

COMMITTEE DATE: 19/12/17

Application Reference: 17/0640

WARD: Warbreck

DATE REGISTERED: 09/10/17

LOCAL PLAN ALLOCATION: Defined Inner Area

APPLICATION TYPE: Full Planning Permission

APPLICANT: Ma Kelly's

PROPOSAL: Erection of single storey side extension to form sports bar.

LOCATION: 44-46 QUEENS PROMENADE, BLACKPOOL, FY2 9RW

Summary of Recommendation: Grant Permission

CASE OFFICER

Mr M Shaw

BLACKPOOL COUNCIL PLAN 2015 -2020

This application accords with **Priority one of the Plan** - The economy: Maximising growth and opportunity across Blackpool.

SUMMARY OF RECOMMENDATION

The application is recommended for a conditional approval. The insulation of the proposed extension to prevent internal noise from affecting adjoining occupiers and restricting the use of the front entrance into the extension until 9pm can be controlled via any planning permission granted. Other matters, including alleged anti-social behaviour associated with the public house are matters to be dealt with via the Council's licensing of the premises.

SITE DESCRIPTION

The application relates to the former Uncle Tom's Cabin public house which has recently undergone an extensive refurbishment and re-opened as Ma Kelly's cabaret bar providing live entertainment and is open until 3am. The detached building is situated at the junction with Knowle Avenue and has front and rear entrances. To the rear of the building is an extensive car parking area. The Queens Promenade frontage consists primarily of hotels and Knowle Avenue has a more residential character.

DETAILS OF PROPOSAL

Erection of a single storey side extension adjacent the shared boundary with the Elgin Hotel to extend the existing sports bar located to the rear of the building. The proposed extension is shown to have its own entrance on the front elevation and the extension will connect into the sports bar at the rear of the building. The proposal would add 100 sqm of floorspace to the existing 750 sqm. The bulk of the extension would be flat roofed but the entrance is designed to replicate one of the existing front entrances into the building.

MAIN PLANNING ISSUES

The main planning issues are considered to be:

- Impact on Visitor/ Residential Amenity
- Design
- Other Issues

These issues will be discussed in the assessment section of this report.

CONSULTATIONS

Blackpool Services Directorate - With regards to the noise issues associated with the proposal, a noise impact assessment shall be carried out to assess the impact of any proposed noise sources.

The noise impact assessment shall demonstrate that the following standards are met at nearby noise-sensitive premises:

L_{Aeq} 50 dB 16 hours - façade level daytime

L_{Aeq} 45 dB 8 hours - façade level night-time (23.00 -07.00)

L_{AFmax} 60 dB 8 hours -façade level night-time (23.00 -07.00)

L_{AFmax} 60 dB 4 hours - façade level evening (19.00-23.00)*

Please note that any assessment shall be carried out for the most sensitive hours within the time period applied for. It is recommended that the methodology for any assessment be submitted in writing prior to any assessment taking place.

* The evening standard LAF max will only apply where the proposed evening LAF max significantly exceeds the LA eq and the maximum levels reached are regular in occurrence, for example several times per hour.

Means of ventilation for the extension are not shown on the plans - details of such are required, including the specification of any air conditioning fans, if applicable. Will there be any additional external cellar plant? If so, location and specification is required. The existing W.Cs currently have a window to external air. Once erected, the extension will take this natural ventilation away. What are the new arrangements for ventilation of the WCs?

During the construction phase I recommend that hours of work are Monday-Friday 8am-6pm, Saturday 8-1pm and no work on Sundays or bank holidays.

Noise from outdoor smoking shelters is a common cause of complaints to this department. The location of any new smoking shelters to be agreed prior to their creation in order to minimise disturbance to nearby property.

Police - No representations have been received at the time of preparing this report. Any comments that are received before the Committee meeting will be reported in the update note.

PUBLICITY AND REPRESENTATIONS

Site notice displayed: 16 October 2017

Neighbours notified: 16 October 2017

A letter of objection has been received from the **Elgin Hotel** on the following grounds:- We most strongly object to the planning permission application for the new location of the Sport's Bar at Ma Kelly's, 44-46 Queens Promenade. This is on the basis of persistent noise and disturbance to our guests here at the hotel.

