

**4/03329/15/FUL - CHANGE OF USE FROM A1 TO A1/A4.  
104 HIGH STREET, BERKHAMSTED, HP4 2BL.  
APPLICANT: Mr P Wright.**

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[Case Officer - Jason Seed]

## **Summary**

The application is recommended for approval as it is considered the proposal complies with policies CS4, CS11, CS12, CS16 and CS27 of the Core Strategy and Policy Saved 120 of the Dacorum Borough Local Plan.

## **Site Description**

The application site comprises a two storey commercial unit which is situated on the northern side of Berkhamsted High Street. The surrounding area is largely commercial with residential accommodation present above a number of the commercial units.

The site is subject to the following relevant planning designations: Berkhamsted Conservation Area, Area of Archaeological Importance, Town Centre / Local Centre. The building is also designated a Locally Listed Building.

It is noted that the use has already commenced and as such, this application is retrospective.

## **Proposal**

The proposal is described as a change of use from A1(Shop) to a mixed A1 / A4 (Drinking establishment) use.

## **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

## **Planning History**

None

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)

### Adopted Core Strategy

NP1 - Supporting Development  
CS4 - The Towns and Large Villages  
CS8 - Sustainable Transport  
CS11 - Quality of Neighbourhood Design

CS12 - Quality of Site Design  
CS16 - Shops and Commerce  
CS27 - Quality of the Historic Environment

Saved Policies of the Dacorum Borough Local Plan (DBLP)

Policy 42 - Shopping Areas in Town Centres  
Policy 51 - Development and Transport Impact  
Policy 120 - Development in Conservation Areas

Advice Notes and Appraisals

Conservation Area Character Appraisal for Berkhamsted

**Summary of Representations**

Berkhamsted Town Council - The application is considered contrary to Policies CS11 and CS12 as it alters the streetscape and is in the Conservation Area. It is a locally listed building. The premises are not suitable for A4 use as there is no disabled access and no toilets.

102A High Street - This not occasional tasting on the 1st floor especially, it is noisy public drinking on site with off sales. We occupy 1st and 2nd Floor 102a High St 3 inches away from subject property. I have a young family and any noise after 9pm is unfair on us and my child. I object to its current use and would like restrictions placed on evenings to be no later 8pm otherwise it is effectively a public house.

9 Shrublands Road - This retrospective application, for change of use only, does not fully reflect the work which has been undertaken here. The application and documents make no mention of the large canopy with a huge logo over the side courtyard of this locally listed building, adversely affecting the street scene and the listed Dower House beside it.

Berkhamsted Citizens Association - The Berkhamsted Citizens Association (BCA) has no objection to the change of use proposed here, provided there is not an unacceptable increase in noise nuisance for neighbours. However it objects strongly to the installation of the large awning over the side courtyard, emblazoned with a huge logo. This has been installed to the detriment of this locally-listed building and affects, adversely, the setting of the adjacent listed Dower House.

Ashworth Homes - We manage a block of six small self-contained offices located to the rear of 108 High Street and in close proximity to the subject premises. Object to the application for change of use. The increase in noise pollution already experienced since the occupiers of 104 High Street installed an external drinking area, would only be exacerbated, to the frustration of other local residential and commercial occupiers, if formal A4 consent and longer hours of use were granted. Concerns also raised over parking.

74 High Street, Berkhamsted - Object on the grounds that there is already a number of late night outlets in this 200 meter radius of 104 High Street (Gatsbys, The Goat, Crystal Kebab takeaway, Bobbys off license, the Rex Cinema) and we feel the cumulative effect of another licensed premises will seriously jeopardize this

conservation and residential area of town. Granting an application to sell alcohol for on premises consumption will significantly contribute to the late night comings and goings and will exacerbate serious ongoing problems experienced in this area at the weekend, relating to low level/non reportable disruption as well as more serious disturbances.

97 High Street, Berkhamsted - Object on the grounds that late licences have been granted and amplified live music has been played outside, ample supply of existing public houses, impact on local businesses and the social impact of the proposal, erroneous sales statistics supplied with the application.

The Goat (83 High Street) - Everything points towards the shop behaving as a pub and there seems to be very little focus on tasting or selling drinks to be consumed off the premises.

David O' Hara - My concern is should the premises be granted an A4 license which would increase the opening hours we would have even more people consuming large quantities of cheap alcohol very close to several businesses which could result in potential crime & disorder and potential public nuisance.

