

# Planning Committee

22 June 2017

**Reference:**  
**APP/16/01372**

**Area Team:**  
**North Team**

**Case Officer:**  
**Mr K Spilsbury**

**Ward:**  
**Birkenhead and Tranmere**

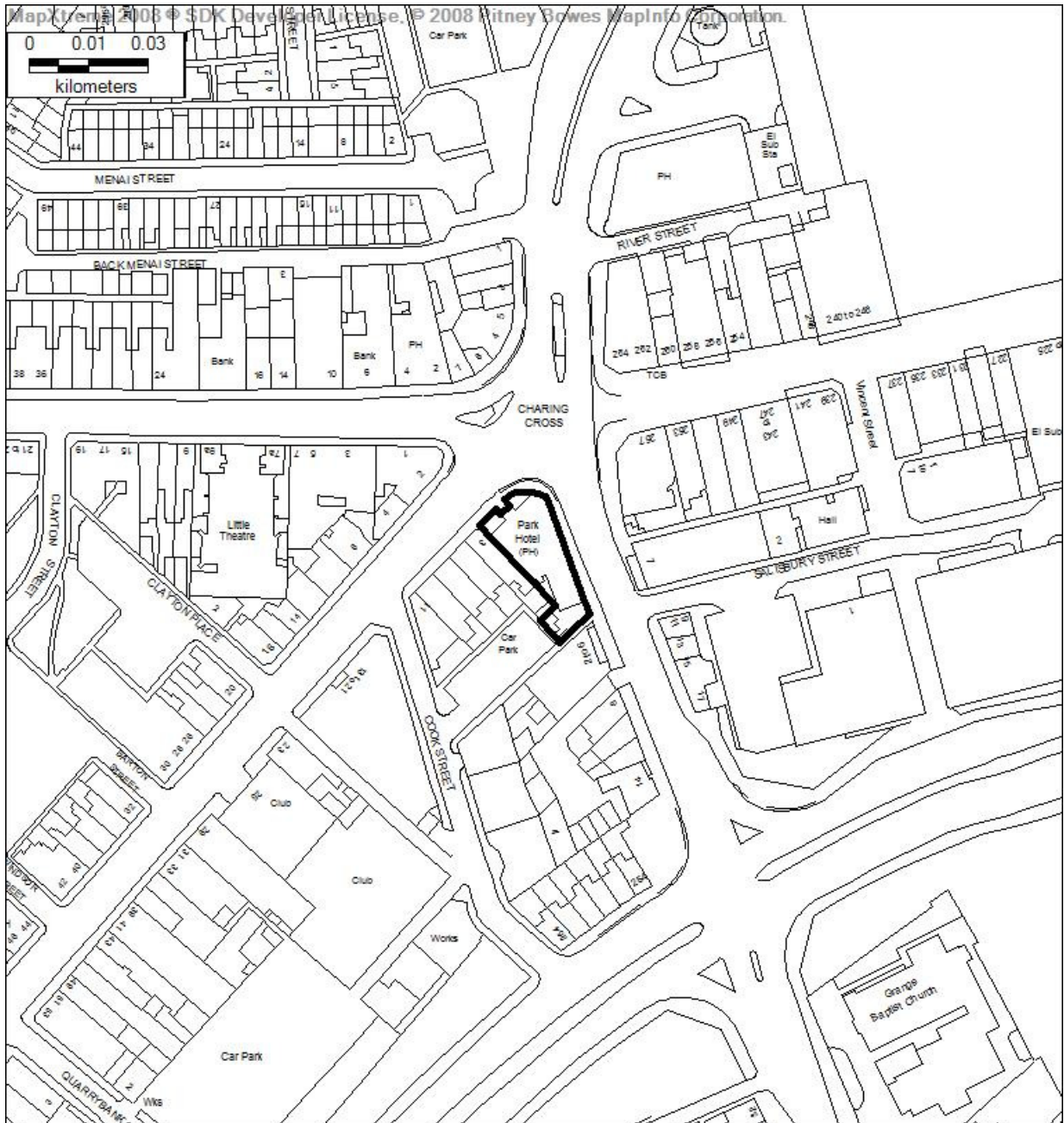
**Location:**  
**Proposal:**

Dickie Lewiss Sports Bar, 1 OXTON ROAD, BIRKENHEAD, CH41 2QQ  
Change of use from public house with residential accommodation above to two commercial units (A1 - Retail and A3 - Restaurant) at ground floor and 12 HMO bedsits on first and second floor (amended description).

