

Planning Committee

18 October 2018

Reference:
APP/18/00762

Area Team:
North Team

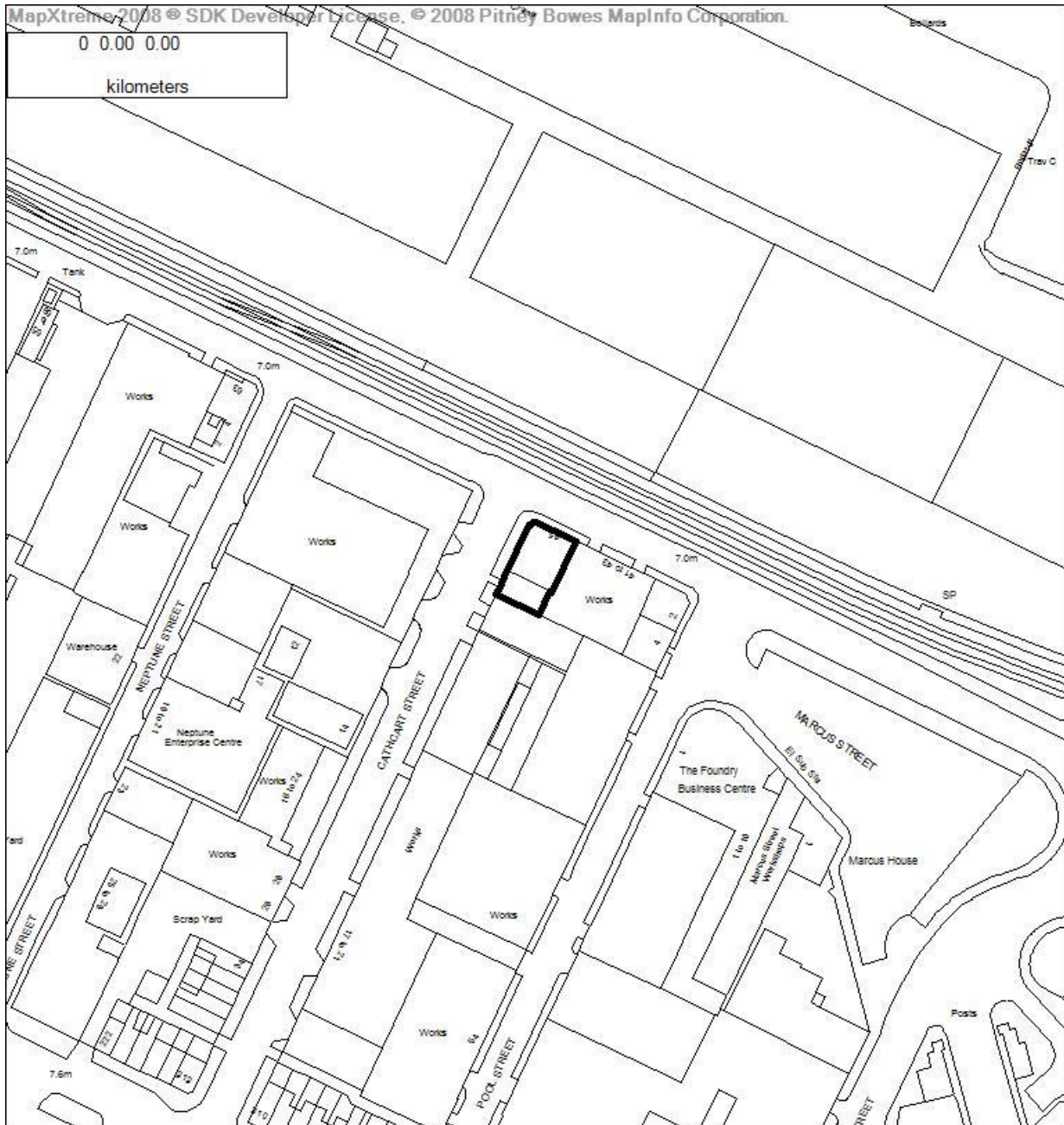
Case Officer:
Mr B Pratley

Ward:
Bidston and St James

Location: 45 CORPORATION ROAD, BIRKENHEAD
Proposal: Retrospective application for 12 no units at first and second floor and alterations to roof. Confirmation of layout of ground floor. (works started approximately 1.1.2017).

