

COMMITTEE REPORT

Date: 9 July 2020 **Ward:** Guildhall
Team: East Area **Parish:** Guildhall Planning Panel

Reference: 20/00561/FUL
Application at: Spark York Piccadilly York
For: Variation of condition 2 of permitted application 17/00274/FUL to extend duration of permission to 31.3.2022
By: Mr Samuel Leach
Application Type: Full Application
Target Date: 1 June 2020
Recommendation: Approve

1.0 PROPOSAL

APPLICATION SITE

1.1 The application relates to the Spark venue, which comprises of multiple small commercial units and outside amenity space. The commercial units are occupied as a social hub, retail/A1 uses, and food and drink outlets.

1.2 The scheme was granted permission originally for a temporary period only, expiring 1 July 2020.

1.3 The site is Council owned and a temporary permission was sought as Spark has always been intended as a temporary “meanwhile” use of the site. The Council’s long-term intention, as part of the Castle Gateway project, is for alternative redevelopment of the site. This site sits within a later phase of the project and the Council is currently working on development proposals for the site. A report is expected to be presented to Executive later in the year seeking approval for a redevelopment strategy for the site.

PROPOSALS

1.4 The application is to vary condition 2 of the original permission, allowing Spark to remain onsite until 31.3.2022.

Application Reference Number: 20/00561/FUL

Item No:

1.5 The relevant condition stated as follows –

“This (approved) use (of the site) shall cease and all associated structures shall be removed from the site by 1 July 2020; unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission”.

1.6 Although the development is now in breach of this condition, and technically the permission is no longer valid, under the circumstances officers are content committee could still determine to approve this application. This is on the following grounds -

1.7 On 22 June the government issued a press release that stated as follows –
“Sites with consent that have an expiry date between the start of lockdown and the end of this year will now see their consent extended to 1 April 2021”. At the time of writing the associated legislation regarding this is not yet in force (and consequently we do not know the details of this change). It is assumed this legislation will extend the lifetime of the existing permission into next year.

1.8 However should this legislation not be in force by the time of committee, the recommendation will be approval subject to the legislation coming into force to automatically extend permissions that have expired during lockdown.

1.9 The application is for the consideration of Main Planning Committee at the request of the Assistant Director for Planning and Public Protection.

BACKGROUND / RELEVANT SITE HISTORY

17/00274/FUL

Original permission, subject to conditions regarding opening times, with certain areas to close at 9pm.

18/01102/FUL

Application to omit timber cladding to exterior, refused; appeal dismissed.

18/02268/FUL

Permission to allow roof canopy on a seasonal basis, between 1 September 2018 and 1 May 2019 and 1 September 2019 and 1 May 2020.

2.0 POLICY CONTEXT

Application Reference Number: 20/00561/FUL

Item No:

2.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

2.2 Key policies / sections of the NPPF are as follows -

The Publication Draft City of York Local Plan 2018 ('2018 DLP') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

2.3 Key relevant Publication Draft Local Plan 2018 Policies are as follows -

- SS5 Castle Gateway
- D1 Place-making
- D2 Landscape and Setting
- D3 Cultural Provision
- D4 Conservation Areas
- D5 Listed Buildings

3.0 CONSULTATIONS

INTERNAL

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 No comment.

PUBLIC PROTECTION

3.2 Officers have made comment regarding noise from music and customers and with measures to prevent an impact on amenity from cooking.

3.3 Public Protection have received 14 complaints from 5 different addresses about noise from music and films being audible at the complainants properties, 2 complaints about construction noise and 1 complaint about raised voices.

Amplified Music

3.4 An officer from Public Protection attended a complainant's property on 2 November 2019 and witnessed noise from music from an event at Spark. Although the noise was not loud enough to be a statutory nuisance, it was audible within the complainant's property and was therefore a breach of condition 16 of the planning permission.

3.5 On 31 January 2020 officers witnessed that music noise was clearly audible just beyond the boundary of Spark and also at a distance of 27 metres down the street. This was on a busy evening night with traffic and pedestrians in the vicinity. This breach was also witnessed in a complainant's property; music noise was clearly audible in a bedroom. Had this been after 11pm it would have been sufficient to be a statutory nuisance.