Mr. C. Belligero - If I choose to sell alcohol, for consumption on the premises, regardless of whether I call it a 'taster' or a Pint or indeed anything else, then I would need a full On-License/ Premises License and A4 planning consent. By using smoke and mirrors, this applicant is operating as the wine bars of the 1990's but riding the latest trend, i.e. craft beer.

Mr. Mark Grainger (Rising Sun Public House) - The planning permission granted as A1 is inappropriate for the actual and current trading style; this now requires A4 consent with all its incumbent statutory requirements, obligations and scrutiny. I note that an additional application is for A1/A4 "Sui Generis". Berkhamsted is well served by quality Public Houses that cater for the Real/Craft Ale market and do not need another. The plans as submitted do not represent the current layout of the site, are in an incorrect size. The red line plans do not represent the full beer garden area and I would encourage you to further investigate these issues. If an planning application for A1/A4 is granted then a precedent will have been set allowing any shop (A1) to apply for a license to sell alcohol with all the implications to control & monitoring by the local authority. The creation of a beer garden or car park has never received planning permission. The new garden canopy, heat lamps & lighting have not got planning permission. Nor the hanging sign attached to the premises.

14a Brook Street, Tring - I fully support this venture as it brings trade to this end of town and is a great shop. The shop is a valuable asset to Berkhamsted and provides a selection of bottles unavailable anywhere else. I fully support this application.

53 Rushendon Furlong, Pitstone - I support this venture as it provides a service not available in the rest of Berkhamsted.

Tweedsmuir, South Heath - This shop is a great addition to the town, I drive to Berkhamsted specifically to visit the shop.

Tortoiseshell Way Resident - This has brought trade and employment to this end of the high street.

9 Glassmill House, Berkhamsted - I fully support this application.

61 Copes Shroves, Bucks - I am in favour of this application, I travel to Berkhamsted specifically to buy my bottles of beer.

15 Delmeade Road, Chesham - I travel to Berkhamsted specifically to visit this shop, it's great.

1 Cherry Tree Cottages, Tring - I support this application, I drive specifically to Berkhamsted to buy my beer from here.

81 George Street, Berkhamsted - The shop provides a good combination of off sales and the option to try before you buy.

Berkhamsted Schools – Excellent service and first class ale. Just what Berkhamsted needed.

2 Ball Court – Doctors Common Road, Berkhamsted - Great addition to the town. Much more variation of beers and great to learn about beers.

Historic Environment Unit - No objection

Conservation Officer - The change of use does not require any significant alteration to the building internally or externally so from a conservation perspective I can see no objection to this. Further comment made in respect of the awning.

## **Considerations**

### Policy and Principle

Policy CS4 of the Core Strategy states that in town centres, a mix of uses is sought including social and community uses. Mixed-use development will be supported where it supports the principles of sustainable development and does not conflict with other policies. Policy CS16 of the Core Strategy states that development proposals that promote a diverse evening economy in the town centres will be supported provided that their social and environmental impacts are controlled.

The proposal would provide a mixed retail / social use in an area of the town where such uses already exist and are encouraged. It is therefore considered that the principle of the proposal is acceptable, subject to the consideration of other planning considerations.

**Representations have been received in respect of the mixed-use nature of the proposal. For the avoidance of doubt, the layout and thereby the uses of the proposal site are detailed as follows:**

### **NEED TO UPDATE APPROVED PLANS ON CONDITION UPON RECEIPT**

Impact on Host Property, Locally Listed Status and Berkhamsted Conservation Area

96 to 104 (even) High Street is a 1930s purpose-built, architect-designed parade of 5 shops with accommodation over. Designed in Tudorbethan style, the building is two storeys with prominent attic storey, clay tile roof with large dormers and substantial brick stacks. The walls are false timber framing with white painted infill render. Shops at ground floor level with timber shopfronts. This relatively unaltered parade of interwar shops / flats makes a positive contribution to the Berkhamsted Conservation Area and is included upon the list of locally important buildings.

Concerns have been raised in respect of the proposal's impact upon the Berkhamsted Conservation Area and the Locally Listed status of the building. The Council's conservation Officer has been consulted on the application and has no objection, noting that the change of use does not require any significant alteration to the building internally or externally. It is therefore considered that the proposal will not adversely impact upon the heritage assets of the site and as such, complies with Policy CS27 of the Core Strategy and Saved Policy 120 of the DBLP.