Applicant: Mr Hammad
Agent : Simon Hands and Associates

Site Plan:



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Development Plan designation:

Primarily Industrial Area

Planning History:

Location: Vacant Public House, 3 Cathcart Street, Birkenhead, Wirral, CH41 3NG
Application Type: Full Planning Permission
Proposal: Erection of a three storey enclosed access staircase, a single storey extension and general refurbishments
Application No: APP/05/05017
Decision Date: 17/02/2005
Decision Type: Approve

Location: The Royal Hotel, 3 CATHCART STREET, BIRKENHEAD, CH41 3NG
Application Type: Full Planning Permission
Proposal: Change of use to provide 6 additional bed-sitting rooms.
Application No: APP/09/06544
Decision Date: 19/03/2010
Decision Type: Refuse

Location: Vacant Public House, 3 Cathcart Street, Birkenhead, Wirral, CH41 3NG
Application Type: Full Planning Permission
Proposal: Change of use to a hotel and night club and function suite and erection of a rear extension
Application No: APP/06/06468
Decision Date: 08/12/2006
Decision Type: Refuse

Location: 3 Cathcart Street, Birkenhead, Wirral, CH41 3NG
Application Type: Full Planning Permission
Proposal: Change of use from public bar to residential
Application No: APP/09/05006
Decision Date: 24/04/2009
Decision Type: Refuse

Appeal Details

Application No	APP/09/06544
Appeal Decision	Allowed
Appeal Decision Date	24/11/2010

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

Having regard to the Council Guidance on Publicity for Applications 5 notifications were sent to adjoining properties. A site notice was also displayed. At the time of writing this report 1 objection has been received, listing the following grounds:

1. The building is the source of anti-social behaviour.
2. Waste water has been escaping onto the pavement.
3. The 'flouting' of planning regulations should be punished.

CONSULTATIONS:

Highways - No objections subject to condition requiring the provision of double yellow lines.

Environmental Health – No objections.

Merseyside Fire and Rescue Service - No objections.

Director's Comments:

REASON FOR REFERRAL TO PLANNING COMMITTEE

The proposal represents a departure from the Wirral Unitary Development Plan.

INTRODUCTION

The application seeks approval for the use of the first and second floors as a 12 bedroom HMO.

PRINCIPLE OF DEVELOPMENT

The proposed development is a departure from the Wirral Unitary development plan, as the site is identified as a Primarily Industrial Area on the UDP Proposals map and UDP Policy EM8 only makes provision for employment development within Use Classes B1, B2 and B8 and alterations to existing businesses to protect employment land from other forms of development. Material considerations must be identified to outweigh the provisions of the statutory development plan in favour of the application before planning permission could be granted

SITE AND SURROUNDINGS

The site is a three storey former public house. The upper floors were used as accommodation for the publican. The ground floor is currently in use as 6 bed sitting rooms, which were granted permission on appeal in 2009. The upper floors have been licensed as a 10 bedroom HMO since April 2008, although this use has never benefitted from planning permission.

The site is located in a Primarily Industrial Area. Various commercial uses surround the site, including a wholesalers, a manufacturer of roller shutters and a furniture manufacturer.

POLICY CONTEXT

UDP Policy EM8 – Development within Primarily Industrial Areas

This Policy states that the following uses will be permitted within Primarily Industrial Areas:

- (i) Uses falling within Classes B1, B2 or B8
- (ii) Proposals for the reconstruction, extension, or expansion of existing businesses

UDP Policy PO4 – Noise Sensitive Development

In considering proposals for noise-sensitive development, the Local Planning Authority will have particular regard to:

- i. The likely level, tone, duration and regularity of noise exposure and any likely increase in the foreseeable future;
- ii. The existing level of background noise within the locality;
- iii. The extent to which the effects of noise on the proposal can be mitigated through measures such as alterations to layout, provision of noise insulation or restriction of operating hours; and
- v. The noise exposure category of a site for proposed residential development which is near an existing transport related noise source.

