

**WELWYN HATFIELD BOROUGH COUNCIL  
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

**DELEGATED APPLICATION**

**Application No:** 6/2018/2989/FULL  
**Location:** The Parkway Bar Parkway Welwyn Garden City AL8 6JQ  
**Proposal:** Change of use of basement, ground and first floor to a Sui Generis mixed bar/restaurant Use (Classes A3/A4).  
**Officer:** Mrs Sarah Madyausiku

**Recommendation:** Granted

6/2018/2989/FULL

<b>Context</b>	
<b>Site and Application description</b>	<p>The application relates to a basement, ground and first floor premises located on the east side of Parkway. The unit is vacant but is within Use Class A4 (Drinking establishments), with the first floor level (that has separate access) being last used as a nightclub (Sui Generis).</p> <p>The application seeks planning permission for the change of the use of the premises (basement, ground and first floor) from Class A4 use (Drinking establishments) at basement and ground floor and a nightclub (Sui Generis) at first floor to a mixed Sui Generis use (A3/A4). The supporting statement states that the intention is to use the premises as a restaurant. It is also stated that the proposal would facilitate a bar area in addition to a restaurant.</p> <p>External alterations have been granted for an extraction flue system and alterations to fenestration under separate applications as detailed below in relevant planning history. This application relates solely to the change of use.</p>
<b>Constraints (as defined within WHDP 2005)</b>	<p>CA - Conservation Area: WGC1; - Distance: 0            PRC - Primary Retail Core (Primary Retail Core) - Distance: 0            Town - Welwyn Garden City Town Centre - Distance: 0            Wards - Handside - Distance: 0            CP - Cycle Path (Cycle Facility / Route) - Distance: 8.37            FM00 - Flood Zone Surface Water 1000mm (74434) - Distance: 0            HEN - No known habitats present (medium priority for habitat creation) - Distance: 0            SAGB - Sand and Gravel Belt - Distance: 0            HPGU - Welwyn Garden City - Distance: 0</p>
<b>Relevant planning history</b>	<p>(adjacent site)</p> <p>Application Number: 6/2017/0400/FULL      Decision: Granted      Decision Date: 13 November 2017</p>

	<p>Proposal: Formation of new roof to accommodate additional storey at third floor level to provide 8 self-contained flats (7 x 1 bedroom flats and 1x 2 bedroom flat.), rear lift tower and ground floor entrance lobby. This permission remains extant. It is relevant to this current application because the flats would be located above the above cation site at third floor.</p> <p>(application site)</p> <p>Application Number: 6/2018/2353/FULL      Decision: Granted      Decision Date: 27 November 2018</p> <p>Proposal: Installation of extraction flue at the rear.</p> <p>Application Number: 6/2018/2354/FULL      Decision: Granted      Decision Date: 27 November 2018</p> <p>Proposal: Alterations to shop front fenestration</p> <p>Application Number: 6/2018/2355/ADV      Decision: Granted      Decision Date: 27 November 2018</p> <p>Proposal: Installation of 3 x externally illuminated built up letters signs</p>		
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 1	Object: 0	Other: 3
<b>Publicity</b>	<p>Site Notice Display Date: 11 December 2018</p> <p>Site Notice Expiry Date: 4 January 2019</p> <p>Press Advert Display Date: 12 December 2018</p> <p>Press Advert Expiry Date: 28 December 2018</p>		
<b>Summary of neighbour responses</b>	<ul style="list-style-type: none"> <li>• Church House      Comment: support</li> <li>• HGT, c/o Gardens Comment: No comment.</li> </ul>		
<b>Consultees and responses</b>	<ol style="list-style-type: none"> <li>1. WHBC - Client Services –No comment</li> <li>2. WHBC - Public Health and Protection - Public Health and Protection Considerations relevant to Environmental Health for this application:</li> <li>3. Hertfordshire County Council - Hertfordshire Transport Programmes &amp; Strategy- No Objection</li> <li>4. Welwyn Hatfield Borough Council - Parking Services- No objection 3/12/2018 15:58</li> <li>5. Hertfordshire Gardens Trust – no comment.</li> <li>6. Thames Water, Development Control -      No objection subject to informatives.</li> </ol>		
<b>Relevant Policies</b>			
<input checked="" type="checkbox"/> Paragraph 72 of the Planning (Listed Buildings and Conservation Areas) Act <input checked="" type="checkbox"/> NPPF			

D1    D2    GBSP1    GBSP2    M14  
 Supplementary Design Guidance    Supplementary Parking Guidance    Interim Policy for car parking and garage sizes

Others:

TCR1

R19 Noise and Vibration and Pollution

Draft Local Plan Proposed Submission August 2016

SP6, SADM7, SADM4, SADM11, SADM12

### Main Issues

#### Whether the proposal would be an appropriate change of use of the site?

Yes    No

In terms of assessing the principle of the proposed development, the site is located within the Primary Retail Core where Policy TCR1 refers to retail development in town centres. The site however is left blank on the Inset Map (Map 2) of the District Plan 2005 referring to town centre uses. Therefore there is no specific policy in the Welwyn Hatfield District Plan 2005 that protects the existing A4 use and Night Club (Sui Generis) use at this location and no requirement for such uses to be within an A1 use. Therefore no objection is raised to the proposed change of use.

Under the emerging policy SADM4, the premises is defined as being within the Core Retail Zone and as a Secondary Frontage (Ground Floor). Under this policy, the proposal would not result in the loss of an active retail frontage as the premises is not currently in an A1 use.

The premises previously provided for a Community Service as the basement and ground floor operated as a Public House. Under policies SP6, SADM7 the proposed use as a mixed use bar and restaurant would be supported by these policies as the new mixed use is a satisfactory replacement.

Overall the use of the premises would contribute positively to the vibrancy and vitality of the Town Centre. There is no objection to this change of use in relation to current or emerging policies or the NPPF.

#### Is the development within a conservation area?

Yes    No

As the application site is within Welwyn Garden City Conservation Area, there is a requirement to pay special attention to the desirability of preserving and enhancing the character or appearance of a conservation area in exercising planning functions. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states;

- 1) In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving and enhancing the character or appearance of that area.
- 2) The provisions referred to in subsection (1) are the planning Acts and Part 1 of the Historic Buildings and Ancient Monuments Act 1953 [and sections 70 and 73 of the Leasehold Reform, Housing and Urban Development Act 1993].
- 3) In subsection (2), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118 (1) of the Housing Act 1996.
- 4) Nothing in this section applies in relation to neighbourhood development orders.

The National Planning Policy Framework 2018 and local planning policies also place a general duty

on LPA's ensure developments preserve or enhance conservation areas in exercise of planning functions. In this instance, policy D1 of the District Plan 2005 are relevant, which seeks to ensure a high quality of design and to ensure that development respects and relates to the overall character of the area. The proposed development is limited to internal alterations only as part of the change of use. The character and appearance of the conservation area would be preserved.

**Would the significance of the designated heritage asset be preserved or enhanced?**

Yes  No

**Comment** (if applicable):

**Would the development reflect the character of the area?**

Yes  No

**Comment** (if applicable):

**Would the development maintain the amenity of adjoining occupiers? (e.g. privacy, outlook, light etc.)**

Yes  No  N/A

**Comment** (if applicable):

Due to the restaurant/bar setting, levels of noise are not expected to be at the level expected of a bar or club (current allowed use), however, due to the potential number of customers this noise level is still likely to be high.

Environmental Health have not raised an objection to the application. As the site is within the town centre and there are a mix of uses. Approval has been given for the second floor to be used as residential accommodation under the prior approval process (ref 2017/0400/FULL). Therefore these properties have been taken as the nearest noise sensitive receptor for this proposed change of use.

Details of noise emissions from an extract system and other proposed plant has been assessed within a noise impact assessment provided with a previously granted application at the premises (ref 6/2018/2353/FULL).

As part of that survey, predicted levels are 12dB below the background noise level at the nearest residential property which will be on the 2nd floor and relatively close to the flue termination point. There is some concern over noise from customers (and music if to be provided) from this proposed use as this will be directly below the residential units. The level of noise attenuation between floors is not known, and would need to be above that within Approved Document E to ensure that a loss of amenity from direct sound transmission does not occur. A condition is required to ensure details of the noise attenuation between first and second floors is agreed.

Complaints have not been received in the past about odours from cooking at the existing food businesses in the area or the business that previously operated from this premises. However, the makeup of the area is changing with a number of prior approval office to residential conversions which now place domestic dwellings in close proximity to these businesses.

The applicant provided an odour risk assessment with the previous application ref: 6/2018/2353/FULL which listed a high level odour control specification which would have a significant impact on reducing the risk of odour complaints and therefore loss of amenity at neighbouring properties. The submitted drawings indicate an extraction system which was approved under application ref: 6/2018/2353/FULL, which can still be implemented and it is assumed that this will be implemented as part of these applications.