**Applicant:**  
**Agent :**

Mr S Ahmed  
SDA Architecture Limited

## Site Plan:



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**Development Plan Designation:**

Traditional Suburban Centre

**Planning History:**

Location: Dickie Lewiss Sports Bar, 1 Oxton Road, Birkenhead, Wirral, CH41 2QQ  
Application Type: Full Planning Permission  
Proposal: Change of use of first floor from residential to bed and breakfast.  
Application No: APP/07/07128  
Decision Date: 31/01/2008  
Decision Type: Approved

Location: The Park Public House, 1, Oxton Road, Birkenhead. L41 2QQ  
Application Type: Full Planning Permission  
Proposal: Erection of toilet extension, enlarged windows and new window canopies.  
Application No: APP/88/07242  
Decision Date: 13/01/1989  
Decision Type: Approved

**Summary Of Representations and Consultations Received:****REPRESENTATIONS:**

Having regard to the Council Guidance on Publicity for Applications, 45 notifications were sent to adjoining properties. A site notice was also displayed. At the time of writing this report, two objections have been received.

**Wirral Chamber of Commerce** – the Chamber are working in partnership with Wirral Council and local businesses to improve Birkenhead Town Centre for visitors, residents and businesses. The biggest issue raised by partners is around safety, security and anti-social behaviour. In an area already suffering from decline and anti-social behaviour, the Chamber has very real concerns that this proposed development will only escalate the problem and will undo the hard work that has already been done to improve the Town Centre. There is a clear correlation between HMOs and levels of reported crime and anti-social behaviour issues. This building is also a key location in Birkenhead Town Centre and the loss of any employment space in this area cannot be supported. The Chamber strongly object to this proposal.

**Birkenhead First** - the Birkenhead First Steering Group strongly object to the creation of 12 bed sits in such a central point in the Town Centre. Birkenhead First is working with key partners on the recently formed "Town Centre Meetings" to tackle the issues facing Birkenhead. For the first time key partners such as public health, YMCA, Merseyside Police, ASB teams, etc. are sharing intelligence and pooling resources which has already delivered substantial improvements including the relocation of several individuals from the streets into supported services. The Council car park on Cook Street directly behind the proposed development is already a hot bed for fly tipping and anti-social behavior that is regularly reported to us. There is no vehicle access to the building and it does not have its own yard, therefore, more refuse will be out on the street. A key role for us is to change the perceptions that Birkenhead is not a safe and pleasant place to visit and to encourage more shoppers to the area. We know from past experience that HMOs attract residents prone to ASB. Our journey has only just started and we truly believe that creating this type of dwelling right in the center of our BID boundary will set us back tenfold. Birkenhead First strongly object to this proposal

**CONSULTATIONS:**

**Engineers** - No objections

**Environmental Health** – No objection subject to conditions

**Housing** - No objections

**Director's Comments:**

Consideration of this application was deferred at Planning Committee on 1 June 2017 to allow for a formal Member's Site Visit to take place.

## **REASON FOR REFERRAL TO PLANNING COMMITTEE**

Councillor Cleary has requested the application be taken out of delegation over concerns about the number of people living in the HMO, the size and number of bedrooms provided and the number of bathrooms and toilets provided and the provision for secure/covered cycle parking.

## **INTRODUCTION**

The proposed development is for the change of use from public house with residential accommodation above to two commercial units (A1 - Retail and A3 - Restaurant) at ground floor and 14 HMO bedsits on first and second floor (amended description).

## **PRINCIPLE OF DEVELOPMENT**

Conversion of an existing building to multi-occupancy can only be permitted where the proposal fulfils all the criteria in UDP Policy HS14. The provision of a restaurant and retail premises is acceptable in principle subject to UDP Policy SH2 and supplementary guidance in SPD 3 - Hot food takeaways, Restaurants, Cafes and Drinking Establishments.

## **SITE AND SURROUNDINGS**

The site is made up of a large period property located on the corner of Oxton Road and Whetstone Lane facing Charing Cross. The property is a former public house with living accommodation above. There is a mix of properties in the area including a MacDonalds restaurant, a number of public houses as well as shops and food outlets.