3.6 The number of complaints received by local residents, some of which have been corroborated by the applicants as being when music and cinema events were taking place, is indicative that planning condition 16 (regarding amplified music) is not being adhered to by the applicants on a regular basis. This is supported by the two visits from Public Protection Officers who witnessed clear breaches.

3.7 The applicants were issued three warning letters that noise complaints had been received and that they needed to control noise from the live and recorded and film events at the premises. Further to this they have had at least two discussions with Public Protection officers about implementing adequate noise management of the site during such events.

3.8 A noise management plan has been submitted as part of the licensing regime. Whilst this does not form part of the planning permission, it highlights that monitoring should have taken place at the location where the breach of the planning condition was witnessed on 31 January 2020 and the music should have subsequently been reduced in level so that it was inaudible beyond the site boundary. The noise management plan does not appear to have been correctly adhered to at all times.

3.9 Conditions and managing strategies have already been attached to the previous planning permission and licensing permission for the site. These requirements have not been adhered to and resulted in complaints. As such Public Protection officers are not convinced the applicants can control noise from films or music at the venue to a level whereby it will be inaudible beyond their boundary or from causing

annoyance and inconvenience to the neighbouring properties (which are only 2 metres away) without significant investment in sound proofing that would contain noise and vibration to an enclosed space.

Customer noise

3.10 Public Protection initially had concerns regarding the potential for people noise associated with the outdoor seating areas affecting the nearest properties. Specific concern was raised about the south-east corner of the site, and it was a requirement of the original permission certain areas on this side of the site be closed at 21.00.

3.11 The noise assessment submitted with the original application showed that as early evening progressed background noise levels reduced and so resulted in the potential for greater impact of the proposals. Comparison of the existing background levels with the predicted Leq (continuous noise level) of people noise arising from peak use of the site showed that noise levels would be likely to increase by 4dB after 21:00, with increases of between 0.6dB and 3.5dB before this time.

3.12 There was particular concern over how the increase in noise level would compare with the background (L90) noise levels, (the level of noise exceeded for 90% of the time). The variation was predicted to increase from 4dB to 14dB (due to traffic noise) to between 6dB and 17dB (due to raised voices).

Plant and equipment

3.13 With regards the equipment associated with cooking and the food outlets and any other plant/machinery, there were conditions that required approval of noise from plant and machinery and confirmation measures were adequate to deal with cooking odour. Officers note these conditions were never formally complied with. However there have been no complaints with regards plant/equipment or cooking odour.

EXTERNAL

GUILDHALL PLANNING PANEL

3.14 No objections, as long as Spark complies with the existing planning requirements regarding music, noise and cladding issues.

HISTORIC ENGLAND

3.15 HE expressed concern about the inward looking nature of the development and in particular the blank frontage that runs along the Piccadilly elevation of the site. HE

Application Reference Number: 20/00561/FUL

Item No:

would prefer a solution that was more open to present a more active feel to the street frontage.

3.16 The most critical issue for HE is the unresolved question of the long-term future of the site. It is therefore a concern that there is no supporting information submitted with this application to explain what efforts have been made to find a permanent use for the site. Therefore, if minded to grant consent for an extension to this scheme, HE ask that it is only be on the basis that a more permanent solution is being pursued and that there is a clear mechanism to secure a long term use for the site.

POLICE Architectural Liaison Officer

3.17 An analysis of crime and disorder for a 12 month period (1 April 2019 to 31 March 2020), showed that there are no issues at the site. No further comments to make regarding the proposal.

4.0 REPRESENTATIONS

4.1 There have been five objections to the application. Three are from residents nearby, at 3 Walmgate, and nos. 1, 4, 6 Nelsons' Yard.

4.2 Grounds for objection are that the operation has an adverse effect on residential amenity and the character and appearance of the area, as follows –

- Contrary to their original application, Spark have breached their planning conditions since opening which has an adverse effect on resident's amenity. The Planning Department and Noise Patrol have contacted Spark on a number of occasions due to breaches of the existing planning permission.
- The venue has a number of bars, takeaways and has regular live music performances and DJ's. The music stage is only some 2m away from neighbouring houses. It has also screened sports events and such events have been rowdy.
- Not respecting the noise restriction (imposed through condition) meant that on many occasions residents' was disturbed. The stress of not knowing when neighbours would be able to get a good night's sleep is affecting health.
- Music is played constantly site-wide through a PA system. Irrespective of if played by a DJ or not, this is still disruptive to local residents.
- The drawings that accompany the planning extension application do not include ones from the original application indicating the areas to be closed after 21:00.

Application Reference Number: 20/00561/FUL

Item No:

These areas include 2 of the 4 bars located on site. The areas have consistently been occupied after 21:00 by noisy customers in breach of planning permission.

- It has become clear that the development is principally an alcohol led enterprise. This conflicts with the diversity claims made as part of the original application. Due to the type of uses within the venue and the way it operates it does not benefit the image and vitality of the city. The site is a prime city centre location owned by the Council and has generated zero revenue for them over the last 3 years. The Council should sell the site at the earliest opportunity. This will allow the area to be regenerated by private developers who will have both the capacity and finances to commence the redevelopment of the site.
- The original permission was temporary and the view of committee was that a permanent solution was required for the site.
- The appearance of the building detracts for the standards expected near the City's historic conservation area.

5.0 APPRAISAL

5.1 The key issues are as follows –

- Principle of the proposed use
- Impact on designated heritage assets (setting of listed buildings / character and appearance of the conservation area)
- Impact on residential amenity
- Drainage / Flood Risk
- The use of planning conditions

Assessment

PRINCIPLE OF THE PROPOSED USE

5.2 The application site is Council owned and is one of the sites allocated for redevelopment as part of the Castle Gateway Project. The area/project is of strategic importance for the city and the aspirations are set out in policy SS5 in the 2018 Draft Local Plan (DLP).

5.3 The regeneration project is intended to be delivered in phases. The first phase is currently at planning stage, this involves the Castle Mills development, public realm / highway improvements at Tower Street and the multi storey car park at St Georges Field. The application site is within the second phase of work. The aspiration for the site potentially includes workspace and retail. The redevelopment

Application Reference Number: 20/00561/FUL

Item No:

strategy for the site is under preparation, with the intention of obtaining Executive approval this year. The Council is demonstrably making progress in what is a complex and comprehensive regeneration scheme.

5.4 NPPF policy with regards the economy and town centres is to support economic growth and productivity, taking into account both local business needs and wider opportunities for development and to take a positive approach facilitating growth , allowing diversification and promoting distinctive character. The guidance on the use of conditions specifically refers to intended temporary uses (such as Spark), which are intended as meanwhile uses and advocates the control of such through allowing planning permission for a temporary period.

5.5 The original planning permission for Spark was granted for 3 years and another 2 years is now sought. The phased delivery of the Castle Gateway project has been transparently communicated on the Council's website and there is evidence of progress. In terms of supporting the economy and the town centre, it would be consistent with national policy to allow Spark to remain on site for a further 2 years; any alternative becomes increasingly less viable as permanent redevelopment plans for the site emerge.

IMPACT ON DESIGNATED HERITAGE ASSETS

Policy context

5.6 The Council has a statutory duty (under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) to consider the desirability of preserving or enhancing the character and appearance of designated conservation areas. Section 66 of the Act requires that in considering whether to grant planning permission for development, which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses.

5.7 The approach to determining planning applications, in terms of assessment on Heritage Assets, is set out in section 16 of the NPPF. Since the original application for this site was determined in 2017, the NPPF was updated in February 2019. The guiding principles have not changed significantly.

Assessment of significance of heritage assets affected and impacts

5.8 The site is within the Central Historic Core Conservation Area. The site, and its main entrance, is adjacent the Grade II listed Red Lion public house and its curtilage.

5.9 The significance of the heritage assets that would be affected was established in the original application. It was determined that there would be no harm to the setting of listed buildings and less than substantial harm to the character and appearance of the conservation area. This assessment remains applicable three years later.

5.10 The less than substantial harm is as a consequence of the appearance of the Spark complex, due to its use of low quality materials and its inward orientation, presenting a predominantly blank façade to the street. One of the principles for regeneration of the street, as detailed in DLP policy SS5 for Castle Gateway, is to ensure active ground floor frontages within new developments.

5.11 The level of harm is deemed less than substantial as only a temporary permission is sought and due to the character and appearance of this specific section of the Central Historic Core Conservation Area – the Piccadilly Area during a period of transition and bearing in mind the historic condition/appearance of the application site.

5.12 The Piccadilly Area, as explained in the Central Historic Core Conservation Area Appraisal, was developed much later than the rest of the medieval city centre and has larger scale building plots, reflecting its industrial past. This character is evident in the street, which contains buildings of a commercial and industrial scale and vernacular. The area is in a period of transition and has multiple dilapidated or vacant/cleared sites awaiting regeneration and buildings under construction. In this context, allowing the Spark complex for a short-term temporary period, while wider regeneration takes place, causes less than substantial harm.

5.13 Where a development proposal will lead to “less than substantial harm” to the significance of a designated heritage asset i.e. the conservation area, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.14 The weight to be attributed to the harm to the conservation area carries less weight in this case due to the impact being temporary only and whilst the area is in transition. The harm in this case is as follows -

- The sites’ inward looking nature, essentially making it an attraction in isolation, rather than part of a wider vibrant street, is less harmful given the intent that this scheme was for the short-term only and occurring in advance of other regeneration of the street (including the public realm).
- The building’s appearance and use of relatively low cost materials, justified as a consequence of viability, given the intention for a temporary development only.

Application Reference Number: 20/00561/FUL

Item No:

Assessment of public benefits

5.15 National planning guidance explains “public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8)”.

5.16 The public benefits of the scheme are both economic and social. The site is in a prominent location and was previously vacant and hard-landscaped; it made a negative impact to both the appearance of the conservation area and the vitality of the area.

5.17 The scheme provides a cluster of affordable small-scale commercial spaces not otherwise provided for in the city centre. To facilitate this has a positive effect on the city centre and its economy. Enabling the scheme is consistent with sections 6 and 7 of the NPPF on building a strong competitive economy and ensuring the vitality of town centres which require the following -

- That “planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”.
- “Recognise and address the specific local and national requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations”.
- Take a positive approach to the growth, management and adaptation of town centres, allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.
- Retain and enhance existing markets and, where appropriate, re-introduce or create new ones.

5.18 The social objective of the NPPF is to support strong, vibrant and healthy communities, which involves providing services which reflect communities’ health, social and cultural well-being. The development does have two floors of community space on its south side and facilitates activities and events for a variety of individuals and community groups. This provides a local asset; a public benefit.

RESIDENTIAL AMENITY

Policy context

5.19 In assessment of the operation of the development and its impact on amenity NPPF paragraphs 127 and 180 advises developments should -

- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Assessment

5.20 There are dwellings adjacent the site, in closest proximity are those to the rear of Walmgate, including at Nelson's Lane. The proximity of neighbours has not changed since the original assessment of this application (Nelson's Lane was under construction at the time).

5.21 A Noise Assessment informed the initial application, which contained conditions to control impact, related to amplified noise, noise and odour from plant and equipment, and restricted times of opening. The premises were required to close at 23.00 with certain areas at the south end to close at 21.00 to limit capacity and contain customers to areas better enclosed / further from neighbours.

5.22 The limitation on capacity was imposed due to the variation between the existing typical noise level exceeded 90% of the time (LA90) measured and the predicted noise levels at the site boundary (by the nearest apartments) and how the local noise levels lowered during the evening. The noise levels suggested that there could be spikes in noise levels (from raised voices for example) that could cause disturbance, illustrated as follows -

Measured noise levels between 15.00 and 23.00

- The LA90 noise level at the nearest apartments = 47dB
- Average noise levels (LAeqT) = 59dB

Application Reference Number: 20/00561/FUL

Item No:

These levels were higher earlier during the day, being 54dB and 62dB respectively.

Predicted average noise levels were 54-58 dBa (normal use) and 60-67 dBa (peak use).

5.23 To put this into context, guidance advises that changes over 5dB can lead to an adverse effect. A typical high street has noise levels of between 60 and 70 dBa.

5.24 The applicant's noise assessment recommended against live music performance from the stage. This was accepted by the applicants and a condition imposed to this effect on the original permission. The condition must be re-imposed and adhered to.

5.25 The original permission had conditions to control noise, specifically preventing amplified music being audible beyond the site boundary, limiting capacity at 9pm by only allowing customers to gather in parts of the site better enclosed therefore shielded from neighbouring residents and an overall closing time of 11pm. These conditions were breached in the past and consequently (primarily due to amplified music) there was a demonstrable adverse effect on neighbours' amenity. The Council subsequently took enforcement action.

5.26 The complaints due to noise disturbance resulted in a breach of condition enforcement notice, served in February 2020. The notice referred to non-compliance with conditions 14 and 16, which related to areas required to close at 9pm and the control of amplified music respectively. No further complaints have been received since the notice was issued.

5.27 The applicants have raised concern about areas not being able to operate after 9pm as the majority of the ground floor seating is within this area (at the southern end of the site, by the 'performance stage' and community hub). An alternative condition is suggested which requires approval of a management strategy for the site. As part of this measure customers in this area would be seated only (others would be directed to more enclosed parts of the site, further from neighbours). This would lead to smaller and more intimate groups occupying the space, and consequently a reduced risk of raised voices.

5.28 Officer's advice is that multiple planning conditions can reasonably manage noise levels, so levels would not exceed what would be reasonably expected for a vibrant part of the city centre. The conditions would continue to manage levels of amplified (recorded) music (it will be expected the management plan clarifies the use of a noise restrictor so amplified music cannot exceed an agreed limit). After

9pm in the area closest Nelson's Yard customers will be managed to minimise the potential for disturbance.

5.29 In variation to the original plan an outside area has been added by the main entrance (by Merchantgate). This provides dedicated outdoor seating for the restaurant occupying the adjacent container. The area has been enclosed in cladding to match the remainder of the development.

5.30 The external area added is close to the outside beer garden associated with the Red Lion public house and roadside. It currently serves a restaurant and a condition could control the area to required customers be seated i.e. no vertical drinking. Due to the size of the area (around 10 sq m), therefore limited capacity, the proximity to other noise sources and proposed condition, it is not likely to have a material impact on local noise levels.

DRAINAGE & FLOOD RISK

5.31 The site is in Flood Zone 3 where flood risk is high. The development is compliant with the intentions of NPPF flood risk policy as the development is reasonably safe from flood risk and will not increase flood risk elsewhere.

5.32 The original application explained how in accordance with NPPF policy requirements the sequential and exception tests were passed, how the development would be safe for its lifetime and the impact on flood risk elsewhere. A shortfall of the scheme was that existing surface water run off rates were not reduced by 30%; the local requirement for development to protect against future climate change over its lifetime. This remains a reasonable approach given the short life expectancy of the development.

USE OF CONDITIONS

5.33 National planning guidance states that in granting permission under section 73 (as in this case) the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. The planning permission should also set out all of the conditions imposed on earlier permissions that continue to have effect.

5.34 The conditions from the original permission which relate to the ongoing operation of the premises would be repeated in this permission. These include measures to limit the trading area after 9pm, an overall closing time of 11pm, prevention of amplified music being played that would exceed background noise levels beyond the site, and times when litter (such as glass bottles) be emptied into

waste bins. In addition there will be a requirement that customers are seated when using the outside amenity space by the site entrance.

6.0 CONCLUSION

6.1 In terms of local distinctiveness and the city centre economy, the Spark development does have a positive impact; it provides a platform for emerging business and facilitates community uses. These positive economic and social benefits must be weighed against the identified harm.

6.2 There is less than substantial harm to the conservation area, regarded to be a low level of harm because the scheme is only temporary and whilst the area is in transition. The harm is justified by the aforementioned public benefits.

6.3 It remains the case that planning conditions can adequately mitigate the impact on residential amenity. An updated set of conditions are recommended; a combination of restrictions preventing amplified live performance and controlling noise output from amplified music and management measures to control customers by allowing only smaller (seated groups) in more sensitive areas closer to neighbours. When planning conditions have not been adhered to in the past, this has led to complaints and subsequent enforcement action. This is certainly not a desirable means of management, but, if necessary, will be a means for the Council to reasonably protect neighbours amenity for the lifetime of the development.

7.0 RECOMMENDATION: Approve - subject to the legislation coming into force to automatically extend permissions that have expired during lockdown.

1 Approved Plans

The development hereby permitted shall be carried out in accordance with the following plans:-

Floor plans and roof plan - 101-P2, 102, 103
Elevations 104-P2, 105-P2, 106-P2

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

2 Temporary permission only

Application Reference Number: 20/00561/FUL

Item No:

The development hereby permitted shall cease trading by 31 March 2022. Prior to the specified closure date a schedule for the removal of all associated structures from site shall be submitted to the Local Planning Authority and approved in writing. These works shall take place in accordance with the approved schedule thereafter.

Reason: In the interests of flood risk and to enable a meanwhile use of vacant land prior to its expected longer term regeneration, in the interests of vitality and viability of the city centre.

3 Management strategy required

There shall be an approved management strategy for the site, which shall be adhered to at all times. Within 2 months of this permission, a management strategy for the site shall be submitted to the Local Planning Authority to be approved in writing. The strategy shall incorporate the following measures -

- Floor plans with seating areas included, illustrating areas where after 21.00 customers will be seated only, with other customers directed to other areas of the site.
- Commentary as to how the aforementioned proposal will be enforced.

Until details have been approved for this condition, after 21.00 the areas as shown on the plans from application 17/00274/FUL (showing areas of ground and first floors to be vacated/not open to customers after 21.00 each day) - 16YRK-GA-101 and 16YRKGA- 102 shall not be open to customers.

Reason: In the interests of residential amenity, to prevent larger groups of customers causing noise disturbance.

4 Live Music

There shall be no performance of amplified music on-site.

Reason: In the interests of residential amenity.

5 Amplified / recorded music

There shall be no playing of amplified or recorded music that would exceed background noise levels at the site boundary with noise sensitive receptors.

Within 2 months of this permission details as to how this requirement shall be complied with at all times shall be submitted to and approved in writing by the Local Planning Authority. The details shall include noise levels to be achieved at the site

Application Reference Number: 20/00561/FUL

Item No:

boundary, how this will be achieved and measures for ongoing monitoring (to evidence compliance). The approved details shall be adhered to at all times.

Reason: In the interests of residential amenity.

6 Hours of operation

The site shall only be open to customers between 07.00 and 23.00 each day of the week.

The site shall be vacated by staff, lighting (apart from any essential safety/security lighting) turned off and the site closed by 24.00 each day.

Reason: In the interests of residential amenity.

7 Use of external seating area (adjacent main entrance)

All customers using the outside seating area on the exterior of the Spark complex (annotated as restaurant decking on the approved ground floor plan) shall be seated; there shall be no standing areas and no vertical drinking.

Reason: In the interests of the amenities of surrounding occupants.

8 Plant & Machinery

The combined rating level of any building service noise associated with plant or equipment at the site shall not exceed 44dB(A) L90 1 hour during the hours of 07:00 to 23:00 or 35dB(A) L90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

9 Waste Management

Waste shall only be emptied into bins between the hours of 07.00 and 21.00 each day of the week.

Reason: In the interests of residential amenity.

10 Composition of uses

Application Reference Number: 20/00561/FUL

Item No:

There shall be no more drinking establishments on site than as shown on the approved floor plans.

Reason: In the interests of residential amenity and to prevent crime and disorder.

11 Flood risk management

The development incorporate the proposed flood resilience measures as detailed in the revised Flood Risk Assessment approved under application 17/00274/FUL.

Reason: To reduce flood risk in accordance with section 14 of the NPPF.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: the use of planning conditions.

Contact details:

Case Officer: Jonathan Kenyon

Tel No: 01904 551323