

Environmental Health request that an appendum is added to the TEN objection sent to Licensing on Wed 15/08/2012 13:57. In order that Licensing Committee members are adequately briefed on the planning and noise complaint history for the site, in order to come to make an informed decision regarding the TEN under application.

Planning History

Planning Permission Decision Notices for the site were forwarded for my attention after this time at 15.18. The planning decision notices are deemed relevant information for consideration by members of the Licensing Committee. The planning permissions are:

09/4014C – Change of Use Involving Conversion and Ancillary Works of Part of Former A1 and A5 Shop/Business Premises to A4 Drinking Establishment with Associated Limited A3 Restaurant/Cafe Use. And

09/3226C Conversion (With Ancillary Works) of Existing Vacant (Former Residential) Accommodation at 1st And 2nd Floor Levels above Existing Shops To Form 5no. Separate Dwellings (Flats, 2no. Studio Bedsits, 2no. 1 Bed & 1no. 2 Bed).

The Decision Notices are attached for information.

The above illustrates environmental health concerns in relation to loss of amenity to noise sensitive receptors in the locality of this development and planning permission conditions imposed to control the same.

Amended Guidance Issued by the Home Office, Under Section 182 of the Licensing Act 2003, April 2012. Sections 13.58 is relevant to the applicant and to the Licensing Committee as allowing an extension to 4.00am may be interpreted as encouraging a breach to the planning permission for the site.

13.58 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

Locality

Tiamo/ Courtyard and VBar Entertainment Complex is located on West Street on the periphery of Congleton town centre. This area is mixed residential and commercial. Residents are located at 14, 16 and next door but one, number 30 and further terraced properties beyond West Street car park entrance. The properties are typical front of street terraces some of which are currently void.

Flats 1-5 The Courtyard , 24 West Street, Congleton, Cheshire, CW12 1JR are new flats above 24 West Street (Bear Town Spice) and 26 West Street (Tiamo). Only Flat 1, The Courtyard is currently in the Council Tax list and is occupied.

Flat occupiers within this complex, despite any tenancy agreements, have a right to protection from negative noise impact.

Noise Complaint History

June 2011: 3 noise complaints were received in relation to entertainment noise emanating from the premises. The applicant Mr Martone was informed in writing and a meeting was held at the premises to discuss the complaints and to reaffirm the Premises Licence Conditions and to introduce the statutory noise nuisance regime. The complaint was closed in September 2011 as two of the complainants stated that the noise was no longer an issue and the third had not returned noise nuisance diary sheets.

July 2011: four (the same complainants as above and one other) noise complaints were received as a result of a temporary event held on Saturday 9th July 2011. Licensing confirmed that the Courtyard had a TEN for a private party at the establishment. The TEN was for alcohol, regulated entertainment and late night refreshment until 2 am. The TEN was applied for in sufficient time. In July 2011 Licensing had no power to refuse if the TEN had been applied for incorrectly and environmental health were not permitted to object.

This department is currently dealing with 3 noise complaints in relation to entertainment noise emanating from the Tiamo / Courtyard / VBar complex. As a percentage of residents in the immediate vicinity this is considered a high proportion of complaints. The amplification giving rise to complaint includes live bands and singers; that the songs are clearly audible and it is recognised when the volume is increased and decreased.

The applicant was informed of this complaint via copy letter dated 28th June, the letter was also forwarded to Licensing Enforcement. Diary sheets were returned on 25th July and I visited the premises on Wednesday 1st August and spoke to restaurant manager Mr Pritchard requesting that Mr Martone contact me. There was no contact and I revisited the premises on Thursday 9th August and was provided with Mr Martones contact details. I subsequently spoke to Mr Martone regarding ongoing entertainment noise complaints, licensing conditions and the ongoing statutory noise nuisance investigation. On returning to work on Monday 13th August, three voice messages were left by the complainants in relation to noise events over the previous weekend: Friday 10th August & Saturday 11th August: described as sounding like entertainment outside very loud until 3am in morning.

