
Application Number	04/1233/S73	Agenda Item	4.1
Date Received	2nd December 2004	Officer	Mr Tony Collins
Ward	Market		
Site	7A Jesus Lane Cambridge Cambridgeshire CB5 8BA		
Proposal	Variation of Condition 02 of planning permission C/97/1018/VC to permit opening between the hours of 0800 and 0200 (Monday-Saturday) and 1200 to 0000 (Sundays).		
Applicant	Barvest Ltd 18-21 Cavaye Place London SW10 9PT		

1.0 SITE DESCRIPTION AND AREA CONTEXT

1.1 This application relates to the basement at 7A Jesus Lane, formerly the University Pitt Club. The premises are now owned and run by the applicants as a Class A3 (food and drink) bar, with ancillary music and dancing. The ground floor of the building is occupied by the restaurant Pizza Express (also a class A3 use) and the University Pitt Club still uses the upper floors. The bar occupies 468 m² gross floor space, and has a music and dancing licence for 200 people.

2.0 DESCRIPTION OF DEVELOPMENT

2.1 The application is for a variation of condition 02 of planning permission C/95/0433, which granted permission for change of use from *sui generis* University Club to Class A3. This condition states that the premises shall only be used for any trade or business purposes during the hours of 0800 to 2300 Monday to Saturday, and the hours of 1200 to 2230 on Sundays, with patrons having to be off the premises within half an hour of closing.

2.2 Subsequently, this condition was varied by permission C/97/ 1018/VC to restrict hours of trade or business to 0800 to 0030 Monday to Saturday, and 1200 to 2300 on Sundays. A further application, C/99/1042, to extend the opening hours to 0100 Monday to Saturday was refused in October 1999, and an appeal against this refusal was dismissed in September 2000.

2.3 This proposal is for an extension of opening hours to 0800 to 0200 Monday to Saturday and 1200 to 0000 on Sundays. This would extend opening hours by an hour and a half on weekdays, and by one hour on Sundays.

3.0 SITE HISTORY

3.1 Principal previous applications

Reference	Description	Outcome
C/0879/88	Change of use of ground floor: club dining room to public restaurant.	A/C
C/0932/88	Change of use of part first floor: club dining room to public restaurant between July and September inclusive.	A/C
C/0933/88	Change of use of ground floor 'Hawks Club' area to public restaurant.	A/C
C/0320/89	Change of use from non-residential clubs to licensed public restaurant (part ground floor) and non-residential clubs.	A/C
C/0432/95	Refurbishment of front entrance at ground floor and basement to enable change of use to Class A3 use with music and dancing licence.	A/C
C/0433/95	Change of use from University Club (sui generis) to restaurant (Class A3) with music and dancing licence, and refurbishment including external alterations.	A/C
C/96/0729	Part demolition of existing partitions, installation of new partitions, internal alterations to provide entrance hall on ground floor and extended hall and library on first floor.	A/C
C/96/0894	Variation of planning condition to extend opening hours to allow persons to leave premises up until 0030 hours.	A/C (temp. consent)
C/97/1018	Variation of planning condition to extend opening hours to allow persons to leave premises up until 0030 hours, Monday to Saturday, 2300 hours Sunday	A/C
C/99/1042	Variation of planning condition to extend opening hours to 0100 Monday to Saturday (persons allowed to leave premises up until 0130)	Refused; appeal dismissed

4.0 POLICY CONTEXT

Central Government Guidance

- 4.1 PPG1 General Policy and Principles (1997) paragraph 40 states that Section 54A of the 1990 Act requires that applications for planning permission shall be determined in accordance with the development plan, unless material considerations indicate otherwise. Conversely, applications which are not in

accordance with relevant policies in the plan should not be allowed unless material considerations justify a planning permission.