In all cases, noise sensitive development will only be permitted in locations which are not expected to become subject to unacceptably high levels of noise, or where adequate protection against noise can be achieved by means of planning conditions or planning obligations.

UDP Policy HS4 - Criteria for New Housing Development

This policy requires that the proposal in general terms must relate well to adjacent properties and not result in a detrimental change in the area or to the amenity of neighbouring properties.

UDP Policy HS14 – Houses in Multiple Occupation

Proposals for the conversion of existing buildings to multi-occupancy will not be permitted unless the proposal fulfils all the following criteria:

- (i) The property being of sufficient size to accommodate the proposal and not of modern domestic

- scale;
- (ii) if the property is not detached then adjoining property is not in single family occupation;
 - (iii) the proposal not resulting in a private dwelling having an HMO on both sides;
 - (iv) the proposal not resulting in a change in the character of the surrounding area which would be detrimental;
 - (v) the proposal not resulting in a concentration of HMO's in a particular area such that the character of the area is adversely affected;
 - (vi) the proposal ensuring the privacy of neighbours and occupants, including the layout of car parking areas, to prevent overlooking of habitable room windows;
 - (vii) 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;
 - (viii) any extensions required complying with Policy HS11;
 - (ix) any new windows required to serve habitable rooms, such as living rooms, kitchens or bedrooms, not overlooking adjoining properties to an unacceptable degree;
 - (x) any interior vertical partitions not cutting across windows and ceiling height reductions not being visible externally;
 - (xi) adequate sound proofing being provided;
 - (xii) 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;
 - (xiii) main living rooms having a reasonable outlook and not lit solely by roof lights, nor in close proximity to high boundary or gable walls;
 - (xiv) access to rear yards/gardens being provided from each flat;
 - (xv) adequate visibility at entrance and exit points and turning space for vehicles;
 - (xvi) and the proposal otherwise complying with Policy HS4 and Policy HS5.

Existing HMOs and valid planning permissions must not compromise more than 20% or more of the properties forming the street frontage within a street block.

UDP Policy TR9 – Requirements for Off Street Parking

This policy requires the assessment of off-street parking provision to be guided by a number of considerations, including the availability of alternative modes of transport, road safety and traffic management issues.

Policy URN1 – Development and Urban Regeneration

Policy URN1 states that the Local Planning Authority will be concerned to ensure that

- (i) Full and effective use is made of land within the Urban Areas;
- (ii) Neglected, unused or derelict land or buildings are brought into use;
- (iii) The need for new services is minimised by promoting the use of spare capacity in existing services

Whilst ensuring sensitive types of land or building are protected from inappropriate development.

Emerging Core Strategy Policy CS17 - Protection of Employment Land

Land will be safeguarded within designated employment areas to maintain local employment and provide a range and choice of sites and premises in terms of quality, accessibility, type and size to meet the priorities identified in Policy CS2 and Policies CS4 to CS11. Alternative uses will only be acceptable on land designated for B1, B2 or B8 uses where:

1. the site would not be suitable for the priority sectors identified in Policy CS14;
2. the site has been continuously marketed for employment uses at realistic prices for a period of at least two years and there is no reasonable prospect of the site being re-used for employment uses;
3. an ongoing supply of available, suitable, developable land, sufficient to meet the needs identified in Policy CS13 would still be retained; and
4. the uses proposed are compatible with the character of the surrounding area, would not restrict the operation of existing employment uses, would contribute toward establishing a more sustainable

- pattern of development and would meet the requirements of Policy CS42; and
5. in the case of residential development, that additional housing is needed to demonstrate an ongoing 5-year housing land supply, in line with Policy CS19;
 6. and
 7. in the case of main town centre uses, that the proposal has been subject to an impact and sequential test under national policy and meets the requirements of Policy CS29; or
 8. the development is necessary to secure additional employment development that would not otherwise be viable to provide and criteria 4, 5 and/or 6 (above) would also be met.