To give you some of the history disturbance so far this year, on the weekend of the opening on 11th, 12th and 13th August, there were Police in the vicinity sorting out rowdy customers/ anti-social behaviour. On Friday on Northumberland Avenue (it was unclear as to whether the woman arrested had been drinking in the Cabin), and Saturday night /Sunday morning (3am) Police had to be called to an incident at the front of the Pub. We had complaints from our guests about men 'staggering out of mobile toilets/ portacabin on the forecourt having urinated all down their trousers'. I spoke to both the owner and Operations Manager the following Friday (18th August) in this regard. They were apologetic and said they would keep a close eye on things. As this was their opening weekend we felt it only fair to see how things progressed.

On the weekend 25th-27th August, we had complaints from several guests about noise coming from the Sports Bar in the early hours of the morning, meaning that they could not get to sleep. It appears that the fire door at the back of the Sports Bar had been left open. I reported this to the Operations Manager on Friday 1st September he said he would make sure that the door was kept shut in the future.

On Saturday 9th September/early hours of Sunday morning (1.30am) there was a fight outside the hotel front between two women who had been excluded from the Pub. Several men (who appeared to know the women) were trying to separate them resulting in an incredible amount of noise'. At 2am bottle skips were being emptied waking even more guests up at the rear of the hotel. On Saturday 16th September I spoke to the Operations Manager about this and he said they had tried to sort the trouble out as quickly as possible. This may have been the case, but, the issue was just passed onto the pavement outside the Elgin. He did explain that the bottle skips should not have been emptied after 9pm and said he would sort it out.

Saturday 23rd/Sunday 24th September - On Sunday morning we had several complaints at Reception about the noise from Ma Kelly's from 2am-4am. There were between 30 and 40 people on the artificial grass outside Ma Kelly's shouting and rowing. Two men appeared to be having a very loud altercation. The noise did not stop until 4am. One of our hotel guests said to us, and I quote, 'We have stayed here many times and have always enjoyed it, but this weekend, due to the noise on Saturday night/Sunday morning, it is the worst stay we have ever had.'

With all of the incidents that have taken place so far since the opening of Ma Kelly's and the fact that the Operations Manager has already received a suggestion from Licensing that pub and cabaret customers should be dispersed from the far end of the building on Knowle Avenue, I cannot support an application moving an entrance/exit even closer to our business.

The idea that the Sports Bar (which I understand has a licence until 3am) should have its entrance/exit within four metres of our boundary wall quite frankly fills me with horror. Even if they were smoking outside (which inevitably they would do), this would cause considerable disturbance to our guests. The proximity to our boundary wall would also be an issue, as there are 20 bedrooms on that particular side that would be directly affected. Certainly, even with the Sports Bar in its current position, we hear a lot of noise when there is a big match on (be that boxing or football).

We appreciate the investment that the applicant has put in to the 'Cabin' and how it has tidied up what was a very ugly property. However, we too have spent a huge amount of money over the years, (this year alone over £1million), improving our properties (Elgin and Hotel Sheraton) and bringing many guests into Blackpool. Indeed we have a very high rate of return guests. If the applicant wants to change the location of the Sports Bar it needs to be in a position that does not impact directly on the adjacent properties that have worked extremely hard to invest annually in their own business and Blackpool.

A second letter has been received with an attached report from noise consultants (Hann Tucker Associates). The report has been forwarded onto Blackpool Services Directorate for further comments and an up-date will be given prior to the meeting. The latest comments are as follows:-

The extension would significantly increase the capacity of the bar space and would be sited immediately on the boundary between "Ma Kelly's" and the Elgin Hotel in the direct line of sight (and more pertinently sound) of a large number of our letting bedrooms. I expressed concern about the potential effects of the development on the amenity of our guests as a result of noise and disturbance from within the extended building and outside it, particularly late at night and in the early hours of the morning in the light of our recent experiences of the bar in its un-extended form.

Since writing my earlier letter I have seen the consultation response from Blackpool Services Directorate and the recommendation that a noise assessment report should be prepared to demonstrate that certain standards or limits would be met at noise sensitive premises. I welcome the recognition that the proposed extension would potentially cause disturbance

as a result of excessive noise and that noise limits should therefore be imposed if planning permission is granted.