#### Impact on Neighbours

Representations have been received by the occupants of 102a High Street (adjoined to the immediate east of the proposal site) and the owners of the six small self-contained offices located to the rear of 108 High Street which assert that the proposal has the potential to create noise disturbance to the occupiers or surrounding residential and commercial properties.

The applicant has stated that the opening hours of the facility are currently (and will remain) as follows:

Mon - Thurs: 12:00 - 20:00

Fri: 12:00 - 21:00

Sat: 10:00 - 21:00

Sun and Bank Holidays: 11:30 - 17:30

It is considered that such opening hours, in a high street location (where examples of similar, more intensive operators such as The Gatsby), are considered acceptable and are securable by condition to ensure that the potential disturbance to occupiers of surrounding units is minimised. Furthermore, it is recommended that a condition be attached to any grant of planning permission which requires the applicants to provide details of soundproofing measures which are to be implemented and maintained in perpetuity to protect the residential amenity of the occupants of 102A High Street to the immediate east.

It is further considered that, given the nature of the use, the use of the courtyard area is likely to be limited during regular weekday office hours and as such, the impact of this part of the site on the occupants of the offices to the rear of 108 High Street is unlikely to be of a level which would justify a refusal of planning permission.

Representations have been received stating that live music has been played outside of the premises. It is considered that this is a matter for Licensing and / or Environmental Health to consider.

#### Impact on Parking and Highway Safety

The applicant has stated that there are 4 existing parking spaces with 4 proposed. As such, there will be no difference in parking spaces as a result of the proposal which is considered acceptable within the context of the proposal sited within the Town Centre.

### Disabled Access and Fire Safety

Representations have been received which note that the application does not make provision for disabled access to the toilet facilities. It is noted that whilst this is the case, the NPPG states (Ref ID 21a-006-20140306) that conditions requiring compliance with other regulatory requirements (e.g. Building Regulations, Environmental Protection Act) requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. It is considered that in this instance, the matter of disabled access fall within the remit of Environmental Health and is covered by provisions contained within the Equalities Act 2010.

Similarly, matters relating to Fire Safety (which have already been raised through the consultation process) are covered by Part B of the Building Regulations. It is noted that an application is currently being considered by the Council's Building Control Team for matters in respect of means of escape.

### Other Matters

A number of representations have been received which refer to potential / perceived economic advantage of the proposed business and the various requirements of the Licensing regime. It should be noted that these are not matters for consideration by the Planning Department.

It is noted that there is an unauthorised awning which is attached to the subject property which does not form part of this application. The consideration of this awning is a matter for the Planning Enforcement Team and has not been considered as part of this application. Any future application to retain this awning will be considered upon its own merits.

Concerns have been raised in respect of the potential for an increase in crime / disorder as a result of the proposal. It is considered that the hours of operation combined with the nature of the business will limit the potential for such occurrences.

### **Conclusions**

The applications seek permission for a change of use from retail (A1) to mixed-use (A1 and A4) in a town centre location. The planning matters associated with the proposal have been assessed and it is considered that with appropriate conditions in respect of hours of operation and noise insulation, the proposal will result in an acceptable use which does not create an unacceptable impact upon surrounding units and their occupiers. Furthermore, the proposal will not adversely impact upon the Berkhamsted Conservation Area or the site's Listed Building status and as such, is considered to comply with policies CS4, CS11, CS12, CS16 and CS27 of the Core Strategy and Policy Saved 120 of the Dacorum Borough Local Plan.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

LOCATION PLAN  
2 X PLANS

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 **The premises shall only be open to customers between 12:00 and 20:00 on Mondays to Thursdays; 12:00 am to 21:00 pm on Fridays; 10:00 am to 21:00 pm on Saturdays and 11:30 to 17:30 on Sundays, Bank Holidays and Public Holidays.**

Reason: In the interests of the amenities of the occupants of neighbouring dwellings.

- 3 **Within 2 months of the date of this decision notice, details of soundproofing of the first floor levels will be submitted to the Planning Authority for approval and following approval, will be implemented and completed within 2 months of the date of that approval. The soundproofing will be provided and maintained in perpetuity for the lifetime of the development hereby approved.**

Reason: To protect the residential amenity of neighbouring occupants in accordance with Policy CS12 of the Core Strategy.

#### ARTICLE 35 STATEMENT

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

#### **INFORMATIVE**

The applicant is advised that the awning which is affixed to the side of the proposal site does not benefit from planning permission and as such, you are advised to address this matter urgently, either by removing the awning and all associated fixtures and fittings and making good any resultant damage, or by submitting an application to the Planning Authority for its retention.