## **POLICY CONTEXT**

Having regards to the proposal to use the upper floors of the existing building multiple residential occupation UDP Policy HS14: Houses in Multiple Occupation sets out a number of criteria that must be fulfilled: the property being of sufficient size to accommodate the proposal and not of modern domestic scale; if the property is not detached then adjoining property is not in single family occupation; the proposal not resulting in a private dwelling having an HMO on both sides; the proposal not resulting in a change in the character of the surrounding area which would be detrimental; the proposal not resulting in a concentration of HMO's in a particular area such that the character of the area is adversely affected; the proposal ensuring the privacy of neighbours and occupants, including the layout of car parking areas, to prevent overlooking of habitable room windows; staircase access normally being provided within the main structure of the building. If external staircases have to be provided they must not result in significant overlooking of neighbours' windows or private amenity space; any extensions required complying with Policy HS11; any new windows required to serve habitable rooms, such as living rooms, kitchens or bedrooms, not overlooking adjoining properties to an unacceptable degree; any interior vertical partitions not cutting across windows and ceiling height reductions not being visible externally; adequate sound proofing being provided; any basement accommodation having windows with two-thirds of their height above the existing outside ground level giving sufficient daylight penetration, a reasonable outlook and not immediately adjacent to parking bays and vehicle access ways; main living rooms having a reasonable outlook and not lit solely by roof lights, nor in close proximity to high boundary or gable walls; access to rear yards/gardens being provided from each flat; adequate visibility at entrance and exit points and turning space for vehicles; and the proposal otherwise complying with Policy HS4 and Policy HS5.

Existing HMO's and valid planning permissions must not comprise more than 20% or more of the properties forming the street frontage within a street block.

Having regards to the proposed conversion of the ground floor public house UDP Policy SH2 - Criteria for Development in Traditional Suburban Centres applies. This policy states "Within the Traditional Suburban Centres, proposals falling within Class A1, Class A2 and Class A3 of the Town and Country Planning (Use Classes) Order 1987, will be permitted subject to satisfying the following criteria: the proposal, together with other recent or proposed development does not undermine the vitality and viability of any Key Town Centre or Traditional Suburban Centre as a whole or other town centre outside the Borough boundary; the proposal does not generate traffic in excess of that which can be accommodated by the existing or proposed highway network; the proposal meets highway access and servicing requirements and includes off-street car parking in line with Policy TR9 and cycle parking in line with Policy TR12; the siting, scale, design, choice of materials and landscaping is not detrimental to the character of the area; proposals for Class A2 uses should incorporate the provision of a shop front

and permanent window display; the proposal does not cause nuisance to neighbouring uses or lead to loss of amenity, as a result of noise and disturbance, on-street parking or delivery vehicles - where necessary, a suitable condition will be imposed on hours of opening/ operation; where a proposal for Class A3 use is located on a street containing similar establishments, cumulative levels of noise and disturbance, from both the existing and proposed activities, should not exceed a level likely to be detrimental to the amenity of the area; proposals for Class A3 uses should include measures to mitigate smells and internally-generated noise - these measures should not be visually intrusive in the street scene and should be fully installed before the business commences trading.

The National Planning Policy Framework (NPPF) states that the purpose of planning is to contribute to the achievement of sustainable development. NPPF paragraph 9 indicates that pursuing sustainable development involves seeking positive improvement in the quality of the built environment and the quality of life including (but not limited to): replacing poor design with better, improving the conditions in which people live and widening the choice of quality homes. .

### **APPEARANCE AND AMENITY ISSUES**

Following consultation with the Council's Housing Strategy team, amendments have been sought by officers to ensure that living standards of the future occupiers are of an acceptable standard. The layout of the bedsits has been reconfigured in order to provide a larger lounge area on the first floor and to ensure all bedroom sizes are above 6.52sqm.

In addition the applicant has also requested that the configuration of the ground floor units is changed from 3 units to 2 including 1no. A1 - Retail shop and 1no. A3 - Restaurant.

As stated above the plans have been amended to improve the layout which has been reviewed by the Housing Standards scheme.

The Environmental Health Department have raised no objection to the scheme with regards to noise and disturbance subject to a condition for noise insulation between ground floor and residential above, a scheme of fume extraction for the restaurant and an hours condition limiting the opening hours of the proposed restaurant to Monday to Sunday 9.00am - 11.30pm.

The number and size of the bedrooms in the revised scheme is therefore now considered to be acceptable having regards to UDP Policy HS14. Given the size, layout and location of the application building and curtilage, it is not considered that significant impacts would arise from the grant of planning permission.

The proposed HMO would enable the first and second floor of the premises to be used effectively without detriment to the commercial frontage. The use of the ground floor for A1 and A3 is acceptable having regards to Policy SH2 and the introduction of a HMO above ground floor is deemed as an acceptable use within a Traditional Suburban Centre. The first and second floors were already being used as residential accommodation and as such the conversion to a HMO will have minimal disruption to the area.

Considering appearance, internal alterations will be undertaken to facilitate the use, including the insertion of partitions and the addition of additional bathroom areas and kitchens. There are no external alterations proposed and the continued use of the building will ensure its upkeep and maintain a preserve a building of architectural merit for future generations.

