



Report to South Area Planning Committee

Application Number:	PL/22/0793/FA
Proposal:	Change of use to a public house (a Sui Generis use) with expanded food provision; external alterations including 4 side rooflights, rear extract duct and air conditioning condensers; outside seating area and all associated works
Site location:	10 Packhorse Road, Gerrards Cross, Buckinghamshire, SL9 7QE,
Applicant:	Oakman Inns and Restaurants Ltd
Case Officer:	Richard Regan
Ward affected:	Gerrards Cross
Parish-Town Council:	Gerrards Cross Town Council
Valid date:	4 March 2022
Determination date:	29 September 2022
Recommendation:	Conditional permission

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 The application proposes the change of use of the existing building to a public house (a Sui Generis use) along with external alterations including 4 side rooflights, rear extract duct and air conditioning condensers, and an outside seating area.
- 1.2 It is considered that the proposed change of use is appropriate for Gerrards Cross Town centre and is considered to the vitality and viability of the town.
- 1.3 Subject appropriate conditions to control noise and odour, it is considered that the proposal would not adversely impact upon the amenities of surrounding neighbouring properties.
- 1.4 The application has been referred for determination by the South Area Planning Committee following it being called in by Cllr Bracken.
- 1.5 Recommendation – Conditional Permission.

2.0 Description of Proposed Development

- 2.1 The application proposes the change of use of the existing building to a public house (a Sui Generis use) along with external alterations including 4 side rooflights, rear extract duct and air conditioning condensers, and an outside seating area.

2.2 The application site is located within Gerrards Cross Town Centre, on the east side of Packhorse Road, which falls within the developed area, outside of the Green Belt. The existing building is currently vacant, having most recently been occupied by Marks and Spencer Food Hall.

2.3 The application is accompanied by:

- a) Design and Access Statement
- b) Planning and Heritage Statement
- c) Transport Statement
- d) Noise Impact Assessment
- e) Odour Assessment
- f) Noise Management Plan

3.0 Relevant Planning History

Relevant planning history for the site:

05/00636/FUL – Conditional Permission, 28 June 2005 - Change of use of ground floor car sales showroom to class A1 (shop) use.

06/00433/FUL – Conditional Permission, 9 May 2006 - New shop front, rear plant enclosure with 3m timber wall, insertion of fire door.

06/00434/ADV – Conditional Consent, 15 May 2006 - Free standing illuminated sign.

06/00435/ADV – Conditional Consent, 15 May 2006 - Illuminated fascia sign.

06/00909/FUL – Conditional Permission, 10 August 2006 - Plant enclosure, installation of plant and insertion of three exterior louvres.

06/01422/FUL – Conditional Permission, 20 November 2006 - Replacement front canopy and installation of two external air conditioning units.

10/01875/TEMP – Conditional Permission, 24 January 2011 - Stationing of a temporary chilled container for storage purposes to be used from the 1st December to 31st January inclusive and annually.

12/01319/FUL – Conditional Permission, 13 November 2012 - Siting of temporary storage container between 1st November and 31st January and annually.

15/02410/ADV – Conditional Consent, 18 February 2016 - Three replacement metal fascia signs and one totem and metal panel sign.

4.0 Summary of Representations

4.1 Objections have been received from 13 separate sources, whilst letter of support have been received from 20 separate sources. Gerrards Cross Town Council raise no objections to this application subject to the 1st floor flat not to be privately rented and only being occupied by the staff. A summary of consultation responses and representations made on the application can be viewed in Appendix A.

