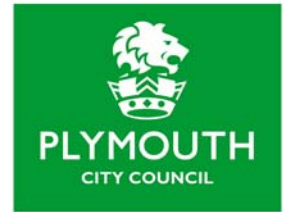


PLANNING APPLICATION REPORT



ITEM: 06

Application Number: 12/01294/FUL

Applicant: Urban Splash

Description of Application: Retention of 130 residential units with café/bar and restaurant units on the ground floor of the Brewhouse building: Variation of condition 15 of 02/01683/FUL to state that the café/bar and restaurant uses on the ground floor shall only be used for hot food retail (A3) or general retail (A1) and for no other purpose

Type of Application: Full Application

Site Address: BREWHOUSE, ROYAL WILLIAM YARD PLYMOUTH

Ward: St Peter & The Waterfront

Valid Date of Application: 24/07/2012

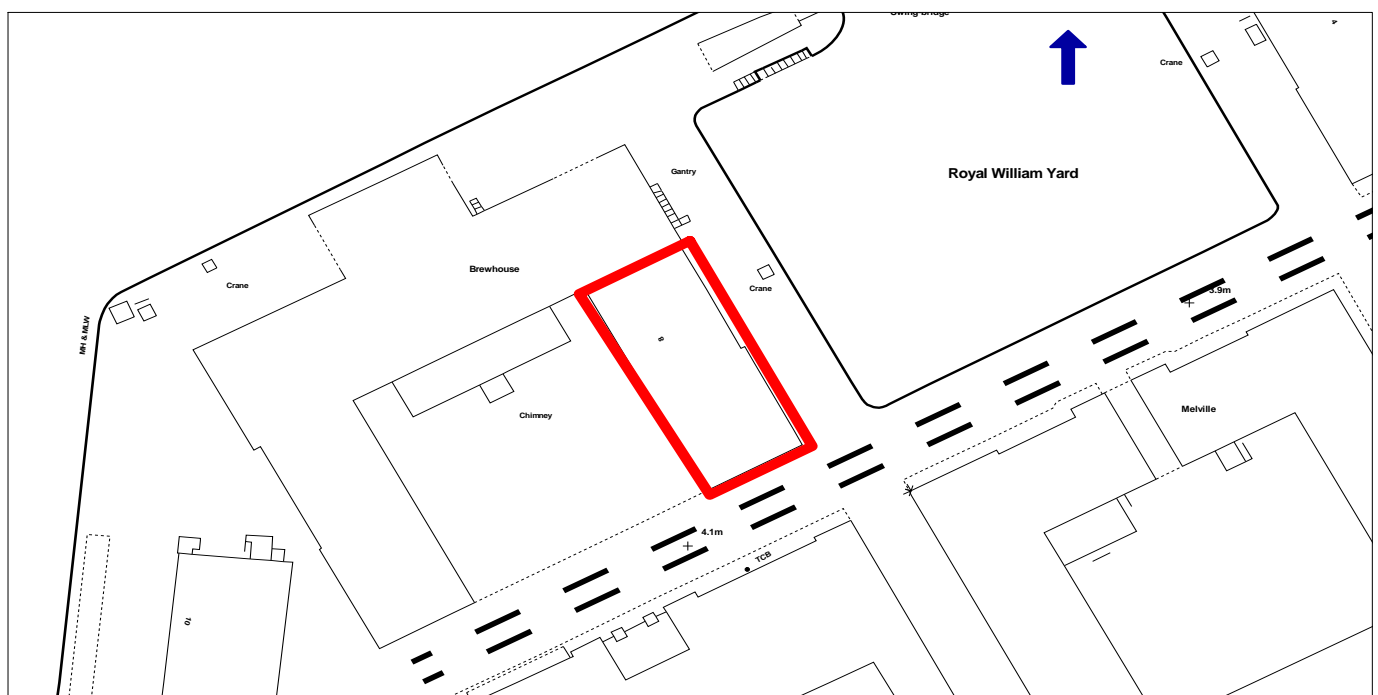
8/13 Week Date: **23/10/2012**

Decision Category: Major - 5 or more Letters of Representation received

Case Officer : Adam Williams

Recommendation: Grant Conditionally

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Site Description

The Brewhouse is part of the Royal William Yard, designed by Sir John Rennie, and constructed between 1825 and 1831. The Yard is probably the most important group of historic military buildings in Britain. The Brewhouse was designed for brewing beer, as part of the victualling needs of the navy at the time. Beer rations were discontinued, however, and therefore it was never used for its intended purpose. Clarence was built as a general store for the Navy. The site is within the Durnford Street Conservation Area. The Brewhouse buildings are listed - Grade I.

