

Planning History:

Location: The Old English Cafe, 361 CLEVELAND STREET, BIRKENHEAD, CH41 4JW
Application Type: Planning Pre-Application Enquiry
Proposal: Convert ground floor cafe to two self contained flats
Application No: PRE/13/00112/ENQ
Decision Date: 20/09/2013
Decision Type: Pre-Application Reply

Location: Old English Gentleman Cleveland St Birkenhead
Application Type: Advertisement Consent
Proposal: 2 illuminated lantern signs.
Application No: ADV/75/02212
Decision Date: 01/04/1975
Decision Type: Conditional Approval

Location: 361 Cleveland Street, Birkenhead, Wirral, CH41 4JW
Application Type: Full Planning Permission
Proposal: Change of use to café
Application No: APP/04/07570
Decision Date: 14/03/2005
Decision Type: Approve

Summary Of Representations and Consultations Received:

REPRESENTATIONS

Having regard to the Council's Guidance on Publicity for Applications, 10 neighbour notification letters were sent to adjoining properties. A site notice was also displayed. At the time of writing, no objections have been received.

CONSULTATIONS

Head of Environment and Regulation (Traffic and Transportation Division) - No objections

Head of Environment and Regulation (Pollution Control Division) - No objections

Director's Comments:

REASON FOR REFERRAL TO PLANNING COMMITTEE

Councillor Harry Smith requested that the application be removed from delegated authority. Councillor Smith also requests a Planning Committee site visit and is supportive of the application, stating that leaving the premises as it is could lead to vandalism and that the additional residential units is a 'natural course of events' and there is 'plenty of other housing in the immediate area'.

INTRODUCTION

The application seeks permission for a change of use of the ground floor of no. 361 Cleveland Street to form two bedsit flats. The previous use of this floor was as a cafe, 'The Old English Cafe'. The only operational development would be the insertion of a door to the elevation of the building facing Livingstone Street, replacing a window.

PRINCIPLE OF DEVELOPMENT

The site is designated as a Primarily Industrial Area in the Unitary Development Plan. There is no provision for uses within Use Class C3 under relevant UDP Policy EM8.

SITE AND SURROUNDINGS

The application site is at the junction of Livingstone Street and Cleveland Street, an area supporting light and heavy industrial land uses. Land immediately to the west and south (the former Whitbread brewery site) is currently in a mixed use for materials storage/reclamation and vehicle storage/maintenance. To the north and east there are further industrial and sui generis uses, and vacant areas of land, which has been cleared of hard to let housing and identified for new

employment development as part of an approved disposal regeneration strategy.

The application site consists a former public house, the upper floors of which are in residential use as two flats. The ground floor was last used as a cafe, with permission granted for the cafe use in 2004 (application APP/04/07570). The nearest houses are located more than 150 metres to the south.

POLICY CONTEXT

The site is located within a Primarily Industrial Area and UDP Policy EM8 of the Unitary Development Plan only permits development within Use Classes B1 – business use, B2 – general industrial, and B8 – storage and distribution. UDP Policy PO4 also sets out criteria for assessing of noise-sensitive development. Although applicable in Primarily Residential Areas UDP Policy HS13: Self Contained Flat Conversions and supplementary guidance in SPD2 would be relevant. Development Management Policies in the Joint Waste Local Plan for Merseyside and Halton are also applicable. Policy WM8 requires development to incorporate measures for achieving efficient use of resources, Policy WM9 also requires development to provide measures for waste collection and recycling, including home composting.

The proposal is a departure from the Unitary Development Plan. Planning legislation makes it clear that the application must be determined in accordance with the statutory development plan unless there are material considerations to indicate otherwise.

The National Planning Policy Framework (NPPF) is a material consideration and the Government wants the planning system to do all that it can to support sustainable economic growth, and recognise that businesses should not have unreasonable restrictions put on them because of changes in nearby land use, but expects planning policies to avoid long term protection of employment premises where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect, applications should be treated on their merits having regard to market signals and relative need for different uses to support sustainable communities (NPPF paragraphs 18-22 & 123 refer).

The Council also resolved that the Core Strategy Local Plan Submission Draft will be material in the determination of planning applications. Draft Policy CS17 will continue to safeguard designated employment areas, however, it makes provision for compatible alternative uses where it is not suitable for one of the priority sectors, there has been continuous marketing and there is no reasonable prospect of the site being re-used for employment purposes.

There is an absence of information, which was requested in pre-application advice and after the application was made, about the length of vacancy and marketing the site for uses permitted under UDP Policy EM8.

The applicant has indicated that the former cafe attracted 7 different leaseholders, claims that high overheads and small income meant that none of these businesses were sustainable and contends the only 'industrial' use that would be suitable is a B1 use due to existing residential units above but this is unlikely to be secured because of conversion costs.

