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PLANNING APPEAL BY GREEN KING BREWING AND RETAILING LTD AT THE MASONS PUBLIC HOUSE, BAWTRY ROAD/NORTHFIELD LANE, WICKERSLEY

APPLICATION TO REMOVE CONDITION 4 (NO EXTERNAL MUSIC TO BE PLAYED) IMPOSED BY RB2016/1286

APPEAL REFERENCE AP/P4415/W/20/3263370

REPRESENTATION BY WICKERSLEY PARISH COUNCIL

INTRODUCTION

A planning application was submitted to Rotherham Metropolitan Borough Council to remove condition 4 of planning application RB2016/1286 which prohibited the playing of external music outside the Masons Public House.

Wickersley Parish Council objected to that application on the grounds of noise nuisance that would be likely to arise which would be detrimental to the amenities of the occupiers of nearby dwellings. A full copy of that objection is submitted with this representation.

A number of local residents also objected to the application as well as local ward councillors and the application was subsequently refused by Rotherham MBC on the grounds that it would have a detrimental impact on the living conditions of nearby residents by reason of unrestricted music being played outside of the premises contrary to the provisions of Policy SP52 Pollution Control.

Wickersley Parish Council wishes to reaffirm its objection to the application and would like to add some further observations to assist the Planning Inspector in coming to a decision on this appeal.

CONTEXT

The Parish Council would like to draw attention to the context of the objections it has raised and those made by local residents.



In normal times, the Mason's Public House is a very popular venue which attracts large numbers of customers especially at weekends when it is licensed to serve alcohol until the early hours of the morning. It is located at the corner of Bawtry Road and Northfield Lane and backs onto Willow Court which comprises elderly persons residential property. There is also residential property directly opposite the premises on the opposite side of Bawtry Road and Northfield Lane.

Wickersley District Centre has become increasingly popular as the place to visit for a night out with an increasing number of bars and restaurants opening in the area. This has resulted in increasing problems of noise nuisance, crime and anti social behaviour, litter, broken glass etc. particularly late at night when customers are leaving the premises. There are now some 19 licensed premises within Wickersley, 16 of which are located within a 300 metre stretch along Bawtry Road. As a result of increasing concern by local residents and Councillors, the Licensing Authority introduced a Cumulative Impact Zone (CIZ) covering all of Wickersley in spring 2020. This was in recognition that the centre does not have the required infrastructure to deal with a large and sustained night time economy and that the current number of licensed premises is negatively impacting the largely residential properties that are in close proximity. The Council concluded that the number of licensed premises had reached such a level that it would be inconsistent to grant any further licenses unless it could be demonstrated that it would not impact any further on the cumulative impact of existing licensed premises. This therefore illustrates the general concern about licensed premises within Wickersley and the nuisance that local residents have to endure particularly late in the evening and at weekends.

It is also relevant that the Mason's public house is one of four drinking establishments clustered along the northern side of Bawtry Road which result in nuisance particularly being experienced by residents located close by. The Mason's is the largest of the drinking venues and has the highest concentration of customers of all the venues in Wickersley. The statistics collected for the Cumulative Impact Policy also showed that Willow Court located behind the Masons had the highest number of recorded incidents of crime and disorder in the area. Furthermore, as a result of concerns with regard to a number of issues associated with the pub, including noise nuisance, the Licensing Authority have been working with the licensee to draw up an Action Plan to try to ameliorate these issues.

It is also the case that the Cumulative Impact report shows that, from 2016, the largest number of complaints to the Council's Environmental Health Department regarding noise related to loud music (27 complaints). Furthermore, at a residents' consultation session in October 2019, three main areas of concern regarding noise were cited, one of which was outside drinking and live music in gardens and terraced areas in summer months.

A copy of the Cumulative Impact Policy is included for the benefit of the Inspector.

The Masons pub has held a number of festivals at August bank holiday when noise levels have caused substantial noise nuisance to local residents particularly from loud music being played externally. This has led to Noise Abatement Notices being issued which demonstrates the nuisance caused by music from these premises. If the planning condition imposed in 2016 were to be removed it would allow music to be played within the external areas of the premises on a regular basis with the obvious nuisance being caused to a large number of local residents given the wide distance over which amplified music travels. Given that the Live Music Act 2012 permits the playing of both live and

recorded music between the hours of 8am - 11pm, the removal of this condition could potentially cause noise nuisance over a long period of time and until late at night when children in particular are trying to sleep.

The Parish Council's Case

The main thrust of the appellant's case for this condition to be removed does not relate to the nuisance that live music causes but merely rests on an argument that the condition does not meet the 6 tests for a planning condition as set out in the NPPF. They maintain that the application on which the condition was imposed was for the siting of an external bar and that the playing of external music does not relate to the specific development for which planning consent was sought, nor is the playing of music a direct consequence of the external bar and hence the condition cannot be justified especially as the playing of music was pre-existing.

The Parish Council do not agree with this assessment by the appellants. Whilst it is not disputed that the playing of music was pre-existing and permitted under licensing regulations, it generally only took place when festivals were held and not on a regular basis. The introduction of the external bar has, undoubtedly intensified the use of the external areas of the premises especially in the summer months. There are now many more people staying outside of the premises both within the seated areas and standing around the bar area. This factor makes it more likely that the venue would seek to play music given the large proportion of its clientele located in the external areas. The fact that the application has been made to remove the condition to allow music at any time, not just on festival occasions, suggests that is the intention of the appellants and is a direct consequence of the increased number of customers congregating outside since the introduction of the bar.

In view of the intensification of use of the outside areas, it was entirely appropriate and necessary for the planning condition to be imposed to prevent unacceptable noise nuisance arising from amplified external music which could otherwise be played at any time up until 11pm. This would undoubtedly considerably add to the noise nuisance and other issues caused by this venue and others in the locality as outlined above. This was recognised by the Council's Environmental Health officer who objected to removal of the condition because residential properties would experience unacceptable levels of noise from loud music being played. The Council's Licensing Services also commented that external music would create significant additional problems for the area and has the potential to have significant impact on local residents.

It was therefore entirely appropriate for the LPA to impose this condition on the application for an outside bar that has materially intensified the use of the outside areas of the pub and its removal would result in very serious noise problems for local residents. The Parish Council is frankly very disappointed that the pub should have so little regard for local residents to make this application at all.