The statutory noise nuisance investigation is ongoing concerning these premises. I confirm my objections under the licensing objective of the prevention of public nuisance. to hold a TEN event on Saturday 1st September 02.00 - 04.00 consisting of live musicians & recorded music.

SIGNED: Stephanie Bierwas

DATED: Thursday 16th August 2012

Attached: Decision Notices 09/4014C and 09/3226C
Tiamo/ Courtyard / VBar Site Location Plan

DECISION NOTICE

Application No: 09/4014C

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Particulars of Development

Change of Use Involving Conversion and Ancillary Works of Part of Former A1 and A5 Shop/Business Premises to A4 Drinking Establishment with Associated Limited A3 Restaurant/Cafe Use

Location

26, WEST STREET, CONGLETON, CHESHIRE, CW12 1JR

for **Mr Valentino Martone**

In pursuance of its powers under the above Act, the Council hereby GRANTS planning permission for the above development in accordance with the application and accompanying plans submitted by you subject to compliance with the conditions specified hereunder, for the reasons indicated:

1. The development hereby approved shall commence within three years of the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. Subject to the requirements of condition 6, the development hereby approved shall be carried out in total accordance with the approved plans numbered KPDC08/07, KPDC08/15, KPDC08/16 and KPDC08/17 received by the Local Planning Authority on 1st December 2009 and 21st April 2010.
Reason: For the avoidance of doubt and to specify the plans to which the permission / consent relates.
3. Prior to implementation of the use hereby permitted, a scheme of sound insulation shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of the building including windows, openings and ventilation. The approved details shall be implemented in full before the building is first occupied and shall be retained at all times thereafter.
Reason: To ensure adequate levels of residential amenity having regard to noise generated by activities at the premises and to comply with Policies GR1 and GR2 of the adopted Congleton Borough Local Plan First Review 2005.
4. Prior to the implementation of the use hereby permitted, details of the specification and design of equipment to extract and disperse cooking odours, fumes or vapours shall be submitted to and approved 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.
Reason: In the interests of amenity and to ensure the appearance of the equipment is acceptable in accordance with Policies GR1, GR2 and GR6 of the adopted Congleton Borough Local Plan First Review 2005.
5. The use hereby permitted shall not be undertaken other than between the following times:-
Monday- Sunday including Bank Holidays 10.30am to Midnight
Reason: In the interests of amenity and to comply with policies GR1 and GR6 of the adopted Congleton Borough Local First Plan Review

6. Notwithstanding the details shown on the approved plans, no roof terrace shall be formed or used in the development hereby approved.

Reason: In the interests of amenity and to comply with policies GR1 and GR6 of the adopted Congleton Borough Local First Plan Review

The reason(s) for approving this application is/are:

1. The proposal complies with the relevant policies of the Development Plan and is considered to be acceptable.
2. The proposal has an acceptable impact upon the amenities of neighbouring properties.
3. The visual impact of the proposal on the character and appearance of the area is considered to be acceptable.

INFORMATIVE The policies and proposals in the Development Plan relevant to this decision are: North West of England Plan Regional Spatial Strategy to 2021 - DP1 and DP7 and the adopted Congleton Borough Local Plan First Review 2005. - GR1, GR2, GR6, GR9, BH9 and S5.

Please Note: This decision notice does not convey any approval or consent which may be required under any enactment, bye-laws, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

This consent is granted subject to conditions and it is the owner(s) and the person(s) responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond. **A fee is payable to us for the discharge of conditions. Please see our Website for details.** If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:

- (a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
- (b) Where a condition precedent is breached and the development is unauthorised, the only way to rectify the development is the submission of a new application.

Other conditions on this permission must also be complied with. Failure to comply with any condition may render the owner(s) and the person(s) responsible for the implementation of the development liable to enforcement action.

This permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.
- (b) Variation to the approved plans will require the submission of a new planning application.

