

45/2023/0122

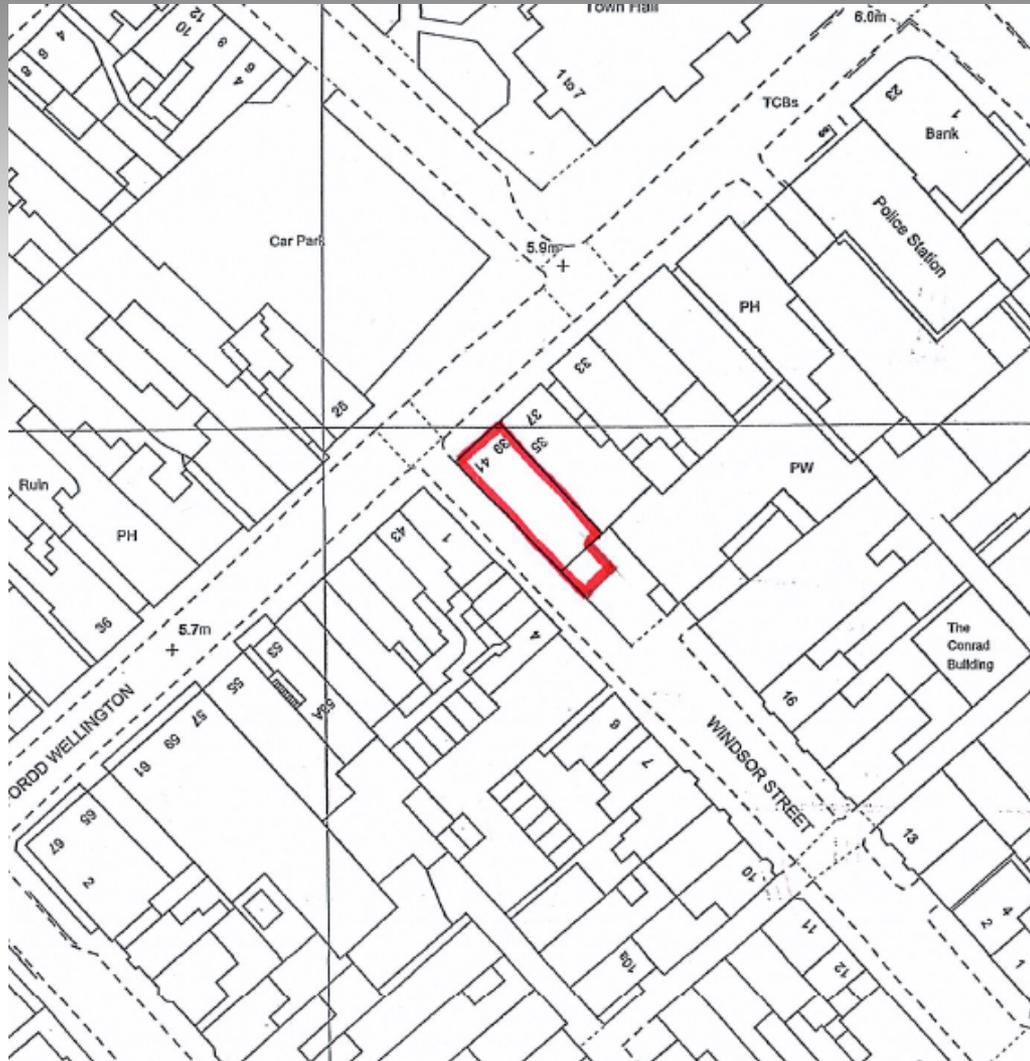


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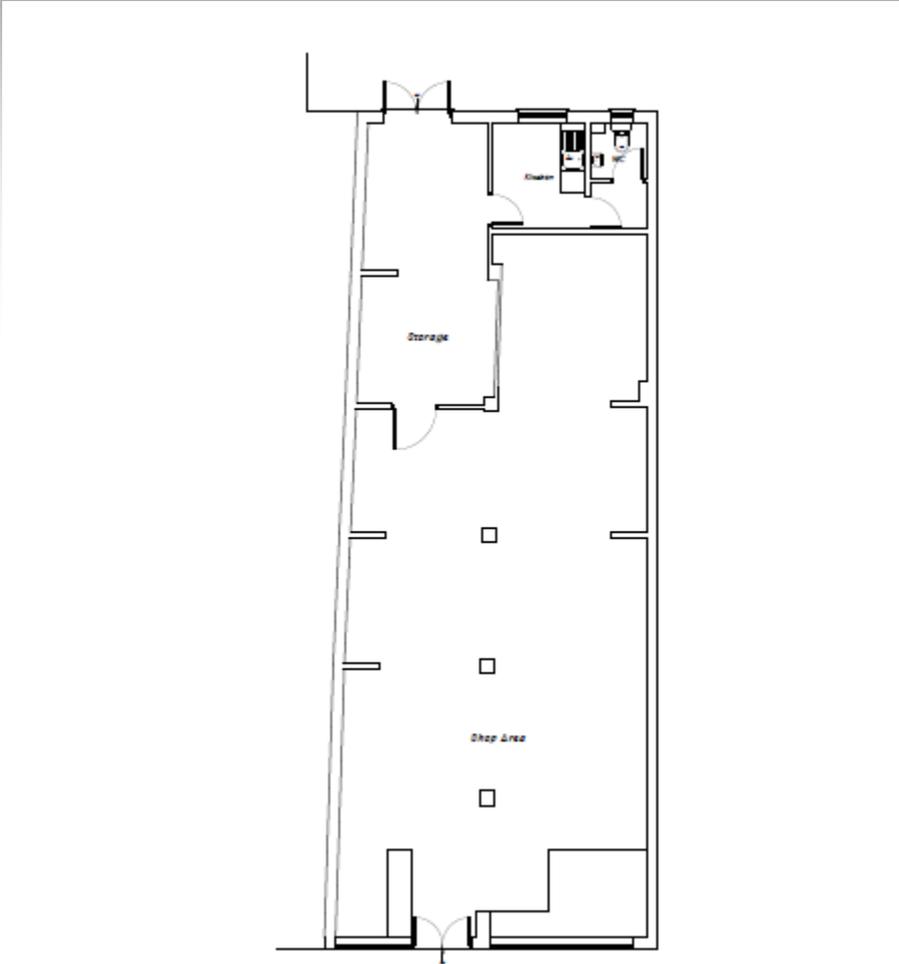
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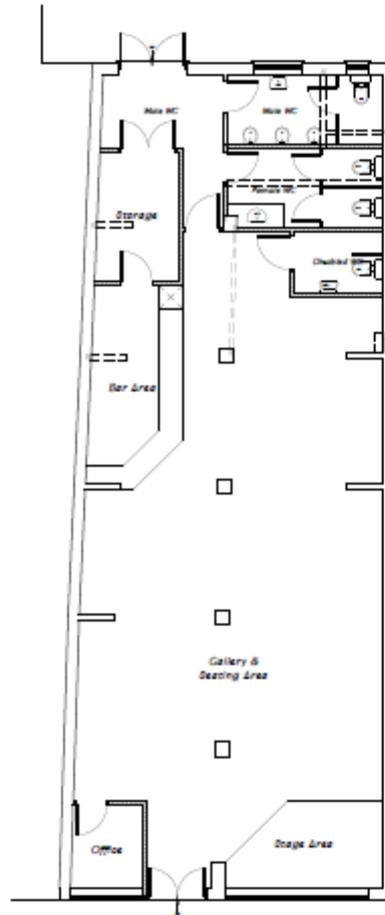
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Location plan



Existing floor plan



Proposed floor plan



Front elevation



Rear elevation

WARD : Rhyl West

WARD MEMBER(S): Cllr Joan Butterfield
Cllr Alan James (c)

APPLICATION NO: 45/2023/0122/ PF

PROPOSAL: Change of use of shop (Use Class A1) to form Gallery and Music Bar (Use Class A3) and associated works

LOCATION: 39 Wellington Road Rhyl LL18 1BA

APPLICANT: Mr Gary Longworth

CONSTRAINTS: C1 Flood Zone

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – 4 or more objections received

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
No objection

DWR CYMRU / WELSH WATER
No objection

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –
Traffic, Parking and Road Safety:
- Highways Officer
No objection

Public Protection Officer
Requested noise survey, currently under review.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Andrae Christmas-Arden, The Salvation Army, Windsor Street, Rhyl

Susan Collins, 4 Tan Rhiw, Penrhyn Bay, Llandudno

Chris Davidson, 28 Elm Grove, Rhyl

Sam Davidson, 28 Elm Grove, Rhyl

Adrian Hattersley, 4 Llys Tegid, Rhyl

John Holt, 10 Arnold Gardens, Kinmel Bay

Gareth Morris, Flat 12 Windsor Court, Crescent Road, Rhyl

Janet Murfin, 1 Lees Road, Llandudno

Alan Rosenwoud, 27 Heol Y Hendre, Rhuddlan

Jason Selby, 3 Clos Belyn, Llandudno Junction

Diane Selby, 3 Clos Belyn, Llandudno Junction

Summary of planning based representations in objection:
Appropriateness of the location in proximity to Salvation Army
Need for A3 use (Pub) in Rhyl
Residential amenity considerations- noise
Highways issues- parking problems

