

DC Admin

From:
Sent: 10 October 2024 12:37
To: DC Admin
Subject: Objection letter to application Ref 2024/92427 - Café Plus 23 Westgate
Attachments: Objection to change of use from cafe to wine bar..docx

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Dear Mr Franklin

In response to your letter of 5 September I attach a letter of objection to this proposal.

If officers are minded to approve, it should be referred to the relevant planning committee. Also, residents on the opposite side of Concord Street near the yard to the rear that forms part of the application site, should have been consulted on this proposal as well as myself.

Please ensure (and I specifically request) that **my name and address are not made public.**

Please acknowledge receipt.

10 October 2024 (by email)

Kirklees Council

Head of Planning and Development

Dear Mr Franklin

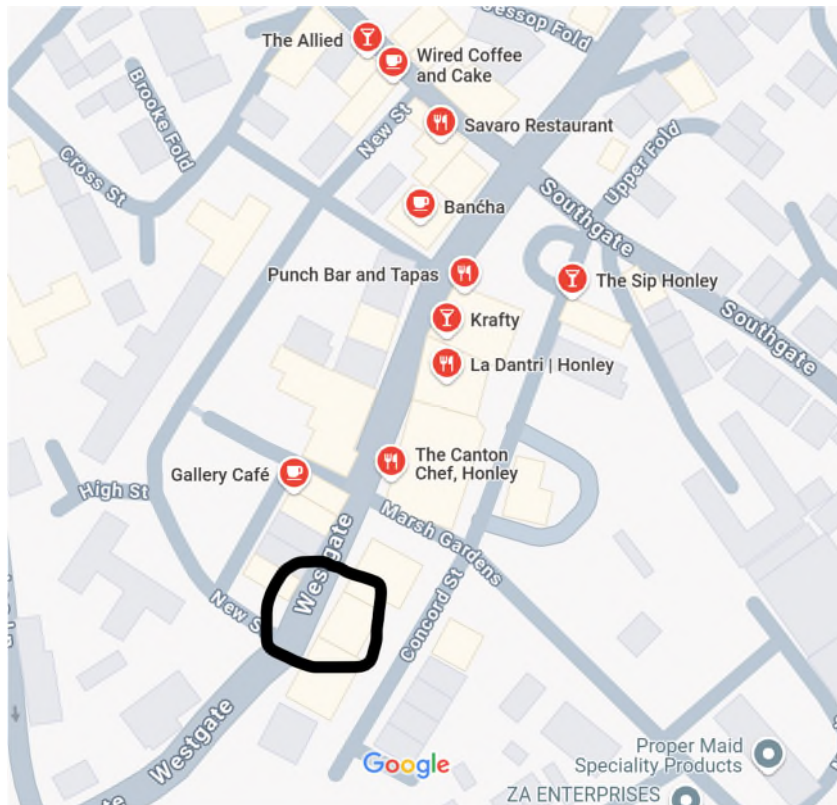
2024/92427 - Café Plus 23 Westgate - Proposed change of use to a sui generis wine bar/drinking establishment

1. I am among the residents most immediately affected by the proposal and strongly object to it being granted planning permission. I have not had time to consult the relevant planning policies. I expect you to consider them properly as well as the material considerations I described below, and to consider very carefully whether any compliance with the development plan is outweighed by other considerations including those I have clarified and those contained in any other representations you may have received.
2. Firstly, the personal details of the applicant who has circulated a supporting statement, who may well be from the village, are not relevant, just as is the case with the personal details of individual occupiers living above, adjacent to or near to the application site. Occupiers and owners change over time, therefore you must consider the likely effects on future as well as present residents and assess these carefully, as well as the potential ramifications of a "wine bar" - and therefore a drinking establishment - which is no longer classed within Use Class A4. It is a sui generis use – "a class of its own", equivalent to a public house.
3. Planning reforms have allowed businesses greater freedom to change to a broader range of compatible uses that communities expect to find on modern high streets. However they do not extend to sui generis uses such as a wine bar or public house. Changes to and from these uses must be subject to full local consideration through the planning application process.
4. By way of background, I know the area well having lived here for over thirty years. The owners of the application site own property comprising a block of 4 units in total, the ground floor premises being the application site, the estate agents adjacent thereto (which was formerly in retail use), and on the upper floors two residential apartments both occupied by very long standing tenants. I refer to Westgate as the high street as it is the main road through the village but its character and appearance changes as one progresses through it.
5. The charitable organisation who has had to vacate the premises just recently have been compelled to take out the fixtures and fittings installed to run the café part of their enterprise (which always closed by mid to late afternoon) at great expense to themselves and make good all internal finishes. The assumption on their part was that the intended use was to be for an office use similar to the estate agents immediately adjacent, and indeed the outgoing tenants have done an extremely good job to make the internal finish appropriate for such a use.