- 4.2 PPG6 Town Centres and Retail Developments (1996) emphasises the importance of a diversity of uses within town centres; highlights leisure and the evening economy as important to the vitality and viability of town centres subject to the impact on the amenities of nearby residents being acceptable; emphasises the role of existing centres in minimising the need to travel and to promote transport choices that help to keep down carbon dioxide and other pollutants; encourages positive policies and plans that will contribute to town centre vitality and viability.
- 4.3 PPG13 Transport (2001) states that policies for retail and leisure should seek to promote the vitality and viability of existing town centres.
- 4.4 PPG24 Planning and Noise (1997) makes it clear that much development which is necessary for the creation of jobs will generate noise, and emphasizes that the planning system should not place unjustifiable obstacles in the way of such development. It also stresses, however, that local planning authorities must ensure that such development does not cause an unacceptable degree of disturbance. Paragraph 13 makes it clear that measures can be introduced to limit exposure to noise, and that these can include limiting the operating times of the noise source.

Development Plan Policy

Cambridgeshire and Peterborough Structure Plan 2003

- 4.5 P1/3 Sustainable design in built development
P8/1 Sustainable development – links between land use and transport

Cambridge Local Plan 1996

- 4.6 EO1 Noise, smell and air pollution
BE2 Respect for the character of the site and its surroundings
BE3 New development – mix of uses
RL22 Arts and Entertainment – central and neighbourhood facilities
SH4 Food and drink uses in primary shopping frontages and secondary locations
TR4 Accessibility of proposals to public transport facilities
TR15 Pedestrian accessibility
TR17 Cycle accessibility

5.0 CONSULTATIONS

Cambridgeshire County Council (Cambridge Highways Agency):

- 5.1 No comment

Head of Environmental Services:

- 5.2 Whilst the site lies in the town centre it is more residential than commercial with limited late night activity and there are a number of residential premises in Jesus Lane, Westcott House and Park Street in close proximity.
- 5.3 There is a long history associated with these premises. The main issue of concern has been street noise, as the premises operate so that noise from within is not a problem. This issue has been considered in the past by a Planning Inspector who concluded that 0030 was an appropriate finishing time given the location. Furthermore, this site is similar to the Divinity Bar application which was approved to 0030 recently.
- 5.4 Taking the above into account, 0030 would be an appropriate finishing time. There may be an adverse impact should opening hours be extended by more than half an hour.
- 5.5 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

6.0 PUBLICITY

Advertisement:	No
Site notice:	Yes
Adjoining occupiers:	Yes

7.0 REPRESENTATIONS

- 7.1 The owners/occupiers of the following addresses have made representations objecting to the proposal:
- The Warden's Flat, Friends Meeting House, 12 Jesus Lane,
 - Society of Friends, 12 Jesus Lane,
 - Room 4, 7 Jesus Lane,
 - Room 5, 7 Jesus Lane,
 - Room 6, 7 Jesus Lane,
 - 16 Jesus Lane (three separate occupants),
 - Sidney Sussex College,
 - Trinity College,
 - 5 Park Parade,
 - 38 Alpha Road,
- 7.2 These representations can be summarised as follows:
1. Likelihood of increased noise and disturbance to residents from customers leaving the premises between 0200 and 0230.
 2. Likelihood of increased noise and disturbance to residents from customers arriving at the premises when normal licensed premises close at 2300.
 3. Likelihood of increased disturbance and vandalism in surrounding streets.
 4. Street is primarily residential, and a late-night music/dance venue is

incompatible with this.

5. Contrary to the applicants' supporting statement, there has not been an increase in the number of bars and restaurants in the immediate locality, nor a trend there for later opening times.
6. Boisterous customers leaving Po-Na-Na when it closes continue to create noise for some time whilst waiting for taxis.
7. Groups of noisy customers on the pavement after closing time can be perceived as intimidating by local residents.
8. Noise levels late at night have already required the installation of double-glazing at 7 Jesus Lane.
9. Noise late at night will disrupt sleep patterns and diminish residents' ability to concentrate on work the following day.
10. Danger of increased violence linked to alcohol.
11. Present planning conditions strike a balance between commercial entertainment and residential interests; the approval of this application would upset that balance.
12. Postal delays and the concurrence of the consultation period with the University vacation have made it impossible for some affected residents to comment.