EXPIRY DATE OF APPLICATION: 02/05/2023

EXTENSION OF TIME AGREED: 19/07/2023

REASONS FOR DELAY IN DECISION (where applicable):

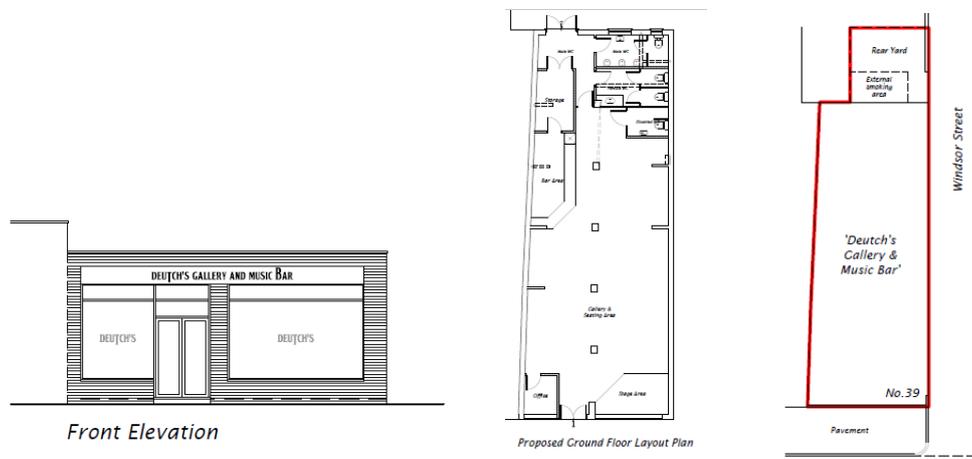
- re-consultations on additional information (noise report).

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the change of use of shop (Use Class A1) to form Gallery and Music Bar (Use Class A3) and associated works at 39 Wellington Road in Rhyl.
- 1.1.2 Externally the site frontage would remain broadly as existing with the roller shutter canopies being removed to open up the shopfront and enable the installation of a fascia sign above.
- 1.1.3 Internally the layout would be altered to install a bar and office area, as well as toilets in the former kitchen area at the rear of the shop.
See snip of site frontage and floorplan and site plans* (not to scale)



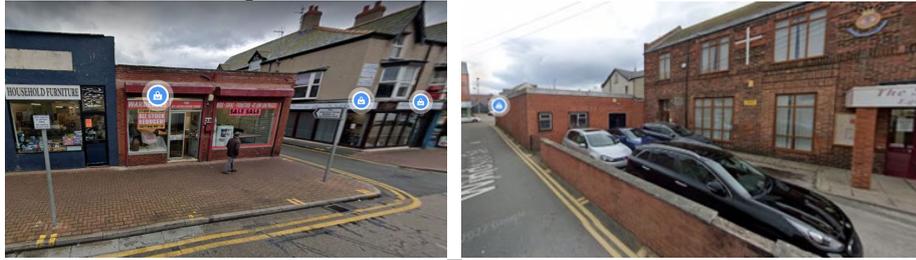
1.2 Other relevant information/supporting documents in the application

- 1.2.1 An Acoustic Report has been submitted in support of the application.
- 1.2.2 The Applicant has also submitted a statement setting out how the use will operate and the extent of the gallery and music related activity proposed to take place on site.
- 1.2.3 Hours of operation of the gallery and music bar are proposed from 10:00 to 00:00 hours daily.

1.3 Description of site and surroundings

- 1.3.1 The site is located on the southern side of Wellington Road in Rhyl town centre. No. 39 is bounded by Windsor Street on its western side, and a small yard abutting the Salvation Army Centre (off Windsor Street) to the rear.

Photos of site frontage and side/rear:



1.3.2 The existing building is a single storey structure with a flat roof. It was formally occupied by “Bargain Corner” a discount home furnishings shop.

1.4 Relevant planning constraints/considerations

1.4.1 The site is located within the development boundary and within the allocated town centre PSE 8 allocation as defined by the local development plan.

1.5 Relevant planning history

1.5.1 There is no planning history on the site.

1.6 Developments/changes since the original submission

1.6.1 The Public Protection Officer requested additional information be submitted in relation to noise. A Noise Impact Assessment Report was submitted on the 6th June.

