



SUPPLEMENTARY INFORMATION

South Planning Committee

Thursday 11 July 2024

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West Northamptonshire Council
List of Public Speakers for South Planning Committee
Thursday 11 July 2024

Item Number	Parish/Town Council	Objector	Applicant/Agent
6 – WNN/2022/0301 Car Park, College Street, Northampton	None	Daniel Edwards, Local Business Owner	Richard Howl and Andrew Wilkes, on behalf of the Applicant
7 – 2024/0816/MAR Land East of Towcester Road, Northampton	None	None	Olivia Hewitt, Agent for the Applicant

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**Addendum to Agenda Items
South Planning Committee
11 July 2024**

APPLICATIONS FOR DETERMINATION

Agenda Item 6: Application No. WNN/2022/0301

Erection of purpose-built student accommodation with landscaping and associated works

Address: Car Park, College Street, Northampton

Notes:

A further objection has been received on behalf of the proprietor of the Boston Clipper Public House, which it is understood has been copied to Members of the Committee.

The comments in summary raise the following concerns:

- Our concerns continue to primarily relate to officer's assessment of the noise impact of the Boston Clipper upon the prospective residents of the student accommodation scheme.
- Officers have failed to adequately address the concerns previously raised; maintain the view that any decision based on the officer report would be flawed and vulnerable to successful judicial review.
- It is not sufficient for the details of the Applicant's proposed noise mitigation measures to be secured by condition. Such an arrangement risks both the continued operation of The Boston Clipper and the amenity of prospective residents of the student accommodation scheme.
- Reliance on condition removes the need for the Applicant to demonstrate proposed mitigation measures can achieve suitable noise reduction levels prior to the grant of planning permission. As such, there is no guarantee that such measures will create acceptable noise levels within the student accommodation.
- The WBM report is far from decisive in term of declaring the adequacy of this solution (*proposed noise mitigation measures*). The report acknowledges that such systems can be "very challenging and technically difficult to achieve" and "that this should be investigated at the consultation stage of the application, to check this approach is feasible, achievable and practicable."

- Various case law and appeal decisions indicate that a precautionary approach should be adopted when addressing noise mitigation from existing businesses.
- Proposed mechanical ventilation will result in noise levels in excess of World Health Organization guidelines.
- Use of Section 106 Agreement to attenuate noise from The Boston Clipper – although the premises lies outside of the application site, this does not prevent such improvements being sought. Through the use of a Section 106 Agreement, Officers could secure internal upgrades to the fabric of The Boston Clipper to attenuate noise from the venue.
- Use of Deed of Easement – Advise a Deed of Easement is capable of being a material consideration in planning and that such a deed can be lawfully entered into. Appended appeal decision relating to the imposition of a such a condition. Previous Counsel opinion submitted on behalf of the applicant, also refers to the use of a Deed of Easement.
- If Members look favourably on the scheme, request a condition requiring the Applicant to provide a Deed of Easement in respect of noise; and that a S106 Agreement should be sought to secure upgrades to the noise attenuation measures at The Boston Clipper.

Officer response:

In respect to the Council's assessment of noise impact on the Boston Clipper Public House, the details of how these have been assessed by both an independent Noise Consultant engaged by the Council, WBM, and WNC Environmental Health is set out in the Officer report to Committee.

Whilst it is acknowledged the WBM report advises that it would expect this information to be provided up front, with confirmation that the proposed constructions can provide the required levels of sound reduction across the frequency range by the means of test certificates, the report also acknowledges that in light of further discussions since August 2023 WBM are of the view that the application could be approved subject to the agreement of suitably worded conditions regarding building services noise, external noise ingress, acoustic commissioning tests and the provision of masking noise. This would demonstrate that the proposal using building services as a masking noise is feasible, achievable and practicable. It is for WNC to decide whether to accept this approach.

WNC Environmental Health have confirmed that subject to the pre-commencement and pre-occupation conditions as proposed in the Officer report sufficient measures are in place to demonstrate that the mitigation measures proposed by the Applicant can be achieved.

The WHO Guidelines for Community Noise (1999) advise of a 30dB LAeq noise level for bedrooms at night. Part of the proposed mitigation for noise mitigation would be the use of mechanical ventilation. In discussions between the Applicant's and Councils' Noise Consultants an agreed background masking noise level of 33dB (A) NR 23 has been agreed. Whilst it is acknowledged this is slightly above the recommended WHO Guideline levels, WNC Environmental Health Officers have agreed that this background level is acceptable and that an appropriate level of internal amenity for proposed occupiers could be achieved.

In respect of a precautionary approach, the proposed noise mitigation measures have been subject to extensive discussion and review between the Council's and Applicant's Noise Consultant and Environmental Health Officers to ensure the proposed mitigation measures are appropriate. In addition, pre-commencement conditions are in place to agree the detailed design of these mitigation measures and testing prior to occupation.

In respect of the use of a Section 106 Agreement to secure noise attenuation measures with The Boston Clipper, *Paragraph 55 of the National Planning Policy Framework (NPPF)* advises:

"55. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

Paragraph 57 advises:

"57. Planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development."

Officer opinion is that sufficient and appropriate conditions are in place to address any unacceptable impacts and therefore the use of a Section 106 Agreement to secure additional noise mitigation is not appropriate in this instance and would be contrary to guidance.

In respect of a Deed of Easement, Officers are of the opinion as set out above that the proposed conditions as set out in the Officer report provide an appropriate and sufficient level of mitigation.

Agenda Item 7: 2024/0816/MAR

Reserved matters application (Appearance, Landscaping, Scale and Layout) pursuant to application WNN/2021/0029, for 60 dwellings, including affordable dwellings, with associated infrastructure, open space, and children's play (LEAP)

Address: Land East of Towcester Road, Northampton

Notes:

No further updates

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