Environmental Health are satisfied that those details regarding the ventilation system on 6/2018/2353/FULL are adequate for the proposed change of use. However, this application relates solely to the change of use only. In order to safeguard amenity, it is reasonable to attach a condition that would require the approved extraction system (as part of application ref: 6/2018/2353/FULL) to be fully implemented before the use, hereby sought, is begun. A condition attached to the previous

application ref: 6/2018/2353/FULL required the extraction system to comply with the requirement of being 10dB below the background noise level at the nearest residential property, it is recommended that this requirement is incorporated as part of a condition.

The applicants have sought opening hours from 11:00 hours up until 00:00 hours. Given the previous use was unrestricted by planning conditions and given the location of the premises in the town centre, these opening hours are not opposed. A condition should be attached to any permission to control these hours.

Accordingly the proposed development is considered to retain an acceptable level of amenity with neighbouring properties, and complies with Policies D1 and R19 and the NPPF.

**Would the development provide / retain sufficient parking?**

Yes  No  N/A

**Comment** (if applicable): No objections have been raised in respect of parking provision. No parking is provided as part of the proposal, but given the location of the premises in the Town Centre and given its previous use, there is no objection under highway terms.

**Conclusion**

The proposed change of use of the premises to a Sui Generis mixed A3/A4 use is considered acceptable. The proposal would contribute to the overall attractiveness and vibrancy of the town centre. The hours of opening of the restaurant/bar, and the potential for noise from the use could be controlled by condition such that the amenities of the occupiers of future occupiers of surrounding properties would not be unduly harmed. The application is therefore recommended for approval.

**Conditions:**

1. The use hereby permitted shall not commence until a scheme for insulating the building to protect the residential properties on the second floor has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the first floor shall not be used until the approved scheme has been fully implemented and shall be retained thereafter.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

2. The use hereby permitted shall not commence until the extraction and filtration approved as part of planning application 6/2018/2353/FULL is completed in accordance with that application. Subsequently, any noise from plant and equipment associated with the kitchen extract system must be 10dB (LAeq) below the background noise level (LA90) at the nearest residential properties and be so maintained.

REASON: To ensure a satisfactory standard of development in the interests of visual and neighbour amenity in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

3. The use of the premises for the purposes hereby permitted shall be limited to the hours between 11:00 and 00:00 on any day.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

## DRAWING NUMBERS

- The development/works shall not be started and completed other than in accordance with the approved plans and details:

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
A100		Location And Site Map	21 November 2018
A101		Existing Basement And Ground Floor Plan	21 November 2018
A102		Existing First Floor Plan	21 November 2018
A103		Proposed Basement And Ground Floor Plan	21 November 2018
A104		Proposed First Floor Plan	21 November 2018

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

### 1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

### **Informatives:**

- This permission allows for the change of use of the premises only.

Any additional external alterations to the building may require a new application for planning permission.

- This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water interest etc. Neither does this permission negate or override any private covenants which may affect the land.
- The granting of this permission does not convey or imply any consent to build upon or access from any land not within the ownership of the applicant.
- You are advised to contact the Public Health and Protection Department to discuss food hygiene, health and safety and licensing requirements. The food business operator will need to register as a food business 28 days prior to trading.
- Noise control
  - All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of :

8.00am and 6.00pm on Mondays to Fridays

8.00am and 1.00pm Saturdays

and at no time on Sundays and Bank Holidays

2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times

3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions

4. All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.

5. All machines in intermittent use shall be shut down during intervening periods between work, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.

6. Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.

7. All pile driving shall be carried out by a recognised noise reducing system.

8. Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material

9. In general, equipment for breaking concrete and the like, shall be hydraulically actuated.

10. 'BS 5228 Noise Control on Construction Sites' should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.

11. Any emergency deviation from these conditions shall be notified to the Council without delay

12. Any planned deviations from these conditions for special technical reasons, shall be negotiated with Council at least 14 days prior to the commencement of the specific work.

13. Permissible noise levels are not specified at this stage.

6. 1. All efforts shall be made to reduce dust generation to a minimum
2. Stock piles of materials for use on the site or disposal, that are likely to generate dust, shall be sited so as to minimise any nuisance to residents or neighbouring businesses. Materials for disposal shall be moved off site as quickly as possible.
3. Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.

7. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to the website.  
<https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>

You should incorporate within your proposal, protection to the property by installing a positive pumped device (or equivalent reflecting technological advances) to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions. Fitting only a non-return valve could result in flooding to the property should there be prolonged surcharge in the public sewer. If as part of the basement development there is a proposal to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a

permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwriskmanagement@thameswater.co.uk](mailto:wwriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality)

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.

Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. You should take account of this minimum pressure in the design of the proposed development.

**Determined By:**

Mrs Sarah Smith  
23 January 2019