I recognise and fully understand that the Council has a statutory duty to determine the planning application in accordance with the development plan unless material considerations indicate to the contrary. In this case the development plan comprises the adopted Core Strategy and saved policies of the Local Plan 2006. The emphasis of the Core Strategy is on improving the visitor experience and the quality of tourist facilities of all kinds. A similar emphasis is to be found in the 'Lifting Quality' chapter of the Local Plan 2006 and I note that saved Policy BH3 states that developments will not be permitted which would adversely affect the amenity of those occupying residential and visitor accommodation including by the use of and activity associated with the proposed development (saved Policy BH3(A)(ii)). Specifically in the case of proposals for public houses and similar uses, saved Policy BH17 states development will not be permitted where there would be adverse effects on the amenities of neighbouring premises or local residents and in the supporting text indicates that in applying the policy the Council will take into account the likely impacts of "noise, smell, activity and traffic on neighbouring premises and the surrounding vicinity".

The proposal is intended, at least at the outset, as a 'sports bar' as a separate and distinctive new 'offer' to the range of bar facilities already provided. Although part of the existing building has been laid out as a sports bar already, the new bar whilst accessible through the existing building is designed with its own entrance highlighted by an architectural feature that would appear to be deliberately designed to draw attention to that separate entrance and clearly suggesting the potential for the new bar to be used on a self-contained basis. I consider it important that what is described as an extension should not result in the creation of a wholly new, self-contained bar premises since that would, in my view, be an unacceptable intensification of the use of the site. I urge you to impose a planning condition to prevent the separate occupation of the extended area and/or the subdivision of the property without express permission.

There is clearly the potential for noise and disturbance from such a large bar space and the relevant policies of the Local Plan indicate that adverse effects on the amenity of the occupiers of neighbouring premises and on those occupying residential and visitor accommodation may be grounds for refusing planning permission for developments of this kind. The implication of the consultation response is that the proposed development would be acceptable if certain noise limits are adhered to and presumably it is considered that suitable planning conditions would be imposed to secure compliance. Conditions of that kind might be a suitable way of addressing noise from within the new bar but would not necessarily deal with the problems that can arise when patrons congregate outside it, whether waiting at the entrance to gain entry, or on exit, or in order to smoke. I would urge you to consider the use of conditions to control the times between which the new entrance may be used or alternatively to require a management plan dealing with arrivals and dispersals to be submitted, approved and operated in the interests of neighbours' amenity. You may also wish to specifically exclude the development of any smokers' facilities adjacent to the proposed new entrance.

As to noise limit conditions, I have taken the liberty of seeking advice from Hann Tucker Associates both about the broad approach underlying the recommendations and the specific noise limits. They agree that it would be appropriate to impose specified noise limits in the interests of amenity but disagree that the limits proposed in the consultation response on the grounds that they would appear to have been derived from guidance that is not applicable where, as in this case, a new entertainment use is proposed close to noise sensitive properties such as a hotel or other residential use. They note that the proposed limits do not pay regard to the low frequency characteristics that are intrinsic to amplified music and are in any case not derived from a survey of existing noise conditions. They express concern that there would be a risk of statutory nuisance complaints if the proposed limits were adopted.

The consultants suggest that there should be an environmental noise survey to enable site-specific noise limits to be derived by octave band with the objective being 'virtual inaudibility' which would be achieved by noise level limits 10dB below the prevailing L90 sound pressure levels in each octave band. I understand that is the approach of other local planning authorities in such circumstances, including for example Manchester City Council, when dealing with proposed entertainment uses close to residential uses.

Hann Tucker's and the Council's comments presuppose that suitable mitigation can be provided as part of the development. The application drawings do not appear to include a roof plan so I do not know whether any form of rooflights are proposed (which might enable noise to be transmitted more easily than if there was a solid roof structure) but my impression is that in any case only quite a lightweight flat roof structure is envisaged. It seems to me that it would be unreasonable to impose noise limits by planning condition without knowing first that the limits are achievable within the scope of the development that is proposed - both from the point of view of the applicant and the neighbours.

In the circumstances, whilst I recognise that suitable conditions may enable my objections to the development to be overcome, I am concerned about the effectiveness of the limits proposed by your colleague, particularly in the light of what Hann Tucker say about the risk of statutory noise nuisance. In those circumstances the Local Plan policy to safeguard the amenity of those occupying visitor accommodation and the Core Strategy policy to enhance the visitor experience would not have been achieved.

In conclusion, I therefore urge you to require the kind of site-specific environmental noise assessment that Hann Tucker recommend to be carried out before the application is determined so that appropriate, relevant, enforceable and effective noise limits can be imposed. Also that the development of a Management Plan for the effective control of the entrance and exit of clientele is prepared and presented, and that there is an exclusion of development of smoking facilities at the front of the property which do give rise to much noise.

I feel these issues are of paramount importance, otherwise you cannot be fully satisfied that the amenity of the occupiers of neighbouring properties would be safeguarded and in those circumstances planning permission ought to be refused.

NATIONAL PLANNING POLICY FRAMEWORK

The National Planning Policy Framework (NPPF) was published on 27 March 2012. The NPPF states that the purpose of the planning system is to contribute towards sustainable development. There are three strands to sustainable development namely economic, social and environmental. Proposed development that accords with development plan should be approved unless material considerations indicate otherwise. There is also a presumption in favour of sustainable development. The NPPF contains 12 core planning principles including:-

1- 'building a strong, competitive economy'-ensure the planning system does everything it can to support sustainable economic growth

7- 'requiring good design'.....good design is a key aspect of sustainable development and is indivisible from good planning and should contribute positively to making places better for people

Paragraph 17 states 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. Paragraph 123 states planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life and should mitigate and reduce to a minimum other adverse impacts on health and quality of life from noise, including through the use of conditions.

BLACKPOOL LOCAL PLAN PART 1: CORE STRATEGY

The Blackpool Local Plan: Part 1 - Core Strategy was adopted by the Council in January 2016. The policies in the Core Strategy that are most relevant to this application are-

CS3- Economic Development and Employment

CS4- Retail and Other Town Centre Uses

CS7 - Quality of Design

CS10 - Sustainable Design

CS21- Leisure and Business Tourism

None of these policies conflict with or outweigh the provisions of the saved Local Plan Policies listed below.

SAVED POLICIES: BLACKPOOL LOCAL PLAN 2001-2016

The Blackpool Local Plan was adopted in June 2006. A number of policies in the Blackpool Local Plan (2006) have now been superseded by policies in the Core Strategy (these are listed in Appendix B of the Core Strategy). Other policies in the Blackpool Local Plan are saved until the Local Part 2: Site Allocations and Development Management Policies is produced.

The following policies are most relevant to this application:

LQ1 Lifting the Quality of Design

LQ4	Building Design
BH3	Residential and Visitor Amenity
BH4	Public Health and Safety
BH17	Restaurants, Cafes, Public Houses and Hot Food Take Aways
AS1	General Development Requirements

ASSESSMENT

Impact on Residential/ Visitor Amenity- Uncle Tom's Cabin is a long standing feature of Queens Promenade although in recent years it had suffered from a lack of general maintenance. The extensive renovation by Ma Kelly's has given the building a new lease of life and secured the future of this attractive period building. The main issue arising from the new business are the extra opening hours and a more intensive use of the building which is to be expected given the considerable investment in the building and this situation arises with the building even without the proposed extension. The proposed extension adds another 100 sqm of floorspace and this additional floorspace is located adjacent The Elgin Hotel with a new front entrance into the building also shown via the proposed extension. The Elgin Hotel has a single storey building abutting the common boundary, this part of the hotel comprises part of the dining room to the front, a toilet area to one of the bars/ function rooms, part of the bar/ function room in the hotel and the hotel kitchen. On the main four storey side elevation of the hotel, which is set away from the common boundary, and on the return rear elevation are a number of upper floor bedroom windows.

This section of Queens Promenade has a strong holiday character which tends to cater for a quieter and family orientated clientele. The cabaret bar with its associated sports bar opens until 3am. Without adequate and appropriate planning and licensing controls both the existing and extended premises has the potential to cause significant amenity problems for the occupiers of the adjoining hotel and other nearby properties. This potential amenity impact already exists and there appears to have been some teething problems in the initial weeks of opening in August.

In terms of assessing the planning merits and issues arising from the proposed extension it is considered that the proposal can be recommended for approval with appropriate conditions limiting the use of the front entrance into the extension until 9pm after which it shall only be used as a means of escape in an emergency. In addition, a noise assessment can be required by condition to demonstrate that maximum acceptable noise levels will be not be exceeded within the extension. With the appropriate conditions attached the proposal is considered to comply with Policies BH3 and BH4 of the adopted Local Plan and Policy CS7 of the Core Strategy. It should be noted that in recent years Uncle Tom's Cabin has been operating significantly below its capacity, given the size of the premises and its large function room, and it is to be expected that the introduction of a more successful business would seek to change this.

It would appear that one of the main amenity impacts of the premises, even without the extension, is the prompt dispersal of guests when leaving the premises which is being dealt with via licensing and it is understood that an increased use of the rear entrance onto the car park has improved matters in terms of the impact on the Elgin Hotel. There are also

issues regarding keeping doors closed and emptying bottles into waste bins which again are licensing issues.

Design- the front elevation of the proposed extension is set well back from the front elevation of the building and has a pitched roof and narrow frontage with only the front elevation readily visible. In design terms it matches an existing front entrance on the building and there are not considered to be any particular issues. The proposal is considered acceptable and will have a negligible impact on the streetscene and the character of this attractive period building.

CONCLUSION

The applicant has been requested to respond to the objections from the Elgin Hotel and the comments of the Council's Blackpool Services Directorate, Police and up-dated Blackpool Services Directorate comments are also awaited and any responses will be reported prior to the meeting via the up-date notes. Whilst the proposal could be considered to be an on balance recommendation it is considered that the proposal is acceptable in planning terms with the appropriate conditions attached and licensing will satisfactorily resolve any issues associated with the management of the premises.

LEGAL AGREEMENT AND/OR DEVELOPER FINANCIAL CONTRIBUTION

None

HUMAN RIGHTS ACT

Under Article eight and Article one of the first protocol to the Convention on Human Rights, a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedoms of others. It is not considered that the application raises any human rights issues.

CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the Council's general duty, in all its functions, to have regard to community safety issues as required by section 17 of the Crime and Disorder Act 1998

BACKGROUND PAPERS

<http://idoxpa.blackpool.gov.uk/online-applications/search.do?action=simple>

Planning Application Files 17 0640 which can be accessed via the link below:

Recommended Decision: Grant Permission

Conditions and Reasons

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development shall be carried out, except where modified by the conditions attached to this permission, in accordance with the planning application received by the Local Planning Authority including the following plans:

Location Plan stamped as received by the Council on 13th September 2017
Drawings numbered 7245/EL/02 A

Reason: For the avoidance of doubt and so the Local Planning Authority can be satisfied as to the details of the permission.

3. No development shall take place until an assessment of noise levels from the application premises has been undertaken and a report submitted to the Local Planning Authority. The extension shall not be used until any mitigation measures recommended in the report have been carried out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Any such measures shall be retained thereafter.

Reason To protect the residential and visitor amenities of nearby residents and hotel guests in accordance with Policies BH3 and BH4 of the Blackpool Local Plan 2001-2016 and Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027.

4. Details of materials to be used on the external elevations shall be submitted to and agreed in writing by the Local Planning Authority prior to the development being commenced.

Reason: In the interests of the appearance of the locality, in accordance with Policy LQ14 of the Blackpool Local Plan 2001-2016 and Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027.

5. The front entrance into the approved extension shall be kept closed and not be used after 9pm on any given day until 9am the following day other than as an emergency means of escape.

Reason To protect the residential and visitor amenities of nearby residents and

hotel guests in accordance with Policies BH3 and BH4 of the Blackpool Local Plan 2001-2016 and Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027.

6. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include and specify the provision to be made for the following:
- dust mitigation measures during the construction period
 - control of noise emanating from the site during the construction period
 - hours and days of construction work for the development
 - contractors' compounds and other storage arrangements
 - provision for all site operatives, visitors and construction loading, off-loading, parking and turning within the site during the construction period
 - arrangements during the construction period to minimise the deposit of mud and other similar debris on the adjacent highways
 - the routing of construction traffic.

The construction of the development shall then proceed in accordance with the approved Construction Management Plan.

Reason: In the interests of the amenities of surrounding residents and to safeguard the character and appearance of the area in accordance with Policies LQ1 and BH3 of the Blackpool Local Plan 2001-2016 and Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027.

Advice Notes to Developer

Not applicable