DELEGATED DECISION REPORT

SMD/2019/0261 **Valid 01/05/2019**	**SHOOBRIDGE MILL** **SHOOBRIDGE STREET** **LEEK**	**REMOVAL OF CONDITION 9 (SOUND PROOFING) OF SMD/2017/0415 & SMD/2017/0416** **(FULL - MINOR)**

MAIN ISSUES

- Whether or not the removal of the condition would harm the amenities of the area.

DESCRIPTION OF SITE

The site is on the corner of Shoobridge Street (which runs along the east boundary) and Brook Street (to the north) and is on the southern edge of Leek Town Centre. It comprises a traditional red-brick former mill building with four floors which was previously occupied by Haywood Interiors on the lower floors. There is other commercial floorspace on the upper floors and permission was granted earlier this year for part of the floorspace to be used as a tattoo parlour. The building is attached to terraced houses to the south and other Victorian buildings to the west with a mix of retail/commercial and residential uses. The Aldi car park lies opposite to the north. The surrounding area is in mixed use as expected in an edge of town centre location. The building is Grade II listed. The building is currently in use as a restaurant and bar approved under a 2017 permission.

PROPOSAL

This a full planning application to remove one of the condition of the planning permission for the change of use of the two floors of the building into a restaurant and bar (SMD/2017/0415). The condition (No.9) is as follows:

The use hereby permitted shall not be begun until full particulars and details of a scheme to insulate the premises against the transmission of airborne sound has been submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given. The scheme criteria shall achieve sufficient noise reduction to ensure that the noise from the activities generated inside the fabric of the relevant buildings/premises shall not increase the background noise levels during day time expressed as LA90 [1hour](day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation.
Reason:-
To safeguard the amenity of neighbouring residential occupiers.

The applicants want to remove the condition as they consider that the Council's Environmental Health Officer, who visited the site to inspect following the

submission of the subsequent Discharge of Condition application, stated there was less of a concern over noise affecting neighbouring occupants. Also the condition requires internal works to the listed building which is considered to harm its historic character and appearance.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

DC1 – Design Considerations

Emerging Staffordshire Moorlands Local Plan

National Policy Guidance

Paragraph 48 of the newly adopted NPPF states that:

> *"…decision-takers may also give weight to relevant policies in emerging plans according to:*
> - *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
> - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
> - *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

Local Plan process

The Council agreed to publish the Local Plan Submission Version for representations in February 2018. At this point, the Council agreed that the Local Plan was "sound". Formal representations were then invited from residents, businesses and other stakeholders to provide them with the opportunity to support or challenge the soundness or legal compliance of the Local Plan. This stage in the process followed three previous public consultations since 2015 which had informed the preparation of the Local Plan alongside a comprehensive evidence base.

In June 2018, the Council subsequently agreed to submit the Local Plan Submission Version to the Secretary of State for examination. An examination in public is ongoing in order to determine whether the Local Plan is sound and legally compliant. Hearing sessions were conducted in October 2018 and the Inspector issued his initial post-hearing advice in January 2019 which set out some actions for the Council and a range of modifications that would be necessary to make the plan sound. The full schedule of modifications is to be determined and will be subject to consultation in due course. The Inspector will then be in position to write his final report. Subject to the findings of the appointed Inspector, the Local Plan can then be adopted by the Council. This will be towards the end of 2019 at the earliest. Upon adoption, the Local Plan will supersede the adopted Core Strategy and become part of the statutory development plan for the District.

In this context, the Council's position on the weight to be given to the policies contained in the Local Plan Submission Version in terms of the three criteria set out in Paragraph 48 of the NPPF is as follows:

- The stage of preparation – the Local Plan is now at an advanced stage of preparation as the Council has submitted it to the SoS for examination
- The extent to which there are unresolved objections to relevant policies – this varies depending on the policy in question. The Officer Comments section of this report identifies the level of outstanding objections to each policy and recommends the amount of weight to be given to them at this stage in the process
- The degree of consistency of policies with the NPPF – given that the Council has submitted a Local Plan that it considers to be sound, all policies are deemed to be consistent with the NPPF.

Emerging Policies

The following policies are considered to be relevant to this application:

DC1 – Design Considerations

National Planning Policy Framework (February 2019)

Sections 12 (Design)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2017/0415: Change of use of retail unit to restaurant and publican establishment and internal alterations. Approved and implemented.

CONSULTATIONS
Publicity

Site Notice expiry date: 26.6.19
Neighbour consultation period ends: 26.6.19
Press Advert: N/A

Public Comments

None.

Town / Parish Comments

No objection.

Environmental Health Officer.

The Smokehouse is currently operating without compliance with the condition. In reality this condition should have been complied with prior to first use as but as it stands we have no record of complaint from any neighbouring residents or commercial users. The residential neighbours adjacent to the premise are relatively well protected from noise due to an access stairway between them and the restaurant. I have previously made a site visit to the upper floors (commercial operators) and it would seem that all occupiers are coexisting due to slightly different operating times and relatively good site management. All commercial operators share the same landlord. Conditions 8, 10, 11 and 12 should ensure that neighbourhood amenity is protected despite the removal of this condition.

OFFICER COMMENTS

As the approved bar and restaurant is now open, the condition is being breached as it required some form of noise insulation works to be imposed before opening and clearly this was not undertaken. At the time of the planning application, there was some concern over the potential noise (from customers and amplified music/sound) affecting neighbouring residents in an adjacent building and also potentially commercial operators (at the time there was thought to be two businesses/retailers including a tattoo studio) occupying the floors above the bar/restaurant which is on the lowest two floors.

However, the bar/restaurant has now been open a while and no complaints have been received. After visiting the premises since opening, the Environmental Health Section has less concerns as noted from the consultation comments above. The officer is satisfied that other conditions attached to the permission can adequately control any noise nuisance affecting adjacent occupiers, that may arise. The removal of the condition would also have the advantage of avoiding internal works which could affect the historic fabric of the listed building.

CONCLUSION / PLANNING BALANCE

The removal of the condition would not lead to any significant noise pollution affecting nearby residents and businesses and would comply with Policy DC1 of the Core Strategy and the NPPF.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Chris Johnston
Recommendation Date: 26.6.19

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council