

PARISH Glapwell Parish

APPLICATION Change of Use from Drinking Establishment (A4) to Convenience Store (E) - additional of pedestrian access ramp to front entrance. Change of window to door on rear elevation

LOCATION The Plug And Feathers The Hill Glapwell Chesterfield

APPLICANT Mr Daren Burney c/o Dovetail Architects 5th Floor, Unex Tower, Stratford E15 1DA London

APPLICATION NO. 21/00762/FUL **FILE NO.** PP-10483596

CASE OFFICER Mrs Karen Wake (Mon, Tues, Wed)

DATE RECEIVED 20th December 2021

SUMMARY

This application has been referred to the Planning Committee by Councillor Kirkham given the concerns of local residents about the impact of the development on road safety in the area.

In summary, the application is recommended for approval. This is considered to represent a sustainable community facility which accords with most policy requirements, subject to the inclusion of suitable conditions.

Site Location Plan



SITE & SURROUNDINGS

The site is currently vacant. The site contains a substantial two storey stone built building with a slate roof which was last used as a public house. To the side/rear of the building is a detached, pitched roof outbuilding. The remainder of the site is a tarmac car park. There are detached dwellings to each side, front and rear of the site.

PROPOSAL

The application is for the change of use from a public house to a convenience store. The proposal includes the creation of a one way system on site such the two accesses are restricted to one for entry and one for exit and an amendment to the site frontage layout to provide three parking space on the site frontage. The only alteration proposed to the building is the addition of an external ramp/staircase to the front door. And the replacement of a window with a door on the rear elevation.

AMENDMENTS

None

HISTORY

02/00242/FUL	Granted Conditionally	Change of use of first floor to hotel and two storey extension to side, conversion of outbuilding to managers flat and hotel bedrooms and extension to car park
98/00179/ADV	Granted Conditionally	Erection of illuminated signs
05/00651/ADV	Granted Conditionally	Erection of 2 externally illuminated signs, 1 non illuminated sign and an internally illuminated double sided totem sign
09/00052/RETRO	Granted Conditionally	Retention of timber decking with balustrading
11/00240/FUL	Granted Conditionally	Change of use of part of first floor to form four guest rooms
12/00265/FUL	Granted Conditionally	Alterations to front & side elevation (ground floor) & internal alterations for refit
12/00336/ADV	Granted Conditionally	Various signage including 1 Post and 1 Logo sign (internally illuminated), 1 fascia sign (internally & externally illuminated), 2 amenities and 1 post signs (non illuminated) and 4 lanterns (as amended by email received on the 13th August 2012 from the agent)

BOLADV/1994/007	Granted Conditionally	Re-signage at The Glapwell Inn (BOL 9406/AD07)
BOLADV/1989/004	Granted Conditionally	Two static externally illuminated fascia signs and one externally illuminated pole sign at The Glapwell Hotel (BOL 289/A4)
BLA/1973/0042	Granted Conditionally	Alterations at The Glapwell Hotel (BLA 373/42)
21/00353/LAWPRO	Withdrawn	Change of use of the existing public house (A4) to food and drink/restaurant and cafes (A3)
21/00506/FUL	Pending Consideration	Change of use to drive thru coffee shop, part demolition of single storey extensions, addition of drive thru window and drive through lane.
21/00507/ADV	Pending Consideration	1 No fascia sign, 1 No totem pole sign, 2 No directional signs, and 2 No menu boards

CONSULTATIONS

Derbyshire County Council (Highways)

The on-site manoeuvring is tight but is an improvement to the original layout. No objections to amended layout, recommends conditions details of parking and storage space during construction be submitted for approval, parking on site to be laid out in accordance with the amended plans before the first use of the site and no gates or barriers to be added to the access.

Derbyshire Wildlife Trust

Require a condition that due to the presence of confirmed bat roosts in the main building and moderate roost potential in the outbuilding, the following must be strictly adhered to:

1. There shall be no work of any kind to the roof or eaves of the main building, internally or externally.
2. There shall be no work of any kind to the roof or eaves of the outbuilding and the outbuilding will remain open-fronted.
3. There shall be no demolition work on site.
4. There shall be no additional external lighting over and above that previously present on site.
5. Signage shall be installed on the loft hatch/entry point(s) in the main building clearly marked 'Out of bounds' or words to that effect. It will state that a bat roost is present and that disturbance is prohibited by law.
6. An Ecological Clerk of Works shall be engaged to brief contractors at the start of works, approve works to be undertaken during the breeding season and be available for general guidance throughout the renovations.