Policy issues and the change of use

According to the Council's Private Sector Housing Team the upper two floors of 45 Corporation Road have been licensed as a 10 bedroom HMO since April 2008. It is uncertain whether this use was lawful in 2008; that is to say whether this space was historically used as letting rooms or whether it was purely accommodation for the landlord.

The planning history of the site is considered to be a material consideration in the assessment of this application. Permission for the change of use from the vacant ground floor area to six bed-sits (APP/09/06544) was refused for the following reasons:

- 1) The proposal would conflict with the provisions of policies EM8 *Development within Primarily Industrial Areas* and EM9 *Non-Employment Uses in 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.
- 2) 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 Council's decision was appealed by the applicant, and the appeal was upheld by the Planning Inspectorate. In allowing the appeal, the Inspector stated the following:

I understand the Council's wish to protect land allocated for industrial use from other types of development, including residential uses, where necessary. But my look around showed that a lot of land is unused. The appeal building appears to have no history of industrial use. The conversion of part of this old hotel to residential accommodation has not resulted in the actual loss of an industrial or business use on this land. The fact that the 2 upper floors are used for bed-sitting room purposes also suggests that extending that use to the ground floor would be more suitable than leaving it unused in the hope of finding a B1 user. I consider that allowing the appeal proposal would not cause significant conflict with UDP policy EM9.

The Council's other objection was that, because of the presence of industrial uses nearby, it would be difficult to provide residents of the appeal building with acceptable living conditions. Residents would be subject to excessive noise. The appellant pointed to extensive use of soundproofing of the building. Occupiers of the upper floors had no complaint. This is a situation where incoming residents will be aware of the location and the proximity of industry. That should cause fewer problems than might arise where a new industrial activity starts up close to existing housing. Also, there are other houses nearly opposite. So residents of the appeal building would not be likely to feel they are living in isolation within an entirely industrial area. I find this concern of the Council does not amount to a reason to withhold planning permission. I find no material conflict with UDP policy PO4.

Given the lawful use of the ground floor is residential, a noise generating industrial/commercial use on the first and second floors would be an unrealistic proposition, and would be undesirable from the perspective of ensuring a reasonable quality of living in the ground floor units. It is considered that the Inspectors reasoning on the previous application is relevant to the assessment of this application. This proposal does not result in the actual loss of industrial or business use and future occupants will be aware of the industrial nature of the surroundings before moving in. It is therefore considered that the proposal does not cause significant conflict with Policies EM9 and PO4, and supports the aspirations of Policy URN1.

APPEARANCE AND AMENITY ISSUES

The building is a Victorian public house that, although somewhat neglected and harmed by insensitive alterations, still retains a reasonable amount of historic character. The insensitive alterations include the running of grey and white soil/waste pipes through and along external walls, and the addition of a flat roofed extension above the original roof. The submitted plans indicate that the pipes will be removed and placed internally.

The applicant was seeking retrospective permission to retain the roof extension. However, officers consider that it has a detrimental impact on the character and appearance of the building. Amended plans have therefore been received removing this extension and reinstating a flat roof with lead flashing. It is recommended that the removal of the extension is secured by condition.

The quality of accommodation provided for future occupants is considered to be of a good quality. As an older building floor to ceiling heights are generous, and room sizes are reasonable. The large window openings also allow in a good level of light. Following a request by officers an area of amenity space is proposed to the rear of the property.

SEPARATION DISTANCES

Separation distances do not apply in this instance, as no residential properties will be affected by the proposed development.

HIGHWAY/TRAFFIC IMPLICATIONS

The Council's Traffic and Transport Division state that, following the conversion, they are concerned that double parking on Corporation Road may take place, close to the junction of Corporation Road and Cathcart Street. They therefore state that double yellow lines are required at this junction.