5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF), February 2021.
- Planning Practice Guidance
- National Design Guidance, October 2019
- South Bucks Core Strategy Development Plan Document - Adopted February 2011

- South Bucks District Local Plan - Adopted March 1999 Consolidated September 2007 and February 2011;
- South Bucks District Local Plan Appendix 5 (Conservation Areas)
- South Bucks District Local Plan Appendix 6 (Parking standards)
- South Bucks District Council Residential Design Guide Supplementary Planning Document (SPD) - Adopted October 2008
- Chiltern and South Bucks Townscape Character Study 2017
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule
- Burnham Beeches Special Area of Conservation (SAC) Mitigation Strategy, March 2020

Principle and Location of Development

Core Strategy Policies:

CP1 (Housing provision and delivery)

CP10 (Employment)

CP11 (Healthy and viable town and village centres)

Local Plan Saved Policies:

TC1 (Development in Beaconsfield (New Town), Burnham and Gerrards Cross)

S1 (District Shopping Centres (Beaconsfield and Gerrards Cross))

- 5.1 Policy TC1 recognises that town centres such as Gerrards Cross Town should display a range of services and variety of different uses in order to enhance the vitality and viability of the town centre. The value of having a range of uses in the centres is recognised and to this end, the Council will protect existing key uses and encourage proposals which add to the diversity of the centres.
- 5.2 Policy S1 reiterates the aims of policy TC1 in that it seeks to sustain and enhance the vitality and viability of the District Shopping Centres, but concentrates on the protection and enhancement of the retail function.
- 5.3 It should be noted that recent changes to the Use Class Order has allowed greater flexibility for changes of use within town centre locations.
- 5.4 In principle, it is considered that the proposed use of the application site as a Public House with extended food provision, is an appropriate use for Gerrards Cross Town Centre. There are already other such establishments present in the Town, and this additional unit would add to the choice for visitors. Restaurants/Pubs are common uses found within town centres, which are considered to add to the vitality and viability of the town.
- 5.5 In terms of the need for another public house/restaurant in the area, it is considered that the introduction of a public house in this location would not result in an over-dominance of such uses at the expense of other retail units or the Town centre itself. As such, it is considered that the introduction of an additional Public House would be beneficial in terms of supporting the Town Centre and would meet with the aims of the NPPF in ensuring the vitality of the Town Centre, as well as policy TC1 and S1 of the South Bucks District Local Plan (1999), CP11 of the South Bucks District Core Strategy (2011).

Provision of Housing

Core Strategy Policies:

CP1 (Housing Provision and Delivery)

CP2 (Housing Type and Size)

- 5.6 It is noted that the first floor element of the existing building appears to constitute a residential flat, although there does not appear to be any planning history related to its creation. From reviewing previous applications, it was at one time used as an office, presumably in connection to the use being carried out at ground floor, and it is assumed that at some point it was converted into residential accommodation ancillary to the main use taking place on the ground floor. The current proposal seeks to retain this residential accommodation as staff accommodation for use by the manager of the pub once it is operational. As such, the planning unit would remain as one unit, with the pub operating at ground floor and an ancillary residential flat above. A condition can be attached to any permission granted that ensures that this remains the case and that the residential accommodation is only occupied by an employee who works at the site. This will also ensure that the site remains as one planning unit. Such an approach would address the concerns raised by Gerrards Cross Town Council over the occupation of the flat.

Transport matters and parking

Core Strategy Policies:

CP7 (Accessibility and transport)

Local Plan Saved Policies:

TR5 (Access, highways work and traffic generation)

TR7 (Traffic generation)

- 5.7 The Councils Highways Officer has assessed the application, and in terms of trip generation, they consider that the proposed development is likely to result in a significant reduction in vehicular trips associated with the site. They are therefore satisfied that there would not be any adverse highway impact associated with the proposed change of use.
- 5.8 In terms of parking provision, as per the situation with the previous use, the proposed development does not include any parking provision. However, given the highly sustainable location of the site in the centre of Gerrards Cross and the expected significant reduction in movements, the Highway Officer does not raise any objections on the grounds that there is no parking provision proposed. This view has also been made in light of the parking accumulation survey of public car parks in the vicinity that has been submitted by the application, and which demonstrates that sufficient capacity is available.
- 5.9 Cycle storage for both staff and guests is also to be provided which is positive and should help to maximise the sustainable transport opportunities of the site.
- 5.10 Deliveries and servicing of the site is expected to take place as per the existing arrangements. The Highways Officer does not consider that this would be worsened as a result of the proposed change of use and they therefore have no objection to this arrangement.
- 5.11 In light of the above, it is considered that the proposal would not lead to any unacceptable highway implications or danger.