6. Of particular concern must be the effect of the proposed development on the occupier of the flat immediately above the application premises, and any future such occupier. To the rear of the block is an open yard which is used for parking vehicles belonging to the residential occupiers of the upper floor apartments (one space each). There is also a single space for the (previous) café/charity (but none allocated for the estate agent). Due to the number of waste bins permanently in the yard (to both sides) it is impracticable to assume more than 3 spaces available for the block at any one time. The spaces allocated for the residential use (including mine) are allocated specifically in accordance with the terms of the letting agreements. Therefore, the remaining space would be wholly inadequate for the needs of the proposed development in terms of deliveries and parking which would be of an entirely different scale and intensity to the café use.
7. The proposal would also unacceptably exacerbate conflict between the residential use of the allocated spaces and the proposed use. Concord Street at this point is usually full of parked cars on one side of the road belonging to nearby residents who do not have off street parking, or vehicles whose users have business during the day in the village. The proposed development carrying with it a night time use would significantly increase the likelihood of congestion at this sensitive location with the attendant danger to highway users, as well unacceptably undermining the predominantly residential character of the rear of the premises and its immediate environs.
8. One further matter related to traffic should be considered. A few years ago the carriageway immediately in front of the application premises was altered to provide a layby. This is now constantly in use during the day and evening time by those parking temporarily, mainly to visit the facilities including the commercial and night time facilities further up the road.
9. Honley is a reasonably affluent and vibrant community with attractive facilities, however the few night time facilities that exist are appreciably distant from this part of the conservation area where the application site itself lies, and the residential properties lie above. Therefore, it is unrealistic to pretend that the intended patrons would come largely on foot or by public transport. The proposed development would increase competition for these spaces to a level that would tend to cause disruption and congestion, especially in the evening and night time. The proposal would not do anything to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.
10. There is no suggestion that the premises would be unable to be let for a use similar to those that obtained before the charity/café had to vacate the premises due to an increase in rent proposed by the owners, or the uses that obtained prior thereto. Indeed there is no evidence of any or any sustained attempt to let the premises for a more compatible use and to that extent the application is entirely

speculative, as is evidenced by the circular letter distributed by the intending occupier. Honley is a thriving community, no unit on the street lies empty for long.

11. Therefore retention of a retail use or office use is desirable in overall terms in order to positively contribute to the vitality and viability of the village whilst ensuring that the character and appearance of this part of the conservation area remains unaffected by the adverse effects of another drinking establishment in the village. It should be noted moreover, that the immediately surrounding uses (apart from residential) are an estate agents, an opticians, a charity shop and a firm of solicitors. Whilst in principle a drinking establishment might be compatible and complementary to the mainly retail uses prevailing in the centre of a town, the loss of a retail/Class E unit in this village is demonstrably undesirable and especially so at this site.
12. The existing use could change to other uses within Class E, such as financial services, or another cafe or shop without the requirement for planning permission. Such use would be significantly less harmful to the character of the street at this location and just as importantly the living conditions of residents, particularly those living adjacent or above the premises. The unit above the intended bar is a three-bedroomed family home and used as such. No amount of soundproofing would satisfactorily ensure that living conditions would not be impacted by such a use and the supporting statement from the applicant does not pretend otherwise.
13. Class E (the existing lawful use) effectively amalgamates the former Class A1 (retail), Class A2 (financial and professional services), A3 (restaurants/cafes), B1 (offices) along with health/medical uses, creches, nurseries (all formerly D1 uses) and indoor sports/recreation (formerly D2 use). Together they provide an ample opportunity and scope for persons who wish to contribute to the vitality and vibrancy of the community by seeking a replacement use for the premises without even having to apply for planning permission.
14. In a town centre provision is made on a less discriminating basis for a wider range of facilities and services that will attract people and make such areas viable now and in the future. This is a village high street where the balance of development sited in the appropriate location is more critical and particularly so in a conservation area. Several wine bars and restaurants have come and gone and continue to be replaced in the upper part of the high street and that area retains its character of a vibrant commercial offering for night time uses to a certain extent, a positive asset to the vitality of the village community.
15. However, the context of this proposal is an area of the village where a very few commercial uses with nighttime uses are centred around an area north of Marsh Gardens and predominantly closer to the junction with Southgate (see below).



Location of application premises within black circle.

16. The proposal is inappropriately sited for the intended use. Residents surrounding the application site have and are entitled to quiet enjoyment of their living conditions in this part of the conservation area, free from the adverse effects of night time uses, unacceptable noise disturbance which is likely to occur.

17. Any harm to a conservation area, which is a designated heritage asset, requires clear and convincing justification. The significance of a heritage asset is found not only in the physical features of the buildings but also in the character, the ambience and general feel of the part being considered. Here, it is one of considerably more quietude than the night time uses experienced further up the street.

18. Any less than substantial harm caused to the significance of this area should be weighed against the public benefits. The public benefit of another drinking establishment may be questionable but if it exists then: (a) the weight to given to it should be very limited and especially so given (b) the particular site applied for which is so close to residential properties likely to be adversely affected; (c) account must be taken of the desirability of retaining a more conforming use in planning terms (retail or office use) at this site, coupled with (d) the lack of any proper evidence demonstrating that the commercial viability of retaining such uses has been effectively tested.

19. I urge you in the strongest terms to refuse this application as it stands and if necessary to refer it to the elected members of the appropriate planning committee for a final decision.

(Name and address withheld)

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