1.7 Other relevant background information

1.7.1 The Applicant has provided some background in relation to the description of the use, setting out that; his late father was an artist and he wants to display his paintings. He feels that the gallery element of the use would be unviable on its own, hence the mix with a music venue. He aims to attract people with a creative outlook to come in & play their own songs, recite poetry etc. and intends to run the bar in a responsible manner.

2. DETAILS OF PLANNING HISTORY:

2.1 N/A

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy BSC1 – Growth Strategy for Denbighshire

Policy PSE6 – Retail economy

Policy PSE8 – Development within town centres

Policy ASA3 – Parking standards

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

TAN 15 Development and Flood Risk

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that

material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned. The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Drainage (including flooding)
- 4.1.5 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is located within the development boundary of Rhyl BSC1 allocation as identified within the LDP. Within the BSC 1 development boundary allocations, new development will, in principle be supported provided that it meets with the criteria of other policies in the Local plan and material planning considerations. This assists in working towards a sustainable pattern of development by directing most development to existing settlements thereby making the most effective use of existing infrastructure, facilities and services by reducing the need to travel.

The application site is also within the PSE 8 Development within Town Centre allocation for Rhyl. LDP Policy PSE 8 sets out the local policy criteria that address developments within a defined town centre boundary. The policy says, development proposals within town centres defined on the proposals maps will be permitted provided that all of the following criteria are met: i) they enhance the vitality and viability of the town centre and ii) they do not result in an unacceptable imbalance of retail and non retail uses iii) within the primary shopping frontage of Rhyl the change of use of ground floor retail premises (A1 shops) to any other use class will be resisted. To clarify the site is not within the 'primary shopping frontage' in Rhyl.

PSE 8 criteria must be interpreted in line with the provisions contained in Future Wales (2021), Planning Policy Wales (PPW) Edition 11 (2021) and Welsh Government 'Building Better Places' (July 2020). All of these documents stress the importance of diversification in town centres uses to maintain vitality and viability.

Whilst Policy PSE 8 criteria i) and ii) also focus the assessment on a proposal's impact on the balance of retail and non-retail uses in terms of town centre vitality and viability preferring the retention of A1 units in particular in Rhyl, Welsh Government is very vocal about the 'town centre first principle', see Future Wales and PPW Edition 11. The policy says complementary uses in the town centre include, financial and professional services (A2), food and drink (A3), offices (B1), hotels (C1), educational and other non-residential establishments (D1), leisure (D2) and certain other uses such as launderettes and theatres.

The former furniture shop is located on a block of properties on Wellington Road between Windsor Street and the Rhyl Police Station. At present there is a public house 'The North', two vacant shops (the former KFC and former Full Monty Café), a Tattoo Studio, a Barbers, and the Domestic Appliance shop to which no. 39 is attached. Opposite this block is a recently constructed Council car-park and the Town Hall.

The Applicant was asked to consider if there were any existing A3 sites in the town centre which may be more appropriate for his use and may not need planning permission for change of use. He responded that he had considered other properties (including a public house) however owing to the gallery element of the use and requirement for light and footfall he considered the proposed site to be the most suitable unit.

Representations have been made relating to the use of the A3 bar and questioning the need for another public house in the town. Officers note these concerns, but consider that there is no planning requirement to establish a need for such a use, particularly in this town centre location.

Concern has also been raised that the proposal may introduce temptation or an attraction to individuals, some with addiction problems, who may be visiting the Salvation Army Church (immediately to the rear of the site) for support. Whilst understanding this concern, Officers consider that without firm evidence to support the assertion that the use would be detrimental to these individuals it would be difficult to resist the application. As these concerns are broadly based on behaviours not land use planning. It is further noted that there are other public houses within the town centre and in the immediate vicinity of the site; on Wellington Road, Bodfor Street and Kinmel Street.

More generally the social problems in Rhyl are acknowledged and land use based regeneration work and projects are supported by some of the Councils planning policies, however Officers consider that there is no policy grounds to resist the change of use for social reasons at present.

Lastly in respect over the control of the use and its management, it is noted that the site would be subject to licensing control which planning should not seek to duplicate.

It is noted that National policy not only supports town centre diversification but explicitly considers food and drink establishments (A3 uses) as a reasonable complementary use. The introduction of the proposed gallery and music bar (A3) use on Wellington Road is therefore supported by national policy in principle. In conclusion it is considered that there is no reason to oppose the principle of the proposal.