Raising the quality of place making and design

Core Strategy Policies:

CP8 (Built and historic environment)

Local Plan Saved Policies:

EP3 (The Use, Design and Layout of Development)

EP6 (Designing to Reduce Crime)
EP7 (Signs and advertisements)
H9 (Residential development and layout)

- 5.12 The proposal involves a number of external alterations to the existing building including the insertion of 4 rooflights; fenestration alterations to front elevation and canopy; new shop front; replacement external condensers within rear yard; and introduction of kitchen extract equipment; and introduction of seating to front of site.
- 5.13 The proposed alterations to the front of the building are considered to be appropriate and of an acceptable design, helping to improve the appearance and quality of the existing building. The introduction of seating at the front of the building is a feature seen elsewhere within the Town, and it is considered that the building is set back sufficiently from the footpath to enable this facility to be catered for without adversely impacting upon the free flow of pedestrians. Overall therefore, it is considered that the proposed revisions to the front of the property are acceptable and would not result in the site appear out of keeping or incongruous within the street scene.
- 5.14 The remainder of the proposed works, including the roof lights and condensers and duct work, are located to the side and rear of the building and would have limited its presence within the street scene and wider locality. There are existing condenser units at the rear of the property, and the presence of such features, together with extract ducts and flues, are common features that exist on a number of buildings within the Town centre location, and such, would not be unusual.
- 5.15 Overall therefore, it is considered that the proposed external works would be satisfactory in terms of the character of the host building and wider area. The proposal would therefore align with Local Plan policies EP3, H9 and the NPPF.

Amenity of existing and future residents

Local Plan Saved Policies:

EP3 (The use, design and layout of development)
EP5 (Sunlight and daylight)

- 5.16 Given the nature and scale of the proposed physical alterations, combined with the distances retained to the nearest residential properties, it is considered that the proposals would not lead to any unacceptable loss of light or privacy to these neighbouring properties, nor would there be an issue of overdominance or obtrusiveness.
- 5.17 It is acknowledged that there has been considerable concern raised by some local residents regarding the potential noise and odour impacts of the proposed change of use.
- 5.18 With regard to the issue of potential noise impacts, it is acknowledged that the proposed use would operate in a different manner to that of the previous retail use of the site, with later opening times, as well as the introduction of an outdoor seating area to the front of the site.
- 5.19 In support of the application the applicant has supplied a Noise Impact Assessment, this deals with noise matter pertaining to potential customer noise, mechanical plant noise. A Noise Management Plan has also been submitted which sets out how it is intended to control and management noise created by the facility, and which includes

the closure of the proposed outdoor seating area at 9pm. It is noted that objections have been raised from local residents questioning the methodology of the assessment, however, the noise assessment and Noise Management Plan has reviewed by the Council's Environmental Health officers, and no objections have been raised in terms of noise impacts on neighbouring residential amenity as a result of patron or mechanical noise. They consider that subject to the implementation and continued abidance with the submitted Noise Management Plan, then the proposed use would not lead to unacceptable noise impacts on the amenities of neighbouring residents.

- 5.20 With regard to Odour, the Councils Environmental Health Officer is content, that subject to the submission of further technical details of the extract/ventilation equipment to be installed, and given the site circumstances and relationship with surrounding properties, that any such equipment will be able to sufficiently control odour emissions to an appropriate level so as to not cause a statutory nuisance or cause harm to the amenities of neighbouring residential properties.
- 5.21 Overall, given the sites location within the centre of Gerrards Cross town, and the presence of other similar uses, it is considered that there would be no unacceptable impacts on the amenities of the adjacent neighbouring properties in terms of noise or odour. In addition, it should be also noted that matters in relation to noise and odour can be addressed under other legislations such as the Environmental Protection Act 1990. The applicant would also have to apply for the relevant licences, and this would fall outside of planning legislation.

Environmental issues

Core Strategy Policies:

CP13 (Environmental and resource management)

Local Plan Saved Policies:

EP3 (The use, design and layout of development)

- 5.22 Waste would be stored to the rear of the building, as opposed to the front of the property, where it is currently stored. It would be collected in the same manner as it currently is, with bins place adjacent to the highway on the day of collection. The Council Highways Officer raises no objections to this approach.
- 5.23 Concern has been raised by local residents on the potential of light pollution that may be created by the proposals. However, given that the site is located within the centre of Gerrards Cross town which is served by street lighting and various other establishments that are open into the evenings and distribute light. Given that the primary source of light will emanate from the front of the site and onto the high street, it is considered that it would not result in a material increase in the level of light provision within the locality or lead to light pollution that would warrant refusing the scheme.

Historic environment (or Conservation Area or Listed Building Issues)

Core Strategy Policies:

CP8 (Built and historic environment)

Local Plan Saved Policies:

C1 (Development within a Conservation Order)

- 5.24 Whilst not in the Conservation Area, it is acknowledged that the application is sited immediately adjacent to it, with the Conservation Area lying immediately to the rear, and then also further to the north and south. As such, an assessment needs to be

made as to whether the proposal would adversely impact upon the setting of the Conservation Area.

- 5.25 In terms of the impact of the actual proposed use, it has already been considered that the introduction of a pub on this site would not be out keeping or inappropriate for this town centre location. As such, it is considered that the use itself, would not adversely impact upon the setting of the Conservation Area. With regard to the physical alterations to the proposed building, it is considered that these are all fairly small scale and definitely do not increase the height, size or scale of the existing building. The proposed alterations to the front of the building have been considered to be appropriate and inkeeping with the existing building and town centre location, and are therefore not considered to harm the setting of the adjacent Conservation Area. In terms of the proposed works to the rear, there are already plant and condenser units to the rear of the building, so the proposals would not be introducing a type of structure that is not already present or common in this locality. Whilst it is acknowledged that the proposal will involve the introduction of duct extract/flue at the rear, this again is not an uncommon feature seen elsewhere within the actual Conservation Area, and when combined with the proposed height and scale of the works, it is not considered that they would adversely impact upon the setting or appearance of the adjacent Conservation Area.
- 5.26 Overall therefore, it is considered that the proposal would preserve the setting of the adjacent conservation area.

6.0 Weighing and balancing of issues / Overall Assessment

- 6.1 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
- a. Provision of the development plan insofar as they are material,
 - b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
 - c. Any other material considerations
- 6.2 As set out above it is considered that the proposed development would accord with the development plan policies.

7.0 Working with the applicant / agent

- 7.1 In accordance with paragraph 38 of the NPPF (2021) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 7.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 7.3 In this instance, further information has been submitted by the applicant to address concerns relating to noise and odour impacts.

8.0 Recommendation: Conditional Permission, subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of three years beginning from the date of this decision notice. (SS01)
Reason: To comply with the provisions of Section 91(1) (a) of the Town and Country Planning Act 1990 (or any statutory amendment or re-enactment thereof).
2. Before any plant and/or machinery is used in connection with the use hereby approved it shall be installed and operated in accordance with a written scheme agreed with the Local Planning Authority. The acoustic impact of the plant and/or machinery shall be no more deleterious than the criteria set out paragraph 3.3.1 of the Noise Impact Assessment document prepared by Scotch Partners LLP (report reference Rp1 dated 2/3/2022). Any measures which form part of the scheme shall thereafter be retained.
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)
3. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between the hours of 20:00 hours and 08:00 hours on the following day.
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)
4. No deliveries shall take place to the premises between 20:00 hours and 08:00 hours on the following day.
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)
5. The development hereby approved shall not take place until a written management plan detailing any plant including air ventilation, cooling, heating, extraction, or odour control systems has been submitted to and approved in writing by the Local Planning Authority. This management plan shall include and reflect the outcome of a written odour risk assessment and also include written details relating to the maintenance requirements of the proposed plant in order to maintain its future effectiveness.
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)
6. No part of the development shall come into use until the plant authorised by condition 5 as regards odour control has been installed and commissioned in strict accordance with the approved management plan.
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)
7. The plant authorised by condition 5 shall be retained, operated, and maintained in strict accordance with the agreed management plan in perpetuity. The odour risk assessment in connection with condition 5 shall be based on published guidance - Commercial Kitchens: Control of Odour and Noise from Commercial Kitchen Exhaust Systems (by Ricardo Energy and Environment 2018).
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)

8. The use of the site as a pub, as hereby permitted, shall be carried out and maintained in perpetuity in strict accordance with the Noise Management Plan submitted and approved as part of this application.
Reason: To protect the amenities of neighbouring properties and the locality. (Policy EP3 of the South Bucks District Local Plan (adopted March 1999) refers.)