ENVIRONMENTAL/SUSTAINABILITY ISSUES

There are no Environmental/Sustainability issues relating to these proposals.

HEALTH ISSUES

There are no health implications relating to this application.

CONCLUSION

It is considered that the use of the upper floors of this building does not result in the actual loss of commercial/industrial floor space and will not inhibit the commercial/industrial use of the wider area. The proposal is considered acceptable in terms of its design and it will provide a reasonable living environment for future occupiers. The proposal complies with Wirral UDP Policies EM8, PO4, HS4, HS14, TR9 and supports the aspirations of Policy URN1.

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:-

It is considered that the use of the upper floors of this building does not result in the actual loss of commercial/industrial floor space and will not inhibit the commercial/industrial use of the wider area. The proposal is considered acceptable in terms of its design and it will provide a reasonable living environment for future occupiers. The proposal complies with Wirral UDP Policies EM8, PO4, HS4, HS14, TR9 and supports the aspirations of Policy URN1.

Recommended Decision: **Approve**

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 11 July 2018 and listed as follows: 2018072/01 Rev A, 2018097/03 Rev A and 2018097/04 Rev A, the approved plans received by the local planning authority on 4 September 2018 and listed as follows: 2018072/06 Rev B and 2018097/05 Rev B and the approved plans received by the local planning authority on 11 July 2018 and listed as follows: 2018097/04 Rev C.

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

3. The dwellings hereby permitted shall not be occupied until a scheme of works to provide waiting restrictions at the junction of Corporation Road and Cathcart Road have been submitted to and agreed in writing by the Local Planning Authority. The dwellings shall not be occupied until such works have been completed and laid out in accordance with the approved details.

Reason: In the interests of highway safety having regard to Policy HS4 of the Wirral Unitary Development Plan

4. All plastic pipes including but not limited to waste water pipes and soil vent pipes and not including any rainwater goods attached to the exterior of the building shall be permanently removed and the walls made good in accordance with the approved plans (refs: 2018072/05 Rev B and 2018072/06 Rev B) within 6 months of the date of this permission.

Reason: in the interests of the character and appearance of the building and to comply with Policy HS4 of the Wirral UDP.

5. Prior to the first occupation of the dwellings arrangements for the storage and disposal of refuse including recycling facilities, shall be made within the curtilage of the site, in accordance with the approved details shown on plan reference 2018097/02 Rev C. The approved details shall be implemented in full unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that the proposed development would include the re-use of limited resources, and to ensure that the amount of waste for landfill is reduced to accord with Policy WM9 of the Waste Local Plan.

6. The dwellings hereby permitted shall not be occupied 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. The large unauthorised box dormer roof extension shall be permanently removed and the roof made good in accordance with the approved plans (refs: 2018072/05 Rev B and 2018072/06 Rev B) within 6 months of the date of this permission.

Reason: in the interests of the character and appearance of the building and to comply with Policy HS4 of the Wirral UDP.

Further Notes for Committee:

1. The following are observations of Merseyside Fire and Rescue Authority:

9. Access for fire appliances should comply with the requirements of Approved Document B5 of the Building Regulations.
- Water supplies for fire-fighting purposes should be risk assessed in accordance with the undermentioned guidance in liaison with the water undertakers (United Utilities – 0161 907 7351) with suitable and sufficient fire hydrants supplied.
- The premises should comply with Section 55 of the County of Merseyside Act 1980.

Guidelines on flow requirements for firefighting

The following flows represent the ideal requirements on new developments and during permanent system changes.

Housing:

Housing developments with units of detached or semi-detached houses of not more than two floors should have a water supply capable of delivering a minimum of eight litres per second through any single hydrant. Multi occupied housing developments with units of more than two floors should have a water supply capable of delivering a minimum of 20 to 35 litres per second through any single hydrant on the development.

Last Comments By: 20/08/2018
Expiry Date: 05/09/2018