7.3 The owners/occupiers of the following addresses have made representations in support of the proposal:
51 Chesterfield Road,

7.4 These representations can be summarised as follows:

1. Allowing these premises to open until 0200 would allow sensible people to enjoy themselves rather than being thrown in with the rabble associated with the late-licence clubs in town.

7.5 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. General principle of late-night opening
2. Residential amenity
3. Third Party Representations

Principle of Development

8.2 Recognising that there is a need for entertainment venues in the city centre, I am of the opinion that, in the context of policy RL22, the granting of permission for late night opening by Class A3 (food and drink) uses can increase their accessibility to, and use by, a wider cross-section of city and sub-regional residents. 7A Jesus Lane is located in a secondary shopping location, where Policy SH4 states that A3 uses will be permitted provided they meet certain criteria, including the protection of residential amenity

against unacceptable noise levels. Previous permissions on this site establish that the principle of a Class A3 use in these premises is acceptable, subject to various planning conditions.

- 8.3 However, the Local Plan would only support the proposal in principle provided that the extension of hours would not adversely affect residential amenity. In my opinion, a permitted closing time of 0200 raises significantly different issues of residential amenity from the existing permitted closing time of 0030, and these are dealt with below.

Residential Amenity

- 8.4 Although Jesus Lane is an area of mixed use, it is a street in which residential use is very significant if not dominant. Residential density is quite high, with a significant amount of college accommodation for undergraduate and postgraduate students, and staff, lying very close to the application site. Furthermore, although it is a thoroughfare leading from the city centre, and thus will inevitably be used by some pedestrian and vehicular traffic leaving other late-night venues in the city centre, neither the street nor the immediate locality are characterized by late-night entertainment uses. There are significant other sources of evening noise in the vicinity, including the Pizza Express restaurant on the ground floor of the appeal site, and the ADC Theatre round the corner in Park Street. However, by midnight these other sources of noise have usually closed, although the theatre does have occasional late-night shows.
- 8.5 In my opinion, customers leaving the application premises at closing time, and remaining in the vicinity for some time afterwards are likely to cause noise and disturbance which will have an adverse effect on the residential amenity of neighbouring properties. Some disturbance of this sort between 0000 and 0100 can in my view be regarded as a reasonable facet of living near to the city centre, but I do not believe that the same could be said of noise and disturbance between 0200 and 0300. In my view, it is reasonable for neighbouring residents to expect to be able to settle down for a peaceful night's sleep before this time. This view is supported by the comments of the Environmental Health Officer. Accordingly, I do not consider that the proposal adequately respects the residential amenity of its neighbours and constraints of the site and I believe it would be in conflict with Cambridge Local Plan (1996) policies EO1 and SH4.

Third Party Representations

- 8.6 Objection 10 relates to an increased danger of violence connected to alcohol. It would be difficult to establish a clear link between the proposed extended hours and any such increase in violence, and I do not consider that this could be a valid reason for refusing planning permission.
- 8.7 I have attempted to deal with the issue over consultation raised by Objection 12 by accepting representations after the date specified, and by re-contacting the college whose students are most affected. The remaining objections have been dealt with in the two preceding sections.

8.8 The representation in support clearly indicates that there are city and sub-regional residents who feel they would benefit from the proposal, but I do not feel that this argument, closely though it relates to Policy RL22 of the Local Plan, can outweigh the likely harm to residential amenity.

9.0 RECOMMENDATION

REFUSE on the grounds that:

1. The proposed extended hours of opening would have an unacceptable detrimental effect on the amenity of nearby residents by virtue of associated noise and disturbance outside of the premises, and is therefore considered to be contrary to policies EO1 and SH4 of the Cambridge Local Plan (1996).