Dated: 16.6.10

Signed %signature%

**Head of Planning and Policy for
Cheshire East Borough Council**

DECISION NOTICE

Application No: **09/3226C**

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Particulars of Development

CONVERSION (WITH ANCILLARY WORKS) OF EXISTING VACANT (FORMER RESIDENTIAL) ACCOMMODATION AT 1ST AND 2ND FLOOR LEVELS ABOVE EXISTING SHOPS TO FORM 5NO. SEPARATE DWELLINGS (FLATS, 2NO. STUDIO BEDSITS, 2NO. 1 BED & 1NO. 2 BED)

Location

24 & 26, WEST STREET, CONGLETON, CHESHIRE, CW12 1JR

for **MR. VALENTINO MARTONE**

In pursuance of its powers under the above Act, the Council hereby GRANTS planning permission for the above development in accordance with the application and accompanying plans submitted by you subject to compliance with the conditions specified hereunder, for the reasons indicated:

7. The development hereby approved shall commence within three years of the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
8. The development hereby approved shall be carried out in total accordance with the approved plans numbered KPDC08/07, KPDC08/10A, KPDC08/11A and KPDC08/12A received by the Local Planning Authority on 1st October and 24th November 2009.
Reason: For the avoidance of doubt and to specify the plans to which the permission / consent relates.
9. The materials to be used in the construction of all external surfaces of the development hereby permitted shall match those of the existing building, unless otherwise first approved in writing by the Local Planning Authority.
Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.
10. The material and colour of all rainwater goods shall be metal, finished in black..
Reason: To ensure that the external appearance of the building / structure is acceptable acceptable in accordance with policy BE1 of the Macclesfield Borough Local Plan 2004.

For LB's this should read:

Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.

11. All fenestration to the front elevation shall be set behind a 100mm brick reveal.
Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.
12. All windows and doors in the external elevations of the proposed development shall be fabricated in timber, which shall be painted or opaque stained and they shall be retained in such a form thereafter.
Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.
13. Prior to the installation of any fenestration as part of the development hereby approved, drawings indicating details of all windows and external doors, including cross sections of glazing bars, to a scale of not less than 1:20 shall be submitted to and approved in writing

by the Local Planning Authority. The details which are approved shall be carried out in full and shall be retained in accordance with the approved details thereafter.

Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.

14. Notwithstanding any detail indicated on the plans hereby approved, details of external staircases, stairs and balustrades shall be the subject of plans submitted to and approved by the Local Planning Authority before works commence. The development shall be carried out in accordance with the approved details and the details approved by virtue of this condition shall be retained thereafter.

Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.

15. The proposed external balustrades shall be painted in a colour, details of which shall be first approved in writing by the Local Planning Authority

Reason: In order to ensure that the development meets the requirements of policy GR2 'Design' (B) & (D) of the adopted Congleton Borough Council Local Plan First Review 2005.

16. The hours of construction (and associated deliveries to the site) of the **** shall be restricted to 0800 to 1800 hours on Monday to Friday, 0800 to 1300 hours on Saturday, with no work at any other time including Sundays and Public Holidays.

Reason: To protect the amenities of nearby residents and the occupiers of nearby property in accordance with policies GR2 and GR6 of the adopted Congleton Borough Council Local Plan First Review 2005....

The reason(s) for approving this application is/are:

4. The proposal complies with the relevant policies of the Development Plan and is considered to be acceptable.
5. The proposal has an acceptable impact upon the amenities of neighbouring properties.
6. The visual impact of the proposal on the character and appearance of the area is considered to be acceptable.

INFORMATIVE The policies and proposals in the Development Plan relevant to this decision are: North West of England Plan Regional Spatial Strategy to 2021 - *** and Macclesfield Borough Local Plan - ****