9. The development to which this planning permission relates shall be undertaken solely in accordance with the following drawings:

List of approved plans:

<u>Received</u>	<u>Plan Reference</u>
18 Jul 2022	Noise Management Plan
24 May 2022	Proposed Canopy Elevation D
24 May 2022	Proposed Canopy Layout D
4 Mar 2022	F0-04(01)H
4 Mar 2022	03/04
4 Mar 2022	03(02)B
4 Mar 2022	OAK/DRAFT/260122

INFORMATIVE(S)

1. Due to the close proximity of the site to existing residential properties, the applicants' attention is drawn to the Considerate Constructors Scheme initiative. This initiative encourages contractors and construction companies to adopt a considerate and respectful approach to construction works, so that neighbours are not unduly affected by noise, smells, operational hours, vehicles parking at the site or making deliveries, and general disruption caused by the works.

By signing up to the scheme, contractors and construction companies commit to being considerate and good neighbours, as well as being clean, respectful, safe, environmentally conscious, responsible and accountable. The Council highly recommends the Considerate Constructors Scheme as a way of avoiding problems and complaints from local residents and further information on how to participate can be found at www.ccscheme.org.uk. (SIN35)

2. This Planning Permission does not purport to grant a Premises Licence/Club Premises Certificate and the Applicant is advised to contact the Licensing Team at Buckinghamshire Council - South Bucks Local Area, in order to submit the necessary Licensing application prior to commencement of the use. (SIN27)
3. The applicant is advised that further advert consent would be required for any signage in connection with the proposed development.

APPENDIX A: Consultation Responses and Representations

Councillor Comments

CLlr Michael Bracken:

I would like to call in this application as it merits scrutiny in the public interest

Town Council Comments

1st comments received 7th April 2022

No objection:-

If the application is granted permission the Council would like the following condition applied:

The flat upstairs is not to be privately leased and is used for the staff of the public house only

2nd comments received 2nd August 2022

Gerrards Cross Town Council has no objection to this application subject to the planning officer being satisfied and the 1st floor flat not to be privately rented. This can only be occupied by the staff

Consultation Responses

Highways Officer:

Packhorse Road is known as the B416 and runs through the centre of Gerrards Cross. The road is subject to a 30mph speed limit in this location. This application seeks permission for the change of use from retail to a public house/restaurant.

In terms of trip generation, having carried out my own TRICS® assessment and compared this with the TRICS® assessment provided by the applicant, I can confirm that the proposed development is likely to result in a significant reduction in vehicular trips associated with the site. I am therefore satisfied that there would not be any adverse impact associated with the proposed change of use.

As per the situation with the previous use, the proposed development does not include any parking provision. Given the highly sustainable location of the site in the centre of Gerrards Cross and the expected significant reduction in movements as demonstrated above, I am not in a position to recommend refusal on this basis. In addition, the applicant has supported this through the submission of a parking accumulation survey of public car parks in the vicinity which demonstrate that sufficient capacity is available.

Cycle storage for both staff and guests is also to be provided which is positive and should help to maximise the sustainable transport opportunities of the site.

Deliveries and servicing of the site is expected to take place as per the existing arrangements. It is not considered that this would be worsened as a result of the proposed change of use and I therefore have no objection to this arrangement.

Mindful of the above, I have no objection to the proposed development and no conditions to include in this instance.

