

SUDBURY - DANNY'S BAR, 51-52 GAINSBOROUGH STREET, SUDBURY, CO10 6ET

Proposal: Variation of Condition 02 of P.P. B/04/01706/FUL to allow hours of opening to be 11.00am to 11.00pm Mondays to Wednesdays and Sundays and 11.00am to 1.00am Thursdays to Saturdays.

Applicant: Thompson Bar Enterprises Ltd

Case Officer: Deborah Board

SITE

1. The application site is situated at the eastern end of Gainsborough Street and is occupied as a bar. The property was formerly a video shop but planning permission was granted in 2004 (B/04/01706/FUL) for the change of use from A1 (video shop) to A3. This area of Gainsborough Street is occupied by a mixture of uses both retail and non retail. The nearest residential properties are those in Weavers and Burkitts Lane. The building is Locally Listed and situated within the Conservation Area as well as being in the Principle Shopping area and adjacent to the Mixed Use area.

PROPOSAL

2. The application proposal seeks to vary the condition number 2 imposed on planning permission B/04/01706/FUL. This condition stated that:
3. The hereby permitted use shall only operate between the hours of 11.00am and 11.00pm. seven days a week including Bank Holidays.
4. The current proposal seeks to extend the hours detailed in this condition to 11am to 1am Thursday to Saturdays.

HISTORY

B/05/01960/FUL

5. Removal of Condition 02 and 04 and variation of Condition 03 attached to P. P. B/04/01706/FUL - To allow hours of opening to be 1100 - 2300 Mondays - Wednesday, 1100 - 0100 Thursdays - Saturdays and 1100 - 2300 on Sundays, the provision of live and amplified music, food and dance classes, Refused, 25/04/2006

B/04/01706/FUL

6. Change of use from Class A1 (Video Shop) to Class A3 (Bar), Granted, 05/01/2005

B/01/01505/FUL

7. Erection of an external access stairway, Granted, 15/11/2001

POLICY

Suffolk Structure Plan 2001

ECON8 (Town and Local Centres)

Babergh Local Plan, Alteration No.2 (2006) *the policy references below relate to the adopted version of the Local Plan - the policy numbers in some cases differ from those in the second deposit draft. Where this is the case, the previous reference number is given in brackets*

CN08 (CN02a) (Conservation Areas)

EN24 & EN25 (Noise)

SD01 (SD01a) (Principal Shopping Area)

SD02-SD04 (Mixed Use Areas)

- Paragraph 5.37 (within chapter 5 - shopping) states - in considering planning applications for establishments selling food and drink for consumption on or off the premises, trading hours will be restricted to protect residential amenity from night-time and early morning disturbance, where appropriate.
- Paragraph 2.66 (within chapter 2 - environment) states - in determining any proposal where noise may be a problem, the potential for ameliorative works to overcome this will be considered and where necessary made the subject of a condition or a planning obligation.

Relevant Government Guidance

8. PPG15 (Planning and the Historic Environment) - (PPG15) was issued in September 1994 and remains the main document for Government advice and guidance to Local Planning Authorities on the operation of the planning system in relation to the historic environment.
9. PPG24 (Planning and Noise) - This PPG gives guidance to local authorities in England on the use of their planning powers to minimise the adverse impact of noise and builds on the advice previously contained in DOE Circular 10/73. It:
 - outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which will generate noise;
 - introduces the concept of noise exposure categories for residential development, encourages their use and recommends appropriate levels for exposure to different sources of noise; and
 - advises on the use of conditions to minimise the impact of noise.
10. PPS6 (Planning for Town Centres) – This PPS sets out the Government’s key objective for town centers, that is to promote their vitality and viability by:
 - Planning for the growth and development of existing centres; and
 - Promoting and enhancing existing centres, by focusing development in such centres and

- Encouraging a wide range of services in a good environment, accessible to all.