4.2.2 Visual amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use land / buildings and spaces between buildings, which are matters relevant to the visual impact of development.

Limited external alterations are proposed to the building to facilitate the change of use. The building is of no historic merit with existing oversized grill housing. The proposal would not alter the shopfront significantly. An advert application may be required once the signage detail has been finalised.

The proposal is considered acceptable in relation to visual amenity and the relevant policies.

4.2.3 Residential amenity

Policy RD 1 sets specific tests to be applied to residential amenity impacts of development. Criterion vi) of Policy RD 1 requires that proposals do not unacceptably affect the amenity of local residents and land users and provide satisfactory amenity standards itself.

Whilst this is a town centre location where there are a mix of uses, there is the potential for noise to impact upon neighbouring properties from an A3 use. There are dwellings to the rear of the site on Windsor Street and some flats above properties on Wellington Road. A Noise Report with mitigation is proposed as part of the development. The noise report concludes that "The assessment presented in Table 8 above indicates that at the worst case the overall noise breakout from the proposed gallery and music bar is likely to be at least 3 dB(A) below the measured background sound level. This is indicative that noise breakout from the proposed gallery and music bar is unlikely to be discernible or identifiable when compared to the local residual noise climate."

The Public Protection Officer has reviewed the submission and additional information and has raised no initial objection informally. His final comments will be reported to the Committee alongside conditions in the late representations.

Having regard to the location of the proposed development in the town centre where there are a mix of uses, and in relation to the existing site and neighbouring properties, it is considered that subject to the controls proposed by the Public Protection Officer the proposals would not have an unacceptable impact on residential amenity.

4.2.4 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding. TAN 15 – Development and Flood Risk provides a detailed framework within which risks arising from different sources of flooding should be assessed.

The site is an existing building with established drainage connections and facilities. It is located within a zone C1, however it is noted that the application proposes an equivalent risk of development to existing.

It is considered that the application raises no significant flood risk issues.

4.2.5 Highways (including access and parking)

Criteria vii) and viii) of Policy RD1 of the LDP require assessment of the impact of development on the local highway network, including consideration of congestion, danger and nuisance arising from traffic generated.

The site is located on Wellington Road one of the main through routes into the town centre. There is restricted vehicular stopping/delivery controls in front of the site. There are town centre car parks and public transport links close to the site including a new town centre car-park opposite no. 39. There is a small yard area to the rear of the site and deliveries could be undertaken from Windsor Street.

Highways Officers have raised no objection to the consultation.

In conclusion, this site is located in a sustainable and accessible location. It is not considered that the proposal conflicts with the highways considerations of the policies mentioned above.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

6.

6.1 Taking into account the most up to date national policies and balancing other material consideration it is the opinion of Officers that the proposal is acceptable and recommended for grant.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development to which this permission relates shall be begun no later than 19th July 2028
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:
 - (i) Location Plan (Drawing No. 1004/LP) - Received 21 February 2023
 - (ii) Existing and Proposed Site Plan (Drawing No. 1004/1 Rev A) - Received 30 March 2023
 - (iii) As Existing (Drawing No. 1004/2) - Received 21 February 2023
 - (iv) As Proposed (Drawing No. 1004/3 Rev A) - Received 30 March 2023
 - (v) Acoustic Report (Received 06 June 2023)
3. Prior to the operation of the premise the applicant shall install all noise mitigation measures as detailed in section 6 of the submitted Noise Impact Assessment. Verification that the required mitigation measures have been installed as detailed in the Noise Impact Assessment shall be submitted and approved in writing by the local planning authority before the commencement of the use. The installed mitigation measures shall be retained at all times.

4. On receipt of a verified noise complaint (verified by the Councils Environmental Health Officers) relating to noise from the installed external plant services, the applicant shall instigate a noise impact assessment at their own expense, submit a report of the findings to the Local Planning Authority, implement any recommended noise mitigation measures and submit a final verification report to the Local Planning Authority in writing.
5. On receipt of a verified noise complaint (verified by the Councils Environmental Health Officers) relating to noise from the internal operation of the premise, the applicant shall instigate a noise impact assessment at their own expense, submit a report of the findings to the Local Planning Authority, implement any recommended noise mitigation measures and submit a final verification report to the Local Planning Authority in writing.
6. The operating times for the premises shall be 10:00hrs until 24:00hrs Monday to Sunday only.
7. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

The reasons for the conditions are:

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of development
3. In the interest of residential amenity.
4. In the interest of residential amenity.
5. To protect the amenity of neighbouring residential properties.
6. In the interest residential amenity.
7. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment