

43/15/0004

MRS T LITTLEJOHNS

**VARIATION OF CONDITION No.04 (RESTRICTED OPENING HOURS) OF
43/14/0103 AT 20 MANTLE STREET, WELLINGTON**

Location: 20 MANTLE STREET, WELLINGTON, TA21 8AR

Grid Reference: 313720.120406 Removal or Variation of Condition(s)

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) DrNo 1484.101 Rev B Proposal Drawings
(A3) DrNo 1484.100 Rev A As Built Survey Drawings
(A3) DrNo 1484.099 Rev A Location Plan and Site Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Only those materials specified in the application shall be used in carrying out the development hereby permitted unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policy DM1 of the Taunton Deane Core Strategy.

4. The use hereby permitted shall not be open to customers outside the following times [23:00]hrs – [08:00]hrs.

Reason: To minimise the impact of the development in accordance with

Policy DM1(E) of the Taunton Deane Core Strategy.

5. Prior to the commencement of the use hereby permitted, full details of the proposed storage of refuse/waste shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the use commencing and shall thereafter be maintained as such. No waste shall be stored within the side passage that gives access to Laburnum Cottages at any time.

Reason: In the interests of protecting the amenities and living conditions of the neighbouring residents.

6. Prior to its installation, full details of any extraction equipment/flue shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed in accordance with the approved details shall thereafter be maintained as such.

Reason: In the interests of protecting the amenities of nearby property and preserving the listed building and any features of special architectural and historic interest that it possesses.

Notes to Applicant

PROPOSAL

The proposal is to vary condition 04 (opening hours) of application 43/14/0103. The variation is to extend the opening time from 22.30 to 23.00.

Application 43/14/0103 comprised the change of use of the ground floor from retail (A1) to either a restaurant/cafe/takeaway (A3/A5). Other alterations included changes to the fenestration on the rear of the building, internal alterations for new kitchen and new partition wall, and if a flue is required it has been identified that a flue could be placed within the existing chimney.

SITE DESCRIPTION AND HISTORY

The building is sited in Mantle Street which is predominately within residential use although there are a variety of other commercial uses including retail, leisure and a takeaway. The ground floor of the building is currently empty though was previously in retail use and the first and second floor has been used as residential accommodation. To the side of the building is a passageway that leads to a small row of cottages at the rear of the building.

The building is Grade II Listed and is within a Conservation Area.

A planning application (43/14/0103) and listed building consent (43/14/0104/LB) has been recently approved.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

WELLINGTON TOWN COUNCIL - The Council have previously been against the principle of this development and therefore in order to be consistent it is recommended that permission be refused.

SCC - TRANSPORT DEVELOPMENT GROUP - No observations.

ENVIRONMENTAL HEALTH - NOISE & POLLUTION - Verbally - no comments to make.

Representations

Four letters of OBJECTION raising the following: -

- Noise.
 - Odour.
 - Rubbish.
 - Inadequate drains.
 - Anti-social behaviour.
 - Previously rejected by Wellington Town Council.
 - Fire risk from rubbish in basement
 - Unnecessary extension of time; no evidence of change in circumstances.
 - Encourage rodent infestation.
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- Two letters of COMMENT raising the following: -
 - Work has begun.
 - Contractor has dumped waste on street.

PLANNING POLICIES

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

LOCAL FINANCE CONSIDERATIONS

None.

DETERMINING ISSUES AND CONSIDERATIONS

As permission has been granted for the change of use the main consideration for this proposal is the impact on the residential amenity.

Residential amenity

Due to the close proximity of the neighbouring properties, noise could affect these properties and cause a disturbance late in the night. To help prevent any potential nuisance a condition was proposed that would restrict opening hours to 10.30pm.

Many A3/A5 uses exist within terraced properties with similar proximity to neighbouring properties as that proposed here. It is fair to say that without any road frontage, the properties in Laburnum Cottages probably experience less day-to-day noise than those other neighbours fronting mantle street. However, in terms of the type of noise likely to arise from the storage of refuse/waste; since the previous permission, bin storage has been moved from the rear of the building to the basement. This would reduce the amount of noise directly at the rear of the building near to the residential properties, and it would be difficult to argue that it would be more unacceptable than if the properties were alongside each other.

Furthermore, the Licensing Act has been taken into account which states that a takeaway business requires a premises licence, should they wish to sell food (or drink) at ambient temperature between the hours of 23:00 and 05:00 the following morning. This constitutes 'late night refreshment', which the Act has deemed to be a 'licensable activity'.

Conclusion

Given the proposed changes to bin storage, and the Licensing Act, the increase in an additional half an hour opening time is not considered detrimental to the amenity of nearby residential properties. The proposal is therefore considered acceptable and recommended for approval.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.

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