Nevertheless, this has not been verified through continuous marketing for the permitted employment uses at a realistic price. The latest market signals are indicating that the country is now coming through the worst excess of the recession and the continued ability to attract new tenants to run the former cafe indicates that there is at least a significant chance that the application site could be used successfully for a non-residential purpose which is suitable for this area. Members should also be aware that there is no planning history of the above floors being converted to residential use, and therefore only one of these units would appear to be lawful. It is therefore considered that insufficient evidence has been provided to demonstrate that the premises cannot be used for a use which complies with policy.

In terms of compatibility, the proposed residential units would immediately adjoin a reclamation yard and vehicle storage and maintenance operation. The site on the opposite corner to the north is one areas of cleared of unsuitable housing at the heart of the Cleveland Street corridor for new employment development as noted in Wirral Employment Land and Premises Study Refresh (September 2012). Thus it can be contended that the application site is not in as suitable location for residential development.

Whilst the unit is currently unoccupied, and bringing it back into a compatible use would be beneficial, this location is unsuitable for residential use. A unit within a Primarily Industrial Area being vacant should not automatically result in the conversion of that unit to residential use being acceptable. Given the lack of supporting and marketing information, to allow the conversion of this premises to residential use may set an unacceptable precedent for any vacant units/premises within a Primarily Industrial Area to be granted planning permission for conversion to residential use.

APPEARANCE AND AMENITY ISSUES

In terms of appearance, the only alteration to the appearance of the development would be the replacement of a window with a door on the Livingstone Street elevation. The change is very modest and would not impact to the appearance of the building or the streetscene.

UDP Policy HS13 and SPD2 sets out relevant criteria for self-contained flat conversions. It is considered that the internal layout of the flats is appropriate, with the main living rooms having reasonable outlook, soundproofing between flats and no issues of overlooking. However external amenity open space is not provided, though access to a yard/garaging area to the south of the units would provide some defensible space. It should be noted that Birkenhead Park at the southern end of Livingstone St is beyond the Council's normal standard of 400 metres walking distance to accessible public open space.

Residential development is a noise sensitive use and has the propensity to impact of the operations of neighbouring businesses.

SEPARATION DISTANCES

As surrounding land uses are non-residential, separation distances do not apply to this application.

HIGHWAY/TRAFFIC IMPLICATIONS

There are no adverse highway implications relating to this proposal. Whilst no off-street parking is indicated, on street parking is available without harm to highway safety.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

Policy PO4 states the Local Authority must consider existing noise exposure and background noise in the locality. Noise sensitive development such as residential housing will only be permitted in locations which are not expected to become subject to unacceptably high levels of noise. The wider area contains a number of different industrial uses, many of which do not have restricted hours. The proposal would result in the establishment of a noise sensitive development within a designated industrial area. The proposal may result in a detrimental effect on adjacent commercial uses and would therefore conflict with policy PO4 - Noise Sensitive Development of the Wirral Unitary Development Plan.

The National Planning Policy Framework (NPPF) expects the planning system to do all that it can to support sustainable economic growth, and recognise that businesses should not have unreasonable restrictions put on them because of changes in nearby land use.

HEALTH ISSUES

There are potential health implications from noise and disturbance from adjoining industrial uses, which could be mitigated through a condition for sound insulation..

CONCLUSION

The proposal would conflict with the provisions of Policy EM8: Development within Primarily Industrial Areas of the adopted Wirral Unitary Development Plan and would have a detrimental impact on the purpose and character of the Primarily Industrial Area. The proposal would result in the establishment of a noise sensitive development within a designated industrial area. The proposal may result in a detrimental effect on adjacent commercial uses and would therefore conflict with UDP Policy PO4: Noise Sensitive Development of the Wirral Unitary Development Plan.

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 and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal would conflict with the provisions of Policy EM8: Development within Primarily Industrial Areas of the adopted Wirral Unitary Development Plan and would have a detrimental impact on the purpose and character of the Primarily Industrial Area. The proposal would result in the establishment of a noise sensitive development within a designated industrial area. The proposal may result in a detrimental effect on adjacent commercial uses and would therefore conflict with Policy PO4: Noise Sensitive Development of the Wirral Unitary Development Plan.

Recommended Refuse
Decision:

Recommended Conditions and Reasons:

1. The proposal would conflict with the provisions of Policy EM8 in the Wirral Unitary Development Plan which makes provision for employment uses in Use Class B1, B2 or B8 and reconstruction, extension or expansion of existing businesses, and is also contrary to the National Planning Policy Framework and Policy CS17 'Protection of Employment Land' in the Core Strategy for Wirral – Proposed Submission Draft because the submitted evidence does not demonstrate that there is no reasonable prospect of the site being used for these purposes.
2. The proposal would be detrimental to the purpose and character of the area and could perpetuate the establishment of noise sensitive development to detriment neighbouring businesses. This could set an undesirable precedent that could undermine sustainable economic growth and employment opportunity if replicated elsewhere within the Primarily Industrial Area. This is contrary to the intentions of Policy EM8: Development within Primarily Industrial Areas and Policy PO4: Noise Sensitive Development in the Wirral Unitary Development Plan and the National Planning Policy Framework.

Further Notes for Committee:

Last Comments By: 31/01/2014 14:31:01
Expiry Date: 23/01/2014