Proposal Description

Retention of 130 residential units with café/bar and restaurant units on the ground floor of the Brewhouse building: Variation of condition 15 of 02/01683/FUL to state that the café/bar and restaurant uses on the ground floor shall only be used for hot food retail (A3) or general retail (A1) and for no other purpose

Pre Application Enquiry

None

Relevant Planning History

02/01684 - Change of use, conversion and alterations to Clarence and Brewhouse buildings to form 133 residential units, change of use of parts of ground floor Brewhouse to exhibition/arts facility and to retail/hot food units (A1/A3) use of adjoining land for car parking. Permitted

02/01681 - Works of conversion and alterations to form a show flat in the North block, second floor. (LBC). Reported to last Committee. Minded to Grant Conditionally, defer for final negotiations, and referral to GOSW, del authority to Director of Development. Permitted

02/01682 - Works of conversion and alterations (associated with change of use of buildings to 130 residential units and use parts of ground floor Brewhouse to exhibition/arts facility and to retail/hot food units (A1/A3) use of adjoining land for car parking). Permitted

02/01683/FUL - Change of use, conv and alts to buildings to form 130 residential units, change of use of parts of the gr fl of the Brewhouse to an exhibition/arts facility and to retail/hot food units (Classes A1/A3). Permitted

Consultation Responses

English Heritage – No objections to the application however comments were made about the loss of exhibition space and where these uses could go within the yard. They also note potential further parking problems with the uses identified

Public Protection – Objection in terms of noise and odour disturbance and refusal recommended. Conditions also recommended should the application be recommended for approval, in order to control noise and odour. (Discussions will continue with public protection officers to deal with these matters, before the committee meeting. If necessary any further observations or recommended planning conditions will be detailed in an addendum report. This is further explained in the 'analysis' part of the report)

Transport – Transport observations have been sought and will be reported in an addendum report

Representations

11 Letters of Representation were received in objection to the change. The objections were surrounding the nature of the establishment which would occupy the unit (Las Iguanas) as this is believed to be a primarily drinking led chain and as such would impact on the residential apartments in terms of noise and anti-social behaviour. Other objections were surrounding parking and the likely increase in visitors.

Analysis

This application turns upon Policy CS03, CS13, CS22, CS28 and CS34 of the Core Strategy 2006-2021, Policy MS01 of the Millbay and Stonehouse area action plan and the National Planning Policy Framework. The primary planning considerations for this application are; impact upon neighbouring amenity and impact upon character of the conservation area and the Royal Willam Yard

Whilst the Brewhouse isn't mentioned directly in the Millbay and Stonehouse AAP, the desire for the Yard is for a diverse mix of uses. The Brewhouse currently is predominately made up of residential, A3 (Hot food Retail) and A1 (General Retail) uses, including an exhibition space which is the subject of this variation of condition.

The original condition, which is the subject of change, states 'The café/bar and restaurant units on the ground floor of the Brewhouse building shall only be used for hot food retail (use class A3), or general retail (use class A1) and for no other purpose, and the exhibition space shall be primarily used for art and exhibition purposes' The applicants wish for this exhibition space to be used for A1/A3 use. The Brewhouse east wing units to which the conditions relates have been periodically occupied by different temporary uses since 2003 on very short term agreements hence why the applicants wish for this to change in order to secure a long term tenant. The original master plan for the Yard planned for ground floor and waterside A1 and A3 commercial units to bring about an active waterside frontage. The applicants state that they sought exhibition uses to assist with drawing people to the Yard, whilst commercial tenants were sought.

There have been objections to the potential tenant (Las Iguanas) due to the understanding they are a primarily drinking led establishment and therefore under A4/A3 use. This appears to be the case in some other cities (Milton Keynes for example). This wouldn't be appropriate for the Yard. The applicants realise this and as such the fit out of the unit will suit its location. The applicants state it will be predominantly a restaurant with ancillary bar. It should be noted that this application proposal is primarily for the change of use to A1 and A3 use and does not deal specifically with the consideration of who will be occupying this space. However, conditions will be necessary to control the use and layout, to mitigate any concerns about potential uses (for instance in the event the space is subdivided by a prospective tenant, any ancillary small bar should not to exceed 20% of the total area of the floor space to ensure the space is predominately A3 use)

With regards to noise, an element of control can be introduced through the use of a condition to control business hours, in line with nearby uses such as River Cottage and Seco Lounge. Policy CS13 seeks to encourage evening and night time uses subject to cumulative impact considerations, in addition to ensuring the uses are complementary and in balance. The area currently does not have a concentration of A4 uses (Bars and Pubs) and as such the uses proposed will not exacerbate a problem with an increase in A4 use. Whilst the A3 use in particular is synonymous with the evening economy, which can be detrimental to impacts to neighbouring domestic uses, it is considered the use can be controlled through a condition to control operation hours in line with similar uses nearby.

