pub at 407-411 The Promenade, South Shore operates as a very successful, large capacity leisure and entertainment venue which has been established for many years. It opens until 02:00 in the morning on Saturdays and 01:00 in the morning on Fridays and until 23:00 on all other days of the week. The pub hosts numerous live DJ events, promotional evenings and 'Hen & Stag' parties throughout each week. There are several other very successful and well established leisure and entertainment venues in the immediate vicinity.

## 3.0 Local Considerations

3.1 The accompanying Planning Statement and Design and Access Statement for this application state that a previous permission for a similar scheme exists under reference 13/0497 which has now expired. While it is considered that previous permissions provide a starting point for an application it by no means implies

another permission will automatically follow. Each application must be determined on its own merits and consideration must be given to the fact that a new Core Strategy 2012-2027 was adopted in January 2016.

- 3.2 The application site; No.429-437 Promenade is located roughly equidistance between both of the above premises, namely 30 metres north of The Dutton Arms and 40 metres south of the Yates Pub. The application site sits outside any defined District or Local Centre but does reside within the Resort Core.

#### **4.0 Planning Policy Considerations and Issues Arising**

##### **Residential Accommodation**

- 4.1 Due consideration has to be given to existing uses and businesses on adjacent sites. Indeed, the National Planning Policy Framework (NPPF) requires that plans and decisions need to take local circumstances into account (paragraph 10). One of the core planning principles that should underpin both plan making and decision making is that a good standard of amenity for all existing and future occupants of land and buildings should be secured. This relates well with saved Policy BH3 of the Blackpool Local Plan 2001/2016 which seeks to safeguard residential and visitor amenity from adverse impacts of new development.

- 4.2 In addition to the above, Para 123 of the Framework requires planning decisions to recognise that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. Part of our client's concern is that future occupiers of the flats will complain about noise generated from an existing, long standing, authorised late night use and lead to possible restrictions on their opening hours. This in turn would reduce the profitability and viability of the public houses.

- 4.3 This might result in the event that ineffective or insufficient noise insulation measures are employed within any new development, which would otherwise shield the new residents from existing late night noise sources. This position is supported at paragraph 6 of the Planning Practice Guidance (PPG) on noise highlights that proposals for conflicting uses which need to exist cheek by jowl on the same street will require appropriate consideration;

“The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business, even if intermittent (for example, a live music venue), may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such instances, appropriate mitigation should be considered, including optimising the sound insulation provided by the new development's building envelope.”

- 5.0 Paragraph 7 of the PPG continues on the same theme of recognising that noise may already exist in the area and therefore that noise will contribute to the established character of the locality:

“When assessing whether a statutory nuisance exists, local authorities will consider a number of relevant factors, including the noise level, its duration, how often it occurs, the time of day or night that it occurs and the ‘character of the locality’. The factors influencing the ‘character of the locality’ may include long-established sources of noise in the vicinity – for example, church bells, industrial premises, music venues or public houses.”

- 6.0 There have been two high profile cases in City of Westminster in recent years, where long established licensed premises have been forced to close due to complaints from new residents to established and long-standing lawful activities and noise generation at the premises (Limelight Club in Shaftesbury Avenue and Endurance PH in Berwick Street). There has also been the recent high profile case relating to Ministry of Sound in London Borough of Southwark, where the owners and operators of the world renowned venue raised fundamental concerns about the development of residential units on adjacent land.
- 7.0 In the latter case, the developers of the residential units were required to enter into a S106 Legal Agreement to prevent any changes to noise attenuation works following occupation of the building. In addition, a Deed of Easement was granted to Ministry of Sound to allow existing noise from the venue to pass over the residential development site, thus protecting the long established use and its associated activities.
- 8.0 Both a S106 Legal Agreement and a Deed of Easement, in similar terms to those related to Ministry of Sound, are essential in this case to enable the current application to be determined appropriately.
- 9.0 These changes reflect the increasing concern that some areas of our towns and cities are being sanitised through increasing residential development. As flats and houses are built or converted in urban centres existing businesses are being driven away leading to more vacant properties which in turn are then converted into residential use.

### **Class A3/A4 Units**

- 9.1 The previous application for this site under reference 13/0497 sought to provide two units of A3/A4 and a specific condition was applied to the permission relating to these types of uses seeking to prevent any change of use. The quoted policies which provide reasoning for the inclusion of that condition were RR7, BH3, BH11 and BH17 of Local Plan 2001/2016.
- 9.2 Policy BH3 stipulates that new development will not be permitted where its scale and siting adversely impact upon the privacy, outlook or levels of sunlight of neighbouring residential occupiers. The proposed development would introduce a tall, five storey structure due west of residential dwellings on Bolton Street, consequently resulting in a significant reduction of their afternoon/evening sunlight when compared to the previous three storey structure that existed prior to demolition.
- 9.3 Saved Policy BH17 of the Local Plan 2001/2016 governs Restaurants, Cafes, Public Houses and Hot Food Take-Aways. This policy directs development falling within the associated Use Classes to existing

shopping frontages and will not be permitted where they would have adverse effects on the amenities of neighbouring premises or residents in the surrounding vicinity. This site is not located within an existing shopping frontage and falls outside of any defined District or Local Centre. Therefore, it is considered that the inclusion of two proposed ground floor restaurant/A4 units cause this development to fail the requirements of this policy. Supporting paragraph 6.77 of the Local Plan 2001/2016 details that consideration will be given to the impact of noise, smell, activity and traffic upon neighbour premises and the surrounding vicinity. The creation of two A3/A4 units with large external seating areas will be a source of considerable noise and generate daily deliveries of fresh food and drink to each operator. Access from the rear is via a single width road (seen in Appendix 1.0), which is unsuitable for trucks and would therefore necessitate delivery trucks to park on the western highway, obstructing motorists and pedestrian users alike.