If any of the above cannot be complied with, an ecologist must be contacted for advice before works commence to discuss the requirements for nocturnal bat surveys and a European Species Licence. A short statement of compliance must be submitted upon completion of

works to discharge the condition.

Environmental Health Officer

Request a condition that before the development is first brought into use, details of the lighting scheme proposed on site be submitted for approval. The submitted scheme should have regard to the "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals. The approved lighting scheme should be implemented in full before the lighting is first used and retained thereafter to prevent light causing a loss of amenity to adjacent dwellings.

Request a condition that before the development is first brought into use an assessment of sound has been undertaken and a scheme specifying the provisions to be made for the control of sound emanating from the building has been submitted to the local planning authority for approval. The assessment should identify and quantify all sound sources from the development and assess the significance of the sound impact, taking into account the uncertainty of the assessment at any neighbouring dwellings in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound. After the completion of all works within the approved scheme a validation report should be completed by a competent person and submitted the local planning authority for approval and the approved scheme retained thereafter to protect the amenity of the locality.

PUBLICITY

The application was publicised by way of a site notice and 36 neighbour letters.

22 Letters of objection and a 247 name petition were received which raise the following issues:

1. There is already a convenience store in Bramley Vale and one in Glapwell they work very hard to serve the community. The additional competition will hurt this business.
2. It would be detrimental to traffic and congestion on an already extremely busy road.
3. The site is close to Bramley Vale School and children walk past the site daily from the bus stop to the school and the proposal will be a danger to them and other pedestrians.
4. The site is adjacent to the Stockley Trail which is well used by all age groups and the proposal could affect its use and the pollution levels on it and be a danger to its users due to the increased use of the access.
5. A hot food take-away, café, restaurant, youth centre or community hub, training facility B7B, childcare facility or a pub would be a better option.
6. The hours of opening will mean traffic uses the site all day including rush hours when the pub was not open or not busy. The shop will increase congestion and cause obstruction when entering and exiting the site.
7. There is no adequate crossing point to support children or the elderly being able to visit the store safely.
8. The shop with its deliveries unloading all hours would be a disturbance to local residents.
9. An additional shop will be very harmful to existing shops and the health and wellbeing of the people running them who are trying to make a living. Existing local businesses

should have been notified of this proposal directly and they haven't been.

7 Letters of support were received which raise the following points:

1. The area would benefit from a convenience store. There are very few shops in the area and there are more houses going to be built and so the shop will be much needed and wouldn't cause too much disruption to the road or the surrounding area.
2. An additional shop would offer more choice locally and reduce the need to travel to shops. It would also create jobs in the village which would be welcome in what is otherwise predominantly a commuter village.
3. The traffic using the site as a store would be no different than traffic using the site as a pub and a convenience store is welcomed but consideration should be given to litter which is a significant issue in the area.

All consultation responses are available to view in full on the Council's website.

POLICY

Local Plan for Bolsover District ("the adopted Local Plan")

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 (Sustainable Development)
- SC1 (Development within the Development Envelope)
- SC2 (Sustainable Design and Construction)
- SC3 (High Quality Development)
- SC9 (Biodiversity and Geodiversity)
- SC11 (Environmental Quality (Amenity))
- ITCR4 (Local Shops and Community Facilities)
- ITCR11 (Parking Provision)

National Planning Policy Framework ("the Framework")

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution.

ASSESSMENT

Key issues

It is considered that the key issues in the determination of this application are:

- the principle of the development
- the impact on the character and appearance of the area
- the impact on residential amenity
- whether the development would be provided with a safe and suitable access and the impact of the development on the local road network
- biodiversity
- issues raised by local residents

These issues are addressed in turn in the following sections of this report

Principle

The site is within the development envelope of Glapwell village in a predominantly residential area. The previous use of the building was a public house and as such is a community use protected by Policy ITCR4 of the Local Plan for Bolsover District. However, the proposed use as a convenience store is also classed as a community facility and as such the proposal complies with the requirements of Policy ITCR4. The principle of the proposed change of use is therefore acceptable.

The building has been vacant for some time and the re-use of the building is considered to be an efficient use of previously developed land. The site is within walking distance for local residents and is on a main commuter route such that it will be a convenient drop in for people and on this basis the site is considered to represent a sustainable use of the building which would meet the requirements of Policy SS1 and as such is considered to be acceptable in principle subject to compliance with the other relevant policies in the Local Plan.