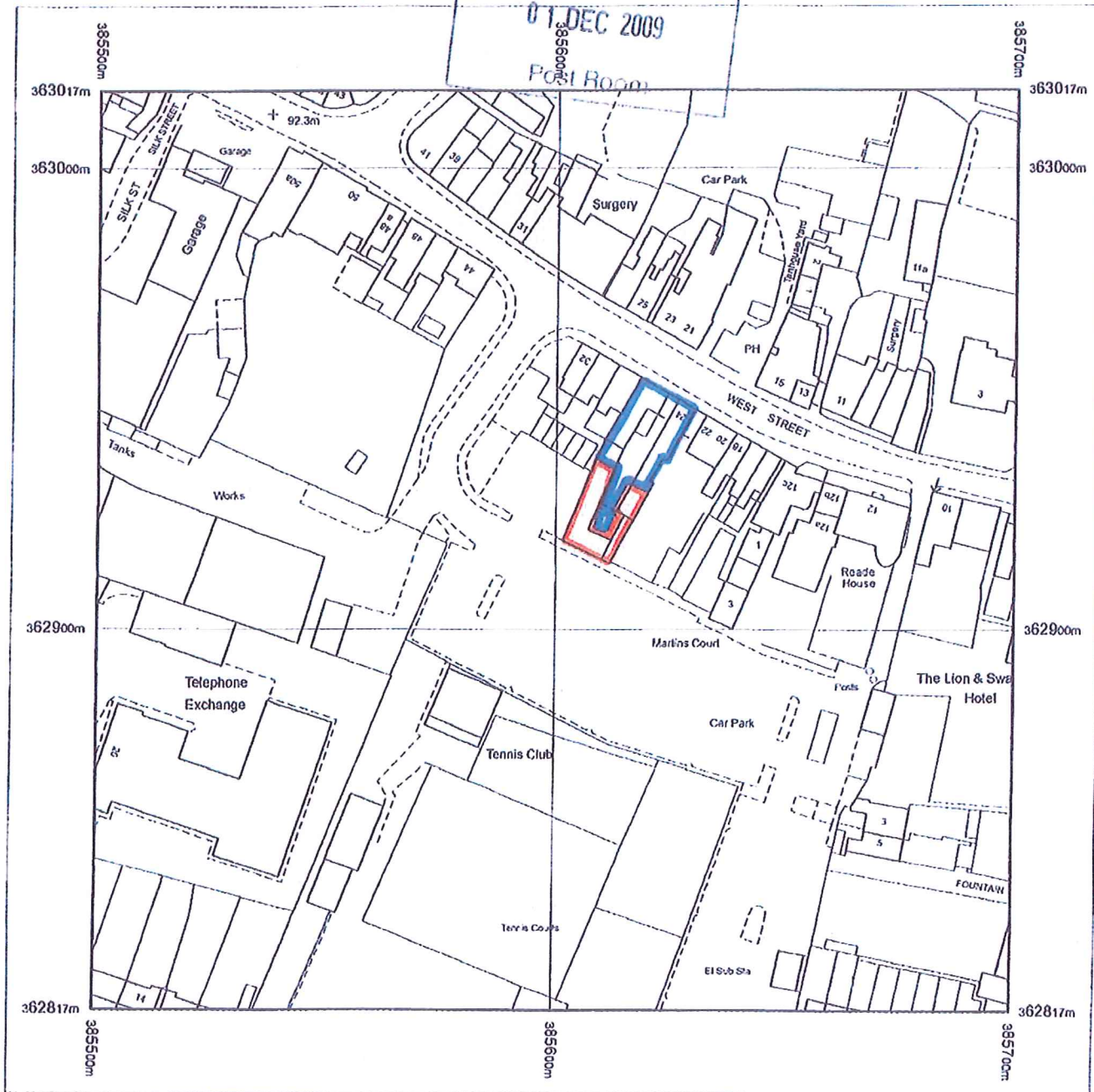
Please Note: This decision notice does not convey any approval or consent which may be required under any enactment, bye-laws, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

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Cheshire East Council
01 DEC 2009
Post Room



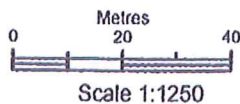
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Supplied by: **Outlet User**
Serial number: 00000900
Centre coordinates: 385600 362917

Further information can be found on the OS Sitemap Information leaflet or the Ordnance Survey web site:
www.ordnancesurvey.co.uk

Site Location Plan.
No's 24 & 26 West Street.
Congleton, Cheshire. CW12 1JR.
for Mr. V. Martone.
Date : Sept 09. Scale : 1: 1250 @ A4 Size.
(See Scale Bar). Dwg No : KPDC08/00