Environmental Health Officer:

1st comments received 14th April 2022:

I have reviewed the application together with the relevant supporting documentation and would like to make the following comments regarding the likely impacts of the proposed development in terms of local amenity:

Environmental noise:

A) Plant noise

I have studied the Noise Impact Assessment document prepared by Scotch Partners LLP (report reference Rp1 dated 2/3/2022) as regards mechanical services and plant and agree with its key conclusion that, subject to use of appropriate mitigation measures, noise from these sources need not materially degrade existing nearby residential amenity.

Nonetheless, as there is always likely to be some difference between predicted and actual noise emissions from equipment that is not already in situ and so I believe that the condition below/over page is necessary and proportionate in order to ensure that the equipment that is ultimately commissioned performs appropriately.

Before any plant and/or machinery is used in connection with the premises hereby approved it shall be installed and operated in accordance with a written scheme agreed with the Local Planning Authority. The acoustic impact of the plant and/or machinery shall be no more deleterious than the criteria set out paragraph 3.3.1 of the Noise Impact Assessment document prepared by Scotch Partners LLP (report reference Rp1 dated 2/3/2022). Any measures which form part of the scheme shall thereafter be retained.

B) Deliveries and waste collections

Given the proximity of the development site to residential properties I believe that some control of when deliveries and waste collections can take place is appropriate:

No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 20:00 hours and 08:00 hours on the following day.

No deliveries shall take place to the premises between 20:00 hours and 08:00 hours on the following day

C) Patron noise

This element of environmental noise associated with the development site is likely to represent a significant risk to local amenity and it is also relatively unpredictable.

Technical advice on environmental noise and its influence on land use planning is provided in Planning Practice Guidance, published by the Ministry of Housing, Communities & Local Government (MHCLG). Planning Practice Guidance Noise (PPGN) was published in March 2014 and most recently updated in July 2019; PPGN forms part of the National Planning Policy Framework (NPPF).

In broad terms, the Noise Impact Assessment report estimates the likely noise levels arising from patrons (whilst outside) at nearby residential receptors. However, I can see no contextualisation of the prediction data in terms of the Planning Practice Guidance (PPG) categories. I believe that the modelled data indicates (as supported by my experience of regulating premises such as this) that the noise impact of patrons situated at the front of the premises can reasonably be said to fall within the Lowest Observed Adverse Effect Level (LOAEL) category:

Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.

PPG recommends the appropriate response, in planning terms, is to 'mitigate and reduce to a minimum'. The Noise Impact Assessment report does not cite any mitigation measure(s) - in my opinion this is a significant omission. Accordingly, I recommend the following conditions:

Members of the public shall not be permitted to enter or remain in the front terrace as marked on Drawing number F0-04(01)H dated 23/11/2021 from 21:00 to the time that the premises cease to be open to the public.

All windows and external doors on the front elevation of the premises shall be kept closed after 21:00 hours except for the immediate access and egress of persons.

- D) Noise breakout from the structure I can see no reference to the potential noise breakout from the structure of the premises arising from either entertainment or patrons (I note that there are extensive openings at the front the building) or the assessment of noise associated with patrons arriving or leaving the premises. I am also unclear where patrons wishing to smoke will be accommodated as this activity can be a common cause of noise complaint.

I appreciate that some entertainment is a regulated activity as regards the Licensing Act 2003 and therefore it should be subject to control via a Premises Licence in due course. However, The Live Music Act 2012 deregulates amplified live music (including karaoke) under the following circumstances:

- It occurs between the hours of 08:00 and 23:00 hours
- It occurs at venues that are either licensed for alcohol or are work places.
- The audience is not more than 200 per room.

Accordingly, I am concerned that the Licensing Act 2003, et al, provides an inadequate system of control for the protection of local amenity in this instance and therefore it is appropriate for the Local Planning Authority (LPA) to be satisfied that the application deals with these concerns appropriately.

As there is no assessment of the above noise I would recommend that the LPA holds determination of this application in abeyance until such time the applicant and/or agent has had an opportunity to clarify the proposed mechanism(s) of control. If, however, the LPA is minded to grant permission without this then I would recommend the following condition but I would caution that its discharge (where relevant) could prove problematic:

The premises shall not be occupied before a noise management plan has been submitted to and approved in writing by the Local Planning Authority which specifies the measures to be taken to control noise associated with entertainment and patrons. Thereafter, the use shall not commence until the approved plan has been fully implemented and shall thereafter be retained.

Offensive odour arising from cooking activity

The application clearly refers to the installation of a commercial kitchen and associated air handling plant. However, I can see no assessment as to the potential liberation of offensive odours to the local environment and how this has informed the selection of abatement plant, etc. Such an assessment is a common requirement for all new food businesses seeking permission to operate in a residential area.

Accordingly, I would recommend the following condition:

The premises shall not be occupied until details of any air ventilation, extraction and odour control systems have been submitted to and approved in writing by the Local Planning Authority. These details shall include an odour risk assessment and the proposed methods for odour control. This shall include height, position, design and materials of any chimney or extraction vent to be provided in connection with the development. Thereafter, the use shall not commence until the approved scheme has been fully implemented and shall thereafter be retained.

The proposed system should adhere to the published guidance for Commercial Kitchens: Control of Odour and Noise from Commercial Kitchen Exhaust Systems (by Ricardo Energy and Environment 2018).

If you would like to discuss this case, please do not hesitate to contact me. Andrew Godman Environmental Health Officer INFORMATIVE: Information for Developers and guidance documents can be found online at: <http://www.chiltern.gov.uk/construction-sites>

2nd comments received 21/06/2022:

Thank you for consulting the Strategic Environmental Health Protection Team regarding developments with this application. I have reviewed the documents submitted since my memorandum of 14/4/2022 and make the following comments:

Plant noise

I note the contents of both the reports of Jostec (reference 2221603, dated 13/4/2022) and Scotch Partners LLP (dated 17/5/2022).

As my memorandum of 14/4/2022 made clear, albeit in connection with patron noise, the appropriate decision making framework for land use planning and environmental noise is set out in Planning Practice Guidance Noise (PPGN) which was last revised in 2019. NB: PPGN forms part of the National Planning Policy Framework (NPPF).

This guidance makes reference to a table (reproduced over page) that summarises a noise exposure hierarchy, based on the likely average response of those affected, and how Local Planning Authorities (LPAs) should deal with each broad application scenario.

PPGN makes no direct reference to BS4142:2014 and so judgement is need as to the interpretation of the interplay of these two noise guidance documents (one conceptual, the other technical). The broad thrust of PPGN is that noise is often an inevitable consequence of development and therefore LPAs should seek to control, rather than eliminate, it.

Noise Exposure Hierarchy table - PPGN

The original Noise Impact Assessment document prepared by Scotch Partners LLP (report reference Rp1 dated 2/3/2022) estimated the impact of plant noise associated with the development and concluded that, in the context of BS4142:2014, the projected daytime Rating Level would be no more than the prevailing background level and at night time it would be 6dB below the relevant background level (see para 3.9.2).

For the avoidance of doubt, BS4142:2014 provides the following narrative on how the difference between Rating and background levels should be interpreted:

So, the estimated impact of the noise in question is low, in the case of daytime operation of the plant, and less than that as regards its night time use. In my view the proposed development, in the context of plant noise, falls within the No Observed Adverse Effect Level (NOAEL) of PPGN and therefore the appropriate LPA response is 'no specific measures required' which is why I recommended a condition that anchors the noise impact, in the real world, to the level difference(s) set out in the Scotch Partners LLP report. It is important to note that when discharging this condition the actual Rating level should be used to inform this decision (i.e. BS4142:2014 penalties, as appropriate, will be applied as the specification and performance of the plant will be known at that point).

Both Jostec and Scotch Partners LLP make reference to earlier decisions of this LPA and other LPAs as regards the maximum permitted difference between BS4142:2014 Rating and background noise levels. I would point out that some of the decisions cited in the above reports predate PPGN (particularly the current version) or were made by LPAs who are likely to have, such as the London Borough of Westminster, specific local planning policies that offer more stringent controls over noise; no such local policies exist in the context of this application.

Accordingly, I believe my advice on this point to the LPA made in my April 2022 memorandum remains appropriate.

Noise breakout from the structure

I have reviewed the draft Noise Management Plan for the premises and broadly believe it is fit for purpose vis-à-vis the control of noise breakout from the building. However, there are some points (such as the setting of a noise limiter) that require some clarification and so I am content for the author of this document to communicate with me directly regarding its finalisation and authorisation – it can then be submitted to the LPA for formal consideration in connection with the determination of this application.

Offensive odour arising from cooking activity

I believe that it is important to note that the DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2005) was withdrawn some years ago, hence my reference to the current commonly accepted guidance document Commercial Kitchens: Control of Odour and Noise from Commercial Kitchen Exhaust Systems (by Ricardo Energy and Environment 2018).

Accordingly, I do not think it is productive for me to comment on the DEFRA assessments submitted by either the applicant's agent or local resident as they are based on withdrawn guidance. Once an assessment has been completed (having regard to the above Ricardo Energy and Environment guidance) I would be content to comment on it. However, it is vitally important that the risk assessment isn't seen as a standalone exercise – it should be used to inform the selection and

installation of odour abatement equipment. Indeed, I would expect to see a narrative explaining how the proposed plant will meet the scale of the challenge described within the above assessment.

Again, for the avoidance of doubt, this link between assessment and selection of abatement plant could be made clear by way of a revised condition:

1(a) Works to the premises hereby permitted shall not take place until a written management plan detailing any plant including air ventilation, cooling, heating, extraction, or odour control systems has been submitted to and approved in writing by the Local Planning Authority. This management plan shall include and reflect the outcome of written odour risk assessment and also include written details relating to the maintenance requirements of the proposed plant in order to maintain its future effectiveness.

1(b) No part of the development shall come into use until the plant authorised by 1(a) above as regards odour control has been installed and commissioned in strict accordance with the approved management plan.

1(c) The plant authorised by 1(a) above shall be retained, operated, and maintained in strict accordance with the agreed management plan in perpetuity.

The odour risk assessment in connection with 1(a) above shall be based on published guidance - Commercial Kitchens: Control of Odour and Noise from Commercial Kitchen Exhaust Systems (by Ricardo Energy and Environment 2018).

Since the practical control measures associated with the management of odour and noise/vibration are often closely related, I would strongly recommend that they are considered and implemented in an integrated way.

I hope this is of assistance. If you would like to discuss this case please do not hesitate to contact me

3rd comments received 3rd August 2022:

Thank you for consulting the Strategic Environmental Health Protection Team regarding amendments to this application. I have reviewed the documents submitted since my memorandums of 14/4/2022 and 21/6/2022 and make the following comments:

Noise Management Plan (non-plant noise)

I have reviewed the above document dated 18/7/2022 and believe that it is fit for purpose. Accordingly, subject to the inclusion of conditions restricting the presence of patrons on the front terrace in the evenings (see suggested condition in my memorandum of 14/4/2022) and adherence to the above Noise Management Plan, my concerns regarding patron noise have been resolved; accordingly, I have no outstanding objection to the granting of planning permission concerning this aspect of the application.

Please note this memo does not comments relating to air quality and contaminated land, where relevant, these comments will be provided separately.

If you would like to discuss this case please do not hesitate to contact me

Representations

Other Representations

20 comments have been received supporting and simply commenting on the proposal:

- Will bring footfall and vibrancy to high street;
- Welcome the addition;
- Will be good thing for Gerrards Cross and its community;
- There is sufficient parking nearby;
- Will add to character of high street
- High street has been in decline;
- Will bring income into the community and new job opportunities

13 comments have been received objecting to the proposal:

- Noise impacts;
- Odour Impacts;
- Light pollution;
- Impact amenities of neighbouring properties;
- Impact on Conservation Area;
- Vermin;
- Incompatible with use of adjacent buildings and land;
- Detrimental to character and use of nearby properties;
- Concerns about apparent inaccuracies or inconsistencies in the application;
- Concern that the noise impact assessment is unrepresentative;
- Concern that the creation of such a large commercial kitchen will encourage vermin around the bins and storage areas;
- Increase in litter