A convenience store falls within Class E of the planning use classes order. Approval of the change of use of the building to a convenience store would therefore allow the future change of the use of the building from a convenience store to one of the other uses within Class E without the need for planning permission. Some of these uses are not community facilities and as such the change of use of another use within Class E would result in the loss of the building as a community facility without any assessment of local need. It is therefore considered necessary to remove permitted development rights to prevent the future change of use of the building without the prior granting of planning permission which would allow for the loss of the community facility to be addressed at that time.

The impact on the character and appearance of the area

The proposal utilises the existing building with the only change to the external appearance of the building being the introduction of a ramped access to the front. There are also some alterations proposed to the car park layout but the proposal will not result in material alterations to the appearance of the site. The re-use of the vacant building is considered to bring vitality of the area and to enhance the character and appearance of the building by bringing a new community facility to the area.

Residential Amenity

The site is immediately adjacent to residential dwellings and as such the use of the building

as a convenience store is likely to result in some level of noise and disturbance for residents of adjacent dwellings. However, the building could be re-used as a public house at any time without the need for planning permission and the use of the site as a convenience store is not considered to result in a material increase in noise and disturbance for local residents over and above a public house use.

The Environmental Health Officer has requested conditions relating to submission of details of any lighting scheme to be installed on site for approval prior to its installation to prevent any obtrusive light from the site causing a loss of amenity for adjacent residents.

The Environment Health Officer has also requested submission of a noise assessment to assess the noise created from the building and any mitigation measures necessary to prevent noise and disturbance for residents of adjacent dwellings. Both of the conditions suggested are pre-commencement conditions to ensure these issues are addressed prior to the commencement of the approved use and the applicant has agreed to the use of these conditions.

Subject to such conditions the proposal is not considered to be detrimental to residential amenity and the proposal is considered to meet the requirements of Policy SC11 of the Local Plan for Bolsover District.

As set out above, if approved, it would be possible for the future change of the use of the building from a convenience store to one of the other uses within Class E without the need for planning permission. Some of these uses may result in noise and disturbance to residents of adjacent dwellings. The removal of permitted development rights to prevent the future change of use of the building without the prior granting of planning permission would allow for the impact on residential amenity to be addressed at that time.

Access/Highways

A transport statement has been submitted with the application which has been carried out by a transport planning specialist consultant. The statement includes a traffic count and an assessment of the number of vehicular trips generated by the proposal and then assess the likely impact of the proposal. The conclusion of that assessment is that the proposal is acceptable in terms of its highways impacts.

Unlike a larger scale convenience superstore, local convenience stores do not generate a comparable pattern of traffic or visitor behaviour. Generally people visit these kind of local convenience stores as passing trade, rather than a destination for a 'big' shop. This associated pattern of behaviour therefore does not result in a significant material impact or increase in traffic arising from the use proposed (in comparison with the current extant use).

The site currently has two accesses, one at each end of the site frontage and these are to be retained and utilised in this proposal. The proposal removes some of the car parking spaces on the site frontage but these spaces are partially located on highway land and as such were unauthorised as part of the use of the site by the pub. The floor area of the building which could be used for retail purposes extends to approx. 300sqm which gives a requirement for 12 parking spaces in accordance with the council's parking standards set out in the Local Plan. The proposal actually provides 17 parking spaces and as such provides sufficient parking on site and there are no objections to the proposal from the Highway Authority.

Subject to a condition requiring the provision of the parking and turning areas on site to be provided in accordance with the approved plan, the proposal is therefore not considered to be detrimental to highway safety and is considered to meet the requirements of Policies SC3 and ITCR11 of the Local Plan for Bolsover District.

Highway Authority have also asked for a condition to require details of on-site storage of plant and materials to be provided. Given the modest scale of the development and the works proposed and the large area of parking available, such a condition is considered unnecessary particularly as should storage take place outside the site on the footpath or highway this would be controlled under the Highways Act.

The Highway Authority have also asked for no gates or barriers to the accesses to the site. This is considered unnecessary and unreasonable as the application does not include the provision of new boundary treatment. Any boundary treatments/gates under 1m in height would not require planning permission. Gates/boundary treatments over 1m in height would need to be the subject of a separate planning application. Should gates be installed they would be very unlikely to be closed during the shops opening hours as this would deter customers. If fences/gates were required for security purposes it would be unreasonable to prevent this unnecessarily.