Whilst Public Protection has objected to the proposal, it must be noted that there are already similar establishments within the Brewhouse building. A refusal of this application on noise and odour grounds would therefore be very difficult to justify. These matters can and should be dealt with by planning conditions. Following discussions with the applicant it is a requirement of their lease that they will have to install a full acoustic ceiling within the space to achieve 65db, and sound proof the extract riser/plant. This will be designed by their consulting engineers Hoare Lea, and will ensure that this obligation is followed though and complied with, with a full test carried out by their consultant; the same requirement was undertaken within the River Cottage unit. In terms of extraction this will be dealt with by way of ducts feeding into a purpose built commercial extraction riser which was built into the building in 2003 to serve these buildings and exits via the roof. Public Protection advice has been sought to draft effective planning condition to control noise. This report recommends some appropriate conditions. It may well be necessary to recommend more planning conditions, for environmental and legal reasons, in an addendum report.

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Section 106 Obligations

None

Equalities & Diversities issues

None

Conclusions

Recommended for approval

Recommendation

In respect of the application dated **24/07/2012** and the submitted drawings 6250/PL002 and site location plan, it is recommended to: **Grant Conditionally**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

(1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

NOISE FROM PROPOSED PLANT

(2) Prior to the commencement of any occupation of the development building, details of the specification and design of any air conditioning or kitchen extraction equipment shall be submitted to and approved by the Local Planning Authority. The applicant should include details of noise data associated with regard to the any system that is to be put in place. The approved scheme shall be implemented in accordance with the approved details. Any alteration or variation to the equipment should receive the prior written approval of the Local Planning Authority.

Reason:

To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of noise disturbance to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007

CONTROL OF NOISE

(3) The noise emanating from the fans/ventilation equipment/air conditioning/ plant (LAeqT) should not exceed the background noise level (LA90) by more than 5dB, including the character/tonalities of the noise, at anytime as measured at the façade of the nearest residential property.

Reason:

To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of noise disturbance to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007

ODOUR FROM KITCHEN EXTRACTION SYSTEMS

(4) Before the occupation and use hereby permitted is first implemented, details of the specification and design of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the use first commences and shall be retained at all times thereafter. Any alteration or variation to the equipment should receive the written approval of the Local Planning Authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

Reason:

To ensure that the proposed dwellings hereby permitted achieve a satisfactory living standard and do not experience unacceptable levels of odour nuisance to comply with policies CS22 and CS34 of the adopted City of Plymouth Core Strategy Development Plan Document 2007

REFUSE STORAGE

(5) The development shall not be commenced until details of dustbin enclosures showing the design, location and external appearance have been submitted to and approved by the Local Planning Authority. The approved enclosures shall be provided before the commencement of the use and thereafter permanently retained.

Reason:

To provide satisfactory refuse storage provision in the interests of the appearance of the site and locality.

DELIVERIES AND REFUSE COLLECTION

(6) Deliveries and refuse collections are restricted to the following times: -

Monday to Saturday - No deliveries or refuse collection between 6pm and 8am

Sundays and Bank Holidays - No deliveries or refuse collection

Reason:

To protect the residential and general amenity of the area from noise emanating from delivery and waste collection activities and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

OPENING HOURS

(7) The use hereby permitted shall not be open to customers outside the following times: 9am until 00:00 hours Mondays to Saturdays inclusive and 9am until 22:00 hours on Sundays and Bank or Public Holiday with the exception of New Years Eve to which the hours permitted shall be 9am until 2am hours.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance likely to be caused by persons arriving at and leaving the premises, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

NO AMPLIFIED MUSIC

(8) No amplified (live) music shall be played in the premises outside the following times: 6pm to 22:30pm hours Monday to Saturday inclusive and 10am to 10pm hours on Sundays and Bank or Public Holidays.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, such as noise and vibration, and avoid conflict with Policies CS22

and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021)2007.

CONTROL OF USE

(9) The part of the building which is the subject of this planning permission shall be used for A1 shops or A3 restaurants and café purposes only (as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended)) Under no circumstance shall the premises be used as a Drinking Establishment, as defined in Use Class A4.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects, including noise and disturbance, and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

APPROVED PLANS

(10) The development hereby permitted shall be carried out in accordance with the following approved plans:(6250/PL002 and site location plan)

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE - OUTSIDE SEATING

This grant of planning permission must not be taken as planning consent to place tables and chairs outside of the premises. Planning permission may be required for this, and the intended occupier is strongly recommended to make a separate planning application to seek permission for this aspect or submit a lawful development certificate application to seek confirmation of the legal position.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: impact upon neighbouring amenity and impact upon character of the conservation area and the Royal William Yard, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS28 - Local Transport Consideration

CS34 - Planning Application Consideration

CS22 - Pollution

CS13 - Evening/Night-time Economy Uses

CS03 - Historic Environment
SPDI - Development Guidelines
NPPF - National Planning Policy Framework March 2012