- 9.4 Policy BH11 of Local Plan 2001/2016 has now been replaced by Policy CS4 from the new Core Strategy 2012-2027. Policy CS4, para 3, states that out of centre development such as this will only be permitted where it can be demonstrated that it is a tourism attraction in accordance with Policy CS21. This application does not promote a tourism attraction. Policy CS4 further details that development will not be permitted unless there are no more centrally located/sequentially preferable and appropriate sites available for the development. In light of there being existing vacant units located within the nearest Local Centre running along Waterloo Road, it is considered that there can be no justification for the inclusion of two A3/A4 units within this development which is considered an 'out of centre' development which is contrary to newly adopted policy.
- 9.5 Policy RR7 of Local Plan 2001/2016 has been replaced by Policies CS17, CS21 and CS23 of Core Strategy 2012-2027.
- 9.6 Policy CS17 relates solely to Blackpool Town Centre however, it encourages the introduction of quality cafes and restaurants within this area. This 'centre' first approach is supported by the sequential requirements of Policy CS4 which requests that out of centre development be judged upon whether there are more suitable and desirable locations such as the Town Centre.
- 9.7 Policy CS21 relates to leisure and business tourism development. It is considered that whilst the proposal seeks to provide two A3/A4 units which might be considered contributory to the tourism industry, they are not high quality tourist attractions in their own right and therefore the application of this policy is considered to be small.
- 9.8 Policy CS23 governs the managing of holiday bed spaces. Given that this application does not propose specific holiday bed accommodation, it is considered prudent to offer no comment on this policy.

## **Green Infrastructure**

- 9.9 Policy CS6 of the Core Strategy requires all new development to incorporate new or enhance existing green infrastructure of an appropriate size, type and standard. It is noted that this application is outline, with all matters reserved except for Access, Landscaping, Layout and Scale however the indicative plans accompanying this application do not reveal any areas for the provision of green infrastructure. The site has limited potential to provide new green infrastructure therefore, in the instance where it is considered inappropriate to provide onsite green infrastructure, financial contributions should be sought to make provision elsewhere in the Borough.

## **Parking Provision**

- 9.10 Appendix B of the 2001/2012 Local Plan details parking standards for various types of development within the Borough. It states that for C3 dwellings with No.2 bedrooms, there should be two spaces provided per unit which would equate to 30 spaces having to be provided for this development. A reduced allowance for highly sustainable locations with access to excellent transportation services which reduces the requirement to 1.5 spaces per unit. Under this scenario a requirement of 22.5 spaces would be required for the provision of 15 x 2No.Bed residential units.
- 9.11 Appendix B of the 2001/2012 Local Plan also details parking standards for the provision of Class A3 units. Taking the scenario that this site is highly sustainable, benefiting from excellent public transportation services leads to the ratio of 1 parking space for every 12m<sup>2</sup> of new A3 floor area being provided. A total of 365m<sup>2</sup> shall be provided by this application subsequently requiring 30 new parking spaces to be created.
- 9.12 When combining the required parking spaces for the Class C3 and Class A3 uses in the scenario that this is a highly sustainable location, results in a total requirement of 52.5 parking spaces. Given the nature of this site and the constraints of the existing built environment, it would be considered perhaps unreasonable to provide 52.5 spaces however, this is what adopted policy requires in this situation. A total of 16 spaces are being offered in this application which equates to just 30% of the required parking provision for a development of this type in a highly sustainable location.

## 10.0 Conclusions

- 10.1 This development is contrary to Policy BH17 of the 2001/2017 Local Plan by virtue of the it being located outside of any designated 'centre' and away from any formal shopping frontage while providing Class A3 units. The purpose of this policy is to ensure the continuation and enhancement of existing shopping and leisure areas and prevent the random distribution of new food and drink establishments throughout the Borough. Therefore, with the provision of Class A3/A4 uses, this application is contrary to policy. This could be rectified by the omission of these two ground units in favour of another Use which accords with policy.
- 10.2 The parking onsite equates to just 30% of what is required by the adopted policy found in the 2001/2012 Local Plan. It can therefore be assumed that this development will contribute to considerable additional pressures for on-street parking spaces within the local vicinity, resulting in a detrimental and adverse impact to neighbouring users.

Yours Faithfully

***Bidwells LLP***

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Appendix 1.0 – Street Scene of Proposed Rear Access to site