The cycle parking arrangements have also been amended. The plans indicate a 12 unit, covered stack secure bike store within the existing external courtyard area. A condition is proposed to secure appropriate cycle parking facilities at the site should members be minded to approve the application in addition to a bin storage condition.

It is considered that the proposed development is acceptable in terms of its use and the proposed amendments will not have an adverse impact upon the character of the building or the traditional suburban centre. The introduction of a large HMO at first and second floor will not result in a detrimental impact upon the amenities of surrounding properties and as such the development is considered acceptable in terms of the criteria set out in UDP Policy HS14 and SH2 as well as the NPPF.

## **SEPARATION DISTANCES**

The proposal is for a change of use of an existing building, and as such the only consideration is whether the use would result in new opportunities for overlooking, or result in additional rooms being used for a habitable purpose that might result in privacy issues. It is not considered that privacy or overlooking issues would arise to the front, side or rear of the property, given that all of the windows are existing.

## **HIGHWAY/TRAFFIC IMPLICATIONS**

There are no significant highway implications relating to this proposal. Small parking provision is provided within the existing car park however the site is deemed to be located within a sustainable location with good transport links and access to local services and shops.

## **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

Environmental/sustainability issues relating to the living conditions of future occupants and the neighbours' amenity have been taken into account..

## **HEALTH ISSUES**

Health implications relating to the living conditions of future occupants and the neighbours' amenity have been taken into account.

## **CONCLUSION**

The proposal is considered to be of a scale and design which would not result in a detrimental change in the character of the building or the surrounding area. The ground floor use is considered acceptable within the Traditional Suburban Centre and the first and second floor HMO development will not result in any significant impacts on the amenities of neighbours surrounding the site in terms of loss of outlook, privacy, daylight or sunlight. It is considered that the proposal complies with Policy HS14 and SH2 of the adopted Wirral Unitary Development Plan and the National Planning Policy Framework.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal is considered to be of a scale and design which would not result in a detrimental change in the character of the building or the surrounding area. The ground floor use is considered acceptable within the Traditional Suburban Centre and the first and second floor HMO development will not result in any significant impacts on the amenities of neighbours surrounding the site in terms of loss of outlook, privacy, daylight or sunlight. It is considered that the proposal complies with Policy HS14 and SH2 of the adopted Wirral Unitary Development Plan and the National Planning Policy Framework.

**Recommended                      Approve**  
**Decision:**

### **Recommended Conditions and Reasons:**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

**Reason:** To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 11th May 2017 and listed as follows: 61\_2016\_01 Rev C (Dated 11.05.2017), 61\_2016\_02 Rev C (Dated 11.05.2017) & 61\_2016\_03 Rev C (Dated 11.05.2017),

**Reason:** For the avoidance of doubt and to define the permission.

3. Prior to commencement of development a suitable noise insulation scheme between the

ground floor and residential accommodation above (adhering to 'Building Regulations Approved Document E - Resistance to the passage of sound') shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the premises being first opened, and retained as such thereafter unless otherwise agreed in writing

**Reason:** In the interests of amenity

4. Prior to commencement of development, a suitable scheme of fume extraction shall be submitted to and approved in writing by the Local Planning Authority (with reference made to the Defra document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'). The approved scheme shall be implemented in full prior to the premises first opening, and be retained as such thereafter unless otherwise agreed in writing

**Reason:** In the interests of amenity

5. The restaurant hereby permitted shall be closed between 23:30 and 09:00. Monday to Sunday.

**Reason:** In the interest of amenity having regards to policy SH2 of the Wirral UDP.

6. No development shall take place until details of secure covered cycle parking and/or storage facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first use of the development hereby permitted and shall be retained for use at all times thereafter.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car, having regard to Policy TR12 of the Wirral Unitary Development Plan.

7. PRIOR TO THE FIRST OCCUPATION OF THE DWELLINGS arrangements for the storage and disposal of refuse, and vehicle access thereto, shall be made within the curtilage of the site, in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure a satisfactory appearance and adequate standards of hygiene and refuse collection, having regard to policies WM8 and WM9 of the Waste Local Plan.

8. The residential occupancy of the building subject of this planning permission shall, at any one time, be limited to 12 people.

**Reason:** To ensure a satisfactory standard of accommodation having regard to the communal facilities to be provided, specifically to bathroom, toilet and kitchen facilities and to comply with Policy HS14 of the Wirral Unitary Development Plan.

**Last Comments By:** 23/05/2017

**Expiry Date:** 20/03/2017