Biodiversity

Preliminary bat survey work undertaken identified the use of the main building by three species of bats and concluded that a maternity roost was likely in the roof void, along with roosts of individual bats associated with the roof void and coverings. The proposal does not include any works to the roof of the main building and as such the report submitted with the application advises that further surveys are not necessary as impacts to roosting bats will be avoided. Derbyshire Wildlife Trust agree with this approach subject to the inclusion of a strict condition relating to works/alterations to the building, signage and lighting to prevent the disturbance to the bat roosts on site. The applicant has confirmed agreement to this condition and subject to such a condition the proposal is not considered to have an adverse impact on the protected species on site and is considered to have a neutral impact for biodiversity. Subject to such a condition the proposal is therefore considered to meet the requirements of Policy SC9 of the Local Plan for Bolsover District.

OTHER PLANNING CONSIDERATIONS

Issues raised by local residents

Most of the issues raised by local residents are covered in the above assessment.

The issue of the need for an additional convenience store and its impact on existing businesses has not been considered, as the issue of competition is not a material planning consideration which could be taken into account as part of the planning application process.

The suggested alternative uses for the site have also not been considered, as these uses do not form part of the proposal and the application as submitted for the proposed use has to be considered on its individual merits, it is not for the council to suggest alternative uses if the use proposed is acceptable in planning terms.

The highway safety issues relating to the proposal have been covered in the above assessment.

CONCLUSION

The proposal provides a community facility in a sustainable location which is considered to preserve the character and appearance of the area and which is not considered harmful to the amenity of local residents or to highway safety.

Subject to the conditions set out in the above assessment the proposal meets the requirements of the relevant Policies in the Local Plan for Bolsover District and the National Planning Policy Framework.

RECOMMENDATION

The current application be APPROVED subject the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the plan numbers:
4167_PL105A
4167_PL106A
4167_PL107A
4167_PL109
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015, the use of the building hereby approved must be used for purposes falling within Class E(a) of the Town and Country Planning (Use Classes)(Amendment)(England) Regulations 2020 only and for no other use without the prior granting of planning permission.
4. Due to the presence of confirmed bat roosts in the main building and moderate roost potential in the outbuilding, the following must be strictly adhered to:
 - There must be no work of any kind to the roof or eaves of the main building, internally or externally.
 - There must be no work of any kind to the roof or eaves of the outbuilding and the outbuilding will remain open-fronted.
 - There must be no demolition work on site.
 - There must be no additional external lighting over and above that previously present on site.
 - Signage must be installed on the loft hatch/entry point(s) in the main building clearly marked 'Out of bounds' or words to that effect. It will state that a bat roost is present and that disturbance is prohibited by law.
 - An Ecological Clerk of Works must be engaged to brief contractors at the start of works, approve works to be undertaken during the breeding season and be available for general guidance throughout the renovations.

If any of the above cannot be complied with, an ecologist must be contacted for advice before works commence to discuss the requirements for nocturnal bat surveys and a European Species Licence. A short statement of compliance must be submitted to the Local Planning Authority upon completion of works to discharge this condition.

5. Before the development hereby approved is first brought into use, details of any lighting scheme must be submitted to and approved in writing by the Local Planning Authority. The scheme must have regard to the "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals. The approved lighting scheme must be implemented in full before the lighting is first used and must be maintained as such thereafter.
6. Before the development hereby approved is first brought into use, an assessment of sound must be undertaken and a scheme specifying the provisions to be made for the control of sound emanating from the building has been submitted to and approved in writing by the local planning authority. The assessment must identify and quantify all sound sources from the development and must assess the significance of the sound impact, taking into account the uncertainty of the assessment at any neighbouring dwellings in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound. Upon completion of all works within the approved scheme a validation report must be completed by a competent person and must be submitted to and approved in writing by the local planning authority. The approved scheme must be implemented in full and retained as such thereafter.
7. The car parking layout shown on the approved plan must be provided on site, marked out on site in accordance with the approved plans before the use hereby approved is first brought into use and must be maintained as such thereafter.

Statement of Decision Process

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

Equalities Statement

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. "the Public Sector Equality Duty").

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.

Human Rights Statement

The specific Articles of the European Commission on Human Rights ('the ECHR') relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this 'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.