** please note that details or extracts of policies are no longer included in reports - see page 4 of these papers.*

OBSERVATIONS

11. TC – to be reported
12. SCC (Archaeology) – no significant impact on known archaeological sites therefore no objection to the proposal and no mitigation required.
13. HoES - no adverse comments regarding the proposal to extend opening hours of this licensed premises provided that the “no amplified music” condition remains, and is adequately enforced. I note that the music condition has already been breached and I would be wary of extending operating hours if music is not stopped. I would suggest that the playing amplified music within the premises after 11pm would be seriously detrimental to the amenity of neighbouring residential occupiers and may cause statutory nuisance.

ASSESSMENT

14. The application is made to continue development of the site (i.e. the material change of use granted) without complying with a condition subject to which the previous planning permission was granted. In considering such an application it is clear within s73 of the Town and Country Planning Act 1990 that local planning authorities shall consider only the question of the conditions subject to which planning permission should be granted:
 - If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
15. Therefore the principle of the use of the unit is not before members but solely the issue of the extension of hours associated with the variation of condition 2 of the host permission. In considering the impact of the proposed variation the main issue is:
 - Whether the variation of the hours of opening would result in undue noise and disturbance to the detriment of the locality and nearby residential dwellings.
16. The main policy considerations are ECON08 of the Structure Plan, SD01-SD04 and EN25 of the Babergh Local Plan Alteration No. 2 (2006) and PPG24. These policies seek to reinforce the character and vitality and viability of Sudbury town centre through promotion of appropriate land uses. Policy EN25 refers to development that may generate noise. In particular that planning permission would not be granted for development that would cause a significant adverse impact.

17. The proposal seeks the extension of hours by two hours (from 11pm – 1.00 am) over three nights per week (Thursday, Friday and Saturday). It is important to note that the host permission (B/04/01706/FUL) prohibits amplified music being played from this site through the imposition of condition 4. This situation would not change with the variation of hours should members be minded to agree the proposal.
18. The bar is located in the town centre where policy would suggest that this type of use is best located. There are residential properties nearby but the immediate neighbours of the site are retail/professional units (estate agent and optician). The HoES has raised no objection to the extension of the hours on noise grounds. Therefore it is concluded that no significant material harm would result to residential amenity from noise and disturbance as a result of allowing the extension of hours applied for as a variation to condition 2 of B/04/01706/FUL.

Other Material Considerations

Application B/05/01960/FUL

19. This application sought variation of both conditions 2 and 4 of B/04/01706/FUL to allow not only extended hours but also live entertainment, amplified music and dance classes from the premises. This was refused for the following reason:

- *The proposal to allow live entertainment, amplified music, food and dance classes, would represent a change from a low impact activity (by virtue of unamplified music) to a high impact bar with an unfettered ability to generate high levels of noise from amplified music. If permitted it would result in late night disturbance to the detriment of the amenities of the occupants of residential properties in the near vicinity of the site. Furthermore the application property, 51-52 Gainsborough Street, is a Locally Listed Building and in the absence of evidence to the contrary the Local Planning Authority is not convinced that it could be modified (without significant detriment to the character of the Building) to provide comprehensive structural sound-proofing measures which would be required to prevent an adverse impact on the surrounding area.*

The proposal is therefore contrary to the provisions of policy LP67, LP68 and LP78 of the Babergh Local Plan Alteration No. 1, CN10, EN24 and EN25 of the Babergh Local Plan Alteration No. 2 and PPG15 and PPG24.

20. This reason relates solely to the variation of condition 4, namely live entertainment, amplified music, food and dance classes, and is material in consideration of the proposal before members in that it did not include the extension to hours.

REASONS FOR APPROVAL

Having regard to the proximity of neighbouring residential properties, the setting of this building of architectural or historic interest, the pattern of existing development in the area and the relevant provision of the Development Plan the development is considered to accord with policy ECON8 of the Structure Plan; and policies CN08, EN24, EN25, SD01 – SD04 of Babergh Alteration No. 2 (2006) in so far as it represents a proposal appropriate to a town centre location that would not have a significant adverse impact in terms of noise or adversely impact on residential amenity.

RECOMMENDATION

Grant Planning Permission subject to the following conditions:

- Hours of